



Native Title Amendment (Technical Amendments) Bill 2007

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Native Title Amendment (Technical Amendments) Bill 2007

Date introduced: 29 March 2007

House: House of Representatives

Portfolio: Attorney-General

Commencement: Variously on Royal Assent, on a day to be fixed by Proclamation and immediately after the commencement of Schedule 2 of the Native Title Amendment Act 2007.

Purpose

The Bill proposes a number of amendments to the *Native Title Act 1993* (the Act or the NTA), the more significant of which can be summarised as relating to:

- future acts, Indigenous land use agreements and the making and resolution of native title applications;
- the scope of alternative state or territory regimes to the right to negotiate established under section 43 of the Act;
- the obligations of the Registrar of the Native Title Tribunal in relation to the registration of native title applications, native title representative bodies, and prescribed bodies corporate; and
- the amendment of provisions so they reflect the framework of the *Legislative Instruments Act 2003* (the LIA).

Background

Basis of policy commitment

Information regarding the background to this Bill can be found in Parliamentary Library's *Bills Digest No. 77 2006-07*, Native Title Amendment Bill 2006.¹ This background can be summarised by reference to the September 2005 announcement by the Attorney-General that he intended to modify a range of provisions in the mechanics of the Native Title process.² At the time he emphasised that the changes were not designed to effect the substance of the Native Title legislation, but would be focussed on ensuring quicker, more satisfactory outcomes for all concerned.³

This Bill is agreed by nearly all parties to contain a large number of minor, technical and non-controversial amendments, however not all the amendments are necessarily minor or technical.⁴ In recognition of the minor/technical nature of most of these amendments, this

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Digest will focus predominantly on particular areas of concern where it is believed the changes may be significant.

The Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into the Bill elicited 12 submissions, which identified a variety of concerns. Due to the disparate nature of these concerns (although there are common themes amongst them), the Digest offers a tabulated form of commentary, grouped according to the Schedule in which the areas of concern fall. The note form of these 'dot-point' summaries should be supplemented by reference to the original Submissions. The Tables are in the following format:

Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
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Schedule 1 – Amendment of the *Native Title Act 1993*

Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 7.	Proposed Section 60AB - <i>Fees for services provided by registered native title bodies corporate in performing certain functions</i>	While endorsing the 'thrust of this amendment' Ergon also suggest an additional clause which would exempt those providing infrastructure or services for the benefit of native title holders from being charged fees by the Registered Native Title Body Corporate.	Ergon Energy (Submission No. 3)
Item 20	Section 24CI - <i>Objections against registration</i> (proposed amendments to subsection 3 would limit the use that the NNTT can make of information it received in the course of providing assistance to those seeking to have an objection to a registration of a claim withdrawn. The limitations would apply across a range of sections.)	The Carpentaria Land Council Aboriginal Corporation (CLCAC) identify the significant drain on resources that they can experience when responding to objections to Indigenous Land Use Agreements (ILUA's). They suggest that the native title determination process should be copied in the case of certified ILUA's.	Carpentaria Land Council Aboriginal Corporation (Submission No. 7).

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 35	Section 24KA - <i>Facilities for services to the public</i> (The proposed insertion of ss(2)(1a) to this section would provide for automatic weather stations to be validated as facility for service to the public.)	The National Native Title Council (NNTC) argue this is a further incursion into native title rights and interests. It breaches the Attorney-General's earlier commitment to avoid reducing native title rights. The NNTC oppose the amendment.	National Native Title Council (Submission No. 5)
Item 56	Section 29 – <i>Notification of parties affected</i> (proposed amendment to ss. 29(8) which deals with 'Multiple Acts,' a provision allowing the Minister to notify multiple parties (i.e. the public) of multiple acts.)	The Human Rights and Equal Opportunities Commission (HREOC) is concerned that practices which would be allowed under the amendments would require native title holders and their representative bodies to wade through many notifications that were irrelevant to them and that this may mean they fail to identify significant notifications.	Human Rights and Equal Opportunities Commission (Submission No. 10)
Item 72	Section 62 – <i>Information etc. in relation to certain applications</i> (Proposed amendment to ss (1)(a)(v) which would require information regarding authorisation and its process to be included in an application.)	The NNTC vigorously oppose this proposal, citing other provisions under which this information is made available. They say the proposal is 'unnecessary and will only add yet another layer of complexity for native title claimants.'	National Native Title Council (Submission No. 5)
Item 76	Section 62 – <i>Information etc. in relation to certain applications</i> (Proposed amendment to ss. (3)(a)(iv) which would require applicants to include details of authorisation decision-making process).	Once again the NNTC suggests there are 'multiple avenues' for checking on authorisation, and that the proposal 'adds an extra unnecessary layer of complexity for native title claimants to deal with.'	National Native Title Council (Submission No. 5)
Item 82	Section 66B – <i>Replacing the applicant</i> (Proposed amendment to ss. (1) which makes provisions for certain applicants to be removed from the application.)	The NNTC supports this amendment but suggests various ways the drafting and purpose of the amendment could be made clearer or more effective.	National Native Title Council (Submission No. 5)

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 82	As above.	The CLCAC raises a number of concerns regarding this amendment. It points out that 'authorisation meetings' are costly and time consuming. If an authorisation process or meeting is required to remove the name of deceased applicants or applicants who consent to their removal then there will be on-going problems with the utility of the provisions. It is also suggested that further clarifications are needed with respect to the interactions of different provisions with this provision.	Carpentaria Land Council Aboriginal Corporation (Submission No. 7)
Item 87	Section 84 – <i>Parties</i> (Proposed amendment to insert ss. (6A) which would allow any party to withdraw without leave before substantive hearings commence).	The NNTC supports this amendment but suggests costs should be able to be claimed (from either applicants or other parties).	National Native Title Council (Submission No. 5)
Item 88	Proposed Section 84D – <i>Proceedings affected by possible defect in authorisation</i> (this amendment would allow the Federal Court to order evidence be provided which illustrates the authorisation for an application. The order could be made on their own motion, another party to the proceedings or a member of the application. If the authorisation is not in order then the Court may, in spite of the defect, continue with the application).	The NNTC supports the Court's flexibility with respect to continuing on with an application, however it rejects the ordering of proof of authorisation. It argues the breadth of the provisions leave it open to abuse, and suggests someone requesting the information should be required by the Court to show cause.	National Native Title Council (Submission No. 5)

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Item 88	As above.	While supporting the intent of the amendment the CLCAC argues that further guidance is needed with respect to the process under proposed s. 84D. In particular there is a recommendation that certain issues not be left to be decided by the Court, in order that greater clarity be achieved for claim groups.	Carpentaria Land Council Aboriginal Corporation (Submission No. 7)
Item 91	Section 87A - <i>Power of Federal Court to make determination for part of an area</i> (subsection (1)(c)(v))	The Court's power to make a determination is restricted by the requirement to obtain the consent of those with an interest in the area. Ergon believe that interests in their infrastructure used for energy generation may not be sufficiently covered due to historical anomalies regarding ownership of their facilities. Consequently they are concerned they may not be able to join as a party whose consent must be sought before a determination is made.	Ergon Energy (Submission No. 3)
	Section 253 - <i>Other definitions</i> (in particular the definition of 'interest, in relation to land or waters')	The broad definition of 'interest in relation to Land or Waters' in this section may be insufficient to cover Ergon's infrastructure and they suggest an amendment which would cover their interests.	Ergon Energy (Submission No. 3)
Item 91	Section 87A - <i>Power of Federal Court to make determination for part of an area</i> (proposed amendment to ss. (1)(c)(v) would broaden the basis on which people can join a consent determination).	The NNTC believes that the current provision is adequate, and that if it is to be broadened there would be a corresponding power vested in the Federal Court to exercise a discretion with respect to whether a person's interests are likely to be affected by the proposed agreement.	National Native Title Council (Submission No. 5)

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 91	As above.	The Minerals Council of Australia (MCA) rejects the currently proposed amendment on the basis that it is too broad and may allow non-bona fide parties into the process. Furthermore latecomers to the process could derail established negotiations and create delays. Finally the MCA argues the NNTT already has the discretion to allow amendments to the registered interests in appropriate circumstances. The Council supports removing 'proprietary' from the subsections but recommends retaining the current formulation.	Minerals Council of Australia (Submission No. 8)
Item 101	Section 190A - <i>Registrar to consider claims</i> (proposed amendments to ss. (2) which would seek to set certain time frames on the Registrar's consideration of claims.)	The CLCAC argues the drafting is too vague and that, by setting aspirational targets the legislation is failing to address the issue of time delays. The CLCAC recommends a more definitive time frame be imposed.	Carpentaria Land Council Aboriginal Corporation (Submission No. 7)
Item 102	Section 190A - <i>Registrar to consider claims</i>	The NSW Government supports the amendment to s. 190A which will ensure an automatic acceptance of an amendment which reduces the area of a claim. It goes on to suggest that removing names of deceased applicants from an application or purely procedural changes should similarly be exempt from a re-application of the registration test.	The NSW Government (Submission No. 9)
Item 107	Amend section 190D and insert proposed sections 190E and 190F . These provisions deal with the internal review of registration decisions.	The NNTC flags in the strongest terms its rejection of allowing the registration test be used to reject claims. It says the Government has 'flagrantly gone back on [its] assurance not to use the registration test for the purpose of dismissal in the substantive determination proceedings.' It goes on to suggest drafting modifications that will clarify that applicants can first seek internal reconsideration of the registration decision before applying to the Federal Court.	National Native Title Council (Submission No. 5)

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 107	As above.	The CLCAC raises a number of concerns regarding these amendments. It indicates a number of ways in which the appropriate process of appealing and reviewing decisions needs to be clarified. It says very strongly that '[c]laims should not be in a position where they can be dismissed on the basis that they have not passed the registration test... The registration test process should not be confused with the role of the Court.'	Carpentaria Land Council Aboriginal Corporation (Submission No. 7)
Item 107.	Proposed section 190E - <i>If the claim cannot be registered—reconsideration by the Registrar</i>	The Tribunal points out the ramifications of failing the Registration Test are now greater than they were previously. They suggest that consequently it is appropriate for the appeal to lie to a Tribunal Member rather than the Registrar. They argue a statutory office holder who is independent of the Registrar may give the applicant greater confidence the application is being considered afresh.	National Native Title Tribunal (Submission No. 4)
Item 112	Section 199C - <i>Removal of details of agreement from Register</i> (Proposed amendment to (1)(c)(i), which would specify on which grounds the Registrar may decide that an agreement has expired).	The NNTC endorses the amendment, but also notes its concerns that the capacity to amend an Indigenous Land Use Agreement has not been provided for subsequent on the Government's discussion paper on the matter.	National Native Title Council (Submission No. 5)

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 62 & 63 (also 127, 138 and 139)	Changes to section 43 - <i>Modification of Subdivision if satisfactory alternative State or Territory provisions.</i>	HREOC raises strong concerns regarding proposed amendments to s. 43 contained in these items. They say these amendments 'cannot be called technical amendments... The inclusion of the capacity of alternative state and territory regimes to replace the right to negotiate provisions was a particularly controversial matter' at the time of the 'extended, often bitter, debate between the representatives of competing interests' in 1998. They also comment 'retrospective validation of invalidly done future acts (including legislative acts) has been a too common aspect of amendments to this Act.' The proposed amendments would include a validation of South Australian provisions contained in the <i>Mining Act 1971 (SA)</i> and the <i>Opal Mining Act 1995 (SA)</i> . The Commission objects to this on the basis that it has not involved appropriate consultation, the recognition is not as limited as it could be and there has been no just compensation for any resultant loss. It recommends against these amendments.	Human Rights and Equal Opportunities Commission (Submission No. 10)

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Schedule 3 – Amendments relating to prescribed bodies corporate

Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 5	Section 59 - <i>Kinds of prescribed bodies corporate</i> (changes which would allow Regulations to specify the 'default' Prescribed Body Corporate and the 'kinds' of Prescribed Body Corporate (PBC)).	The NNTC raises its serious concerns regarding this unfettered capacity to make regulations regarding PBC's. In particular they are concerned that under the new <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> such Regulations could allow PBCs with non-Aboriginal members. The Council argues this would be 'entirely inappropriate for native title bodies. Native title is based upon Aboriginal traditional laws and customs.' It suggests amendments which would deal with this issue in accordance with the provisions of the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> .	National Native Title Council (Submission No. 5)
Item 7	Proposed sections 60AB - Fees for services provided by registered native title bodies corporate in performing certain functions and 60AC - Opinion of the Registrar of Aboriginal and Torres Strait Islander Corporations	The MCA points out it 'has long maintained' that Native Title Representative Bodies (NTRBs) and PBCs are 'chronically under resourced.' It goes on to say that while it supports existing practice whereby industry pays additional commercial costs associated with specific Registered Native Title Representative Bodies (RNTBC's) activities. 'However, the MCA strongly opposes the ability of RNTCSs to charge a fee for fulfilling their core statutory responsibilities.' Consequently it supports amending ss. 60AB(1) to restrict the charges appropriately and the deletion of ss. 60AB(2).	Minerals Council of Australia (Submission No. 8)

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Item No.	Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Item 7	As above.	The NNTC expresses concerns at a range of issues inherent in these changes. They object to the entire proposal as unnecessary and discriminatory with a ‘superadded regulatory ability.’ In particular they raise the issue of the ‘inherent dangers in excessive use of regulations.’ This concern is particularly directed at proposed ss60AB(5)(c) which allows regulations to be made prohibiting RNTBC’s from charging fees in ‘any other circumstance.’ The NNTC also voices concerns over the Registrar of Aboriginal and Torres Strait Islander Corporations being able to give a binding ‘opinion’ as to whether fees are payable. This request for an opinion is unfettered and, according to the NNTC, could be used to avoid paying fees, while the prospect of being left without the payment of fees while the matter is resolved without any ‘clear framework for the timely resolution’ of the matter does not appeal to the NNTC.	National Native Title Council (Submission No. 5)
Items 1, 2, 5 and 6	Proposed amendments to a number of sections would enable the creation of regulations which may both stipulate the kinds of bodies corporate that may be determined as a trust PBC or an agent PBC, and also the body corporate that is to be determined.	HREOC argues strenuously against the Government’s proposed amendments to the creation of alternative or replacement PBC’s. In particular they argue that it should be the Courts, rather than Government created regulations, which become the determining factor when replacing a PBC. The Courts, furthermore, should have ‘every possible regard to the wishes of the native title holders’ in this task. The Commission recognises there may be situations where, as a matter of urgency, there is a need to establish a trust or agent PBC. However it argues the ‘Court is the appropriate body to determine which body corporate will hold the native title and/or perform the agency functions in relation to native title.’	Human Rights and Equal Opportunities Commission (Submission No. 10)

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Schedule 4 – Technical amendments relating to legislative instruments

Schedule 4 makes a large number of amendments which change disallowable and written instruments into legislative instruments. The *Legislative Instruments Act 2003* (the LIA) establishes a comprehensive regime for the registration, tabling, scrutiny and sunseting of Commonwealth legislative instruments. The definition of a legislative instrument is described in section 5 of the LIA. This section provides that a legislative instrument is a written instrument of a legislative character made in the exercise of a power delegated by the Parliament. An instrument is taken to be legislative if it determines or alters the law, rather than applying it in a particular case, and has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right.⁵

A legislative instrument made after 1 January 2005 is not enforceable unless the instrument is registered on the Federal Register of Legislative Instruments. The Federal Register of Legislative Instruments is an electronic database, incorporated in the ComLaw website.⁶

The Act emphasises the importance of consultation by encouraging rule makers to consult experts and those likely to be affected by an instrument before it is made.⁷

The explanatory statement for the instrument, which will be tabled in the Parliament and accessible on the register, must also contain a description of any consultation undertaken, or if not undertaken, an explanation for its absence.⁸

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Concerns outside the current proposed amendments

Section affected and summary of change	Issue raised by the party contributing to the Senate Inquiry.	Contributor and Submission No.
Section 24LA- <i>Low impact future acts</i>	No amendments are proposed for this Section in the Bill. The submission raises the question of whether Councils should have to comply with native title procedural requirements when they are conducting work designed to protect public safety and health.	Local Government Association of Queensland Inc (Submission No. 1)
As above.	The NSW Government submits that the Commonwealth should reconsider their decision not to amend this section and suggest they should include amendments allowing Government 'to act in the interests of the community and public safety where such action may be required in urgent circumstances.'	The NSW Government (Submission No. 9)
Section 94C - <i>Order dismissing an application relating to a future act</i>	The NNTT points to the need to fix an unforeseen consequence of earlier amendments.	National Native Title Tribunal (Submission No. 4)
Sections 251A - <i>Authorising the making of indigenous land use agreements</i> and 251B - <i>Authorising the making of applications</i>	Concerns that difficulties in achieving consensus can hamper effective outcomes and that the drafting of these sections fails to recognise the complexity in communities' operations.	National Indigenous Council (Submission No. 2)
Indigenous Land Use Agreements (ILUAs)	The NSW Government suggests that amendments are needed to ensure that minor changes can be made to an ILUA 'without the need for the ILUA to be taken from the Register, re-authorised and re-registered.'	The NSW Government (Submission No. 9)

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Report of the Senate Standing Committee on Legal and Constitutional Affairs

The Committee's Report into this Bill found common ground with respect to five recommendations, however the ALP put in a dissenting report, and the Democrats and Greens put in 'additional comments' which express disquiet over issues raised in submissions to the Inquiry and suggested further time was needed to consider the matters.

The five majority recommendations included:

- A qualification on the need to obtain consent from a party with an interest in relation to relevant land and waters which stipulates that the Federal Court must be satisfied that the 'interest is likely to be affected by the proposed determination.'
- A clarification with respect to the order in which reviews or the Native Title Registrar's decision not to accept a claim can be accepted, and a requirement that the review should be conducted by a Member of the NNTT.
- That further consideration be given to provide a simple process of removing applicants who are deceased or incapacitated.⁹

The ALP's recommendations pick up on HREOC's concerns regarding the alternative state regimes and recommend that the Bill's amendments should be delayed 'pending consultation with native title holders...'¹⁰ They also identify that the Federal Court should continue to determine prescribed bodies corporate and that PBC's should be allowed to continue charging fees. They also recognise that FaCSIA's legal advice is that there is a need for a statutory authority for this fee regime, however they recommend the Bill's provisions be amended. The ALP recommends that the NTA be amended to prevent non-indigenous people being members of a prescribed body corporate. Finally they recommend that parties seeking an order for the production of evidence of authorization should be required to show cause as to why the court should make the order.

Concluding comments

There are themes which keep recurring as interested parties discuss the Government's administration of Native Title issues. One central concern voiced by HREOC is that, while the NTA:

represents a pragmatic compromise by the legislators of this country – at every point of potential friction between native title rights and interests and other property interests, native title has had to give way. It is of great importance that any further changes that are made to the [NTA] do not disadvantage or impede the recognition and protection of traditional property rights further.¹¹

HREOC also refers to the current legislative regime as being the product of 'extended, and often bitter, debate between the representatives of competing interests in the lead up to the

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enactment of the 1998 amendments.’¹² Consequently, they argue, the delicate balance arrived at by political compromise should not be disturbed and the right to negotiate should not be further abridged by amendments in this Bill. They argue with respect to the Bill’s provisions that:

It is wrong in principle that acts done in contravention of the law, and that adversely affect the rights and interests of others, are later retrospectively validated to avoid the consequences of the resulting invalidity.¹³

The NNTC also identifies a need to maintain the position of native title holders and regards some provisions of the Bill as representing further steps backwards. They express concerns:

that the effect of some amendments will be adverse to the government's stated intention that 'substantive rights are not to be reduced'.¹⁴

Other recurring themes that were also discussed in *Bills Digest No. 77 2006-07*, Native Title Amendment Bill 2006, include the issue of the government’s consultation in this area, and the question of the resources available to native title bodies. These issues were, once again, referred to in submissions to the Inquiry.

The NNTC raises on-going concerns about the Government’s consultation methods, commenting that the fee regime proposed in Schedule 3:

does not accord respect to Aboriginal and Torres Strait Islander people in its construction, and is reflective of the lack of detailed consultation with them, on a partnership basis, by the Government. This lack of approach applies to this and other rounds of amendments to the *Native Title Act*.¹⁵

HREOC comments that there was a ‘shortness of time provided for [the Senate] inquiry,’ and there are a number of recommendations in their Submission which recommend more comprehensive consultation.

The submission from the Attorney-General’s Department and the Department of Families, Community Services and Indigenous Affairs to the Senate Inquiry contains details of their consultations. There were two discussion papers released, with the first paper attracting nineteen written submissions and the second paper attracting seventeen written submissions.¹⁶

The Departments comment that proposals which would have significantly altered the balance of rights and interest in the NTA were not progressed. They also comment:

Stakeholder feedback on the proposals in the discussion papers was a key factor in determining whether proposals in the discussion papers were progressed in the Bill. Comments made by stakeholders during the consultation process also informed the drafting of the provisions in the Bill.¹⁷

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The Submission from the MCA says:

The MCA has long maintained that Native Title Representative Bodies (NTRBs) and Prescribed Body Corporate (PBCs) are chronically under resourced. PBCs are a critical component in the native title system and are the logical forum to represent the broader Indigenous economic interests in a region.

There is a strong need for core government funding of PBCs to ensure appropriate capacity to meet their statutory functions, which include negotiating future acts. In addition, government funding should also be provided to assist the development of independent Indigenous enterprise.¹⁸

The National Indigenous Council (NIC), perhaps with some wisdom, commented in its submission to the Senate's Inquiry in this Bill that:

[a]s an advisory body to Government we are not well placed to respond in a meaningful manner to the technical amendments to the *Native Title Act 1993*.¹⁹

Undoubtedly the NIC's summary of its situation may be accurate, however, its decision not to respond substantively to the Bill raises broader issues. It might be argued the NIC's position highlights the debates that have been conducted as to whether there is a need for an appropriately resourced representative national body for Australia's Aboriginal and Torres Strait Islander peoples. The NIC is the body established by the Government after it abolished the Aboriginal and Torres Strait Islander Commission. It is run through a Secretariat supported by the Office of Indigenous Policy Coordination in the Department of Families, Community Services and Indigenous Affairs.²⁰ The terms of reference of the NIC include the promotion of 'constructive dialogue and engagement between Government and indigenous persons and bodies.'²¹

Broader questions of resourcing have, once again, been raised in the submissions. The submissions from indigenous groups often refer to the difficulties and costs inherent in complying with the bureaucratic demands of the Native Title Act, while the Minerals Council of Australia says

There is a strong need for core government funding of PBCs to ensure appropriate capacity to meet their statutory functions, which include negotiating future acts. In addition, government funding should also be provided to assist the development of independent indigenous enterprise.²²

The Government has tabled Government amendments to the Bill which address some of the issues raised by the Committee's Report. Unfortunately time constraints do not allow for an analysis of the impact of the amendments to the Bill in this Digest.

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Endnotes

1. Magarey, K. *Bills Digest No. 77 2006-07*, Native Title Amendment Bill 2006, 6 February 2007, <http://www.aph.gov.au/library/pubs/BD/2006-07/07bd077.htm> accessed on 13 June 2007.
2. 'Practical Reforms to deliver better outcomes in Native Title', Attorney-General, the Hon. Philip Ruddock MP, Media Release 163/2005, 7 September 2005.
3. The Attorney-General's website comments on the Bill: 'The Government recognises that, following the amendments to the Native Title Act in 1998, the existing regime continues to provide a sound framework for the resolution of native title issues. The fundamentals of native title are settled. Nevertheless, stakeholders across the system acknowledge that the current processes remain expensive and slow. The proposed measures are intended to ensure that the existing processes work more effectively and efficiently in securing outcomes.'
<http://www.ag.gov.au/www/agd/agd.nsf/Page/RWP73DB7F92B8E8CE99CA25723A00803C08> accessed on 29 January 2007.
4. In its submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Bill the Attorney-General's Department could be thought to recognise this implicitly when it comments with respect to this Bill that '[t]he majority of measures in the Bill will make these minor and technical amendments to the Native Title Act.' (Attorney-General's Department, Submission No. 6, Senate Standing Committee on Legal and Constitutional Affairs, p. 5).
5. Australian Public Service Commission, *Foundations of Governance in the Australian Public Service*, Canberra, 2005, <http://www.apsc.gov.au/foundations/preparinglegislation.htm> accessed on 13 June 2007.
6. *ibid*, the legislative instruments website can be found at <http://frli.law.gov.au/>
7. *ibid*.
8. *ibid*.
9. Summarised from Senate Legal and Constitutional Affairs Committee, *Report Native Title Amendment (Technical Amendments) Bill 2007 [Provisions]*, May 2007, http://www.aph.gov.au/senate/committee/legcon_ctte/native_title_tech/report/index.htm accessed on 12 June 2007.
10. *ibid*.
11. Human Rights and Equal Opportunities Commission, Submission No. 10, p. 2.
12. *ibid*, p. 5.
13. *ibid*.
14. National Native Title Council, Submission No. 5, p. 1.
15. *ibid*, p. 6.
16. Submission No. 6, p. 6.
17. *ibid*.

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18. Minerals Council of Australia, Submission No. 8, p. 2.
19. Submission No. 2. The NIC made this same comment in November 2006.
20. See for instance ABC News Online, 'ATSIC attacks new National Indigenous Council,' November 6, 2004,
<http://www.abc.net.au/news/newsitems/200411/s1236200.htm> accessed on 13 June 2007.
Note the NIC website states '[t]he NIC is not a replacement for the ATSIC and not a representative body. It is not involved in specific funding proposals or program/planning matters in individual communities or regions.
21. Item 7 in the Terms of Reference. See further <http://www.atsia.gov.au/NIC/default.aspx>
22. Submission No. 7, p. 2.

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