

MINORITY REPORT BY THE AUSTRALIAN LABOR PARTY AND THE AUSTRALIAN GREENS

1.1 Labor and Greens Senators consider that the provisions in the Bill regarding NTRBs and the expanded powers of the NNTT are fundamentally flawed and that the majority report's recommendations do not go nearly far enough in relation to these areas.

1.2 The Native Title Representative Bodies (NTRBs) provisions in Schedule 1 have only been available for comment for two months which fell over the Christmas period. The majority of evidence received by the inquiry presented substantial criticism and concerns with respect to these provisions and the provisions in Schedule 2 which expand the powers of the National Native Title Tribunal (NNTT).

Native Title Representative Bodies

Periodic recognition

1.3 Schedule 1 of the Bill proposes to introduce periodic terms from one to six years for the recognition of NTRBs. Labor and the Greens are concerned that this will undermine their independence as representative bodies for a number of reasons.

1.4 As the government is aware, native title applications frequently take over six years to resolve.¹ Recognition of NTRBs for terms of between one and six years will destabilise the long-term negotiations between NTRBs and third parties which are required to resolve native title matters. As the Minerals Council of Australia noted:

The improved powers for de-recognition of native title rep bodies and the redrawing of native title rep bodies will only provide the appearance of change without necessarily addressing the core resource and capacity constraints to improved performance. This will not provide the level of certainty and stability required of the native title system but, rather, could destabilise the native title system, incur significant delays and further stretch already limited resources... It is for these same reasons that the MCA recommends that the proposed fixed terms of periodic recognition of native title rep bodies should be for a minimum of three to six years rather than the proposed terms of one to six years.²

1 The *Native Title Claims Resolution Review* found that, of 356 current native title claims, 138 were more than 6 years old. See Graham Hiley QC and Dr Ken Levy, *Native Title Claims Resolution Review*, Commonwealth of Australia, March 2006 (in Attorney-General's Department and Department of Families, Community Services and Indigenous Affairs, *Submission 1*, Attachment C), Table 3 on p. 17.

2 *Committee Hansard*, p. 36.

1.5 In its submission, the Carpentaria Land Council expressed the view that subjecting NTRBs to periodic reviews regarding recognition and funding is:

...both irrational and bureaucratically wasteful. It can also only serve to heighten the atmosphere of existential uncertainty in which NTRBs are required to operate.³

1.6 Further, periodic terms will inhibit strategic business planning by NTRBs. For example, it will increase infrastructure costs for NTRBs by limiting their capacity to enter long-term lease or hire agreements. In addition, it will make it much harder for NTRBs to attract and retain quality staff.

1.7 A number of witnesses also pointed out that periodic term recognition would require NTRBs to divert resources from their role as a representative body to the re-recognition process. The National Native Title Council observed that:

NTRBs are over-worked and under-funded. As mentioned above, the re-recognition process is extremely time-consuming and this process will divert NTRBs from their core functions.⁴

1.8 Similarly, Mr Andrew Chalk, Partner, Chalk and Fitzgerald Lawyers and Consultants said:

It is ironic that the explanatory memorandum speaks of cutting red tape by abandoning the strategic plans but imposes a very high burden on rep bodies in terms of constantly having to go back and reapply to be able to do their job.... The issue which I think the proposal is trying to address is how [to] deal with rep bodies that are not performing...[T]here are much better ways of doing that than simply subjecting all rep bodies to this ongoing process of recognition.⁵

1.9 Finally, witnesses also raised concerns that the re-recognition process conferred too much discretionary power on the Minister for Families, Community Services and Indigenous Affairs (the Minister). The Aboriginal and Torres Strait Islander Social Justice Commissioner detailed these concerns:

...before a decision is made about whether to recognise a body as a representative body, there must be an invitation to apply for recognition (s.203A)...at the same time that it is proposed that bodies be recognised as representative bodies for no more than 6 years, there is no related amendment proposed that will require the Minister, with or without exceptions, to invite representative bodies to apply for further periods of recognition.

Indeed, if the Bill is enacted, there will be no provision in the Act that requires the Minister to issue any invitations for recognition beyond the

3 *Submission 13*, p. 3.

4 *Submission 9*, p. 4.

5 *Committee Hansard*, 30 January 2007, p. 3.

transition period...This leaves representative bodies in a very precarious state and further erodes representative bodies' independence from the Commonwealth government.⁶

1.10 Labor and Greens Senators support the government's move to make NTRB funding agreements longer than one year but do not support putting these bodies through periodic 're-recognition'.

1.11 The requirement for periodic re-recognition is unnecessary given that the Minister already has the power to withdraw recognition from a poorly performing NTRB. The periodic re-recognition provisions in the Bill are cumbersome and contrary to the principles of capacity building.

1.12 The majority report recognises the impact of these amendments on long term planning by NTRBs. However, Recommendation 1 of the majority report which would increase the minimum period of recognition from one to two years is weak and inadequate. If the government proceeds with the proposal for periodic recognition of NTRBs then at the very least section 203A of the Bill should be amended to require the Minister to invite a representative body to apply for a further period of recognition within a reasonable time prior to its current recognition period expiring.

Withdrawal of recognition

1.13 Labor and Greens Senators are also concerned that the Bill makes it easier for the Minister to withdraw recognition of an NTRB. Currently, subsection 203AH(3) of the Native Title Act requires the Minister to give an NTRB 90 days notice that he or she is considering withdrawing recognition of the NTRB. During this period, the NTRB may make submissions in relation to whether recognition should be withdrawn. The Bill reduces this notification period to 60 days (Item 25). While we note that the shortening of the notice period is done in the name of efficiency, the practical effect is that there is very little time for an NTRB to consult its constituents about an issue which significantly affects their interests.

1.14 Furthermore, Item 24 of the Bill removes two of the criteria which the Minister must consider before withdrawing an NTRB's recognition. These are:

- that the body is not satisfactorily representing native title holders or persons who may hold native title in its area; or
- that the body is not consulting effectively with Aboriginal peoples and Torres Strait Islanders living in its area.

1.15 These will be replaced by consideration of whether:

- the NTRB is satisfactorily performing its functions; or
- there are serious or repeated irregularities in the body's financial affairs.

6 *Submission 11*, pp 11-12.

1.16 The fundamental role of NTRBs is consulting with and representing the interests of native title applicants. Some submissions questioned the impact that removing these criteria from the Minister's consideration would have on the role of NTRBs. For example, the Western Australian Government submitted:

The need for and objective of these proposed amendments is not clear...

Under the proposed amendments NTRBs would still be required under the [Native Title Act] to perform their functions in a manner that maintains structures and processes that promote the satisfactory representation of, and effective consultation with, relevant native title claimants and holders and Indigenous peoples. However, apart from consultation required in respect of NTRB's facilitation and assistance functions, there would be no requirement that satisfactory representation actually occur. Further, if satisfactory representation does not occur, NTRB recognition could no longer be withdrawn on those grounds.⁷

1.17 The removal of these criteria from any consideration to withdraw the recognition of an NTRB represents a fundamental shift in characterisation of the core functions of an NTRB. Labor and Greens Senators are concerned that in changing the criteria which a Minister must take into account in considering the withdrawal of recognition from an NTRB, the government is effectively undermining the core role of NTRBs as representative organisations and not mere service providers.

1.18 The amendment also means that the Minister will no longer need to be satisfied that an NTRB, which would otherwise meet the criteria for withdrawal of recognition, is unlikely to take steps to remedy this situation within a reasonable period.

1.19 The submission from the National Native Title Council points out that these changes will destabilise NTRBs:

...this 'sudden death' provision is contrary to contemporary standards where people's rights and livelihoods are in issue. In the context of Aboriginal organisations, where governance is a matter of continuing mentoring and growth, deficiencies in operations can be remedied through guidance and assistance or, in relation to some matters, through a change of committee.⁸

1.20 Labor and Greens Senators agree with the National Native Title Council that these changes are 'draconian and unnecessary'.⁹

Ministerial changes to boundaries

1.21 Labor and Greens Senators are also concerned about the proposals in the Bill to allow the Minister to extend or vary NTRB areas on his or her own initiative and

7 *Submission 3*, p. 2.

8 *Submission 9*, p. 6.

9 *Submission 9*, p. 6.

without the agreement of affected NTRBs. The Minister is again required to give only 60 days notification to an NTRB of a proposal to extend or vary its area.

1.22 Of particular concern is that in allowing for the extension or variation of NTRB areas without the consent of affected NTRBs, the Bill will provide a further means by which the fundamental representative and consultative functions of NTRBs are undermined.

1.23 Labor and the Greens do not consider that the government has provided a convincing justification for this power to change an NTRB's territorial boundaries without its consent.

Mainstreaming of native title services

1.24 The Bill proposes to allow a broader range of bodies to be recognised as NTRBs as well as permitting native title service providers to perform all of the functions of NTRBs. Labor and Greens Senators are concerned that the long term objective of the government appears to be to permit open tender for the provision of native title services by non-indigenous bodies. For example, in its submission to the Parliamentary Joint Committee on Native Title and the Torres Strait Islander Land Account inquiry into NTRBs (the PJC Inquiry), the Office of Indigenous Policy Coordination (OIPC) extensively canvassed the advantages of native title service providers as a flexible alternative to NTRBs.¹⁰ One possibility suggested by the OIPC was:

...placing representative body recognition on a term basis, perhaps five years, after which the native title services for an area would be advertised for tender...¹¹

1.25 Labor and the Greens believe that mainstreaming the provision of native title services may result in service providers who do not have strong relationships with Traditional Owners or the capacity to effectively represent them. This will undermine the role of NTRBs as representative organisations. Accordingly, the Labor and Greens Senators oppose any proposal which would see native title services mainstreamed.

Tabling of annual reports

1.26 Labor and Greens Senators consider that eliminating the requirement for NTRBs to table their annual reports in Parliament removes the opportunity for parliamentary oversight. Further, the removal of the requirement to table annual reports does not involve any significant reduction in the administrative burden on NTRBs as there will still be requirements for NTRBs to collect and report similar information.

10 Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account: Inquiry into Native Title Representative Bodies, 2006, *Submission 1a*, pp 14-19.

11 Inquiry into Native Title Representative Bodies, 2006, *Submission 1a*, p. 34.

Recommendations of the PJC Inquiry into Native Title Representative Bodies

1.27 Labor and the Greens note the recommendations of the PJC Inquiry and the government response to this report tabled in the House of Representatives on 15 February 2007. A list of the recommendations appears at the end of this report.

1.28 The government has only partially implemented the recommendations of the PJC Inquiry, particularly as they relate to NTRB funding. For example, Recommendation 5 of the PJC Report said:

3.74 The Committee recommends that the Commonwealth immediately review the adequacy of the level of funding provided by the OIPC to NTRBs for capacity building activities including management and staff development, and information technology.¹²

1.29 The government response accepts this recommendation 'in part', and argues that 'there is significant capacity building activity being undertaken within current funding levels'.¹³ The government's response concluded that:

There is therefore no requirement for an immediate funding review. On completion the current projects will be evaluated and at that stage OIPC will review the adequacy of funding.¹⁴

1.30 Labor and Greens Senators note that a number of submissions to this inquiry expressed concern at the level of NTRB funding.¹⁵ For example, the National Native Title Council's submission observed that:

Representative bodies themselves, industry representatives, and some State governments have consistently made submissions to various bodies, including to Federal Parliamentary committees and government, that what is needed to make them even more effective is adequate funding. Realistic funding has never been provided to NTRBs to fulfil their functions under the [Native Title Act].¹⁶

1.31 Labor and the Greens do not consider the government's response to the PJC inquiry to be adequate, and call on the government to reconsider its partial implementation of recommendations 5, 6, 13 and 16 of the PJC Inquiry and agree to implement them in their entirety. Labor and Greens Senators also recommend the

12 *Report of the Inquiry into Native Title Representative Bodies, 2006*, p. 44

13 *Government Response to the Report by the Parliamentary Joint Committee on Native Title and the Torres Strait Islander Land Account on the Operation of Native Title Representative Bodies* (March 2006), p. 3.

14 *Government Response to the Report by the Parliamentary Joint Committee on Native Title and the Torres Strait Islander Land Account on the Operation of Native Title Representative Bodies* (March 2006), p. 3.

15 *Submissions 4, 9, 10, 13*; see also submissions to the Parliamentary Joint Committee's Inquiry into Native Title Representative Bodies.

16 *Submission 9*, p. 2.

government reconsider their refusal to accept Recommendations 2 and 8 of the PJC Inquiry.

Expanded Powers for the National Native Title Tribunal

1.32 Schedule 2 of the Bill significantly expands the powers of the NNTT. The Bill proposes to give the NNTT the power to:

- make reports to ministers, funding bodies, legal professional bodies or the Federal Court on a failure by a party to act in good faith in mediation;
- issue directions to parties to attend mediation conferences or produce documents; and
- conduct native title application inquiries and reviews regarding a native title claimant group's connection to the area claimed.

1.33 In addition, the Federal Court will be precluded from conducting mediation in relation to native title applications at the same time as the NNTT.

1.34 During the inquiry, significant concerns were expressed about the expansion of the NNTT's powers, particularly as most stakeholders do not have confidence in the NNTT's capacity or expertise to conduct effective mediation.

1.35 Evidence received by the committee from NTRBs unanimously rejected the expansion of the NNTT's mediation function, citing past statistics and experience.¹⁷ For example, Mr Ron Levy, Principal Legal Officer, Northern Land Council said that 'all of our experience is that [the NNTT] do[es] not deliver the goods'.¹⁸ Similarly, the National Native Title Council stated that:

A consistent theme in our previous submissions has been that the NNTC opposes giving exclusive powers to the [NNTT] to mediate claims rather than the Federal Court. This is based on the fact that the NNTT has simply not shown in the past that it has the expertise to effectively mediate.¹⁹

1.36 The Minerals Council of Australia gave qualified support to the proposals to expand the NNTT's power:

Given the Government's intention to provide the NNTT with greater powers in the mediation of native title claims, the MCA considers that there is a need to ensure that within the NNTT's existing resources, greater emphasis is given to building capacity to ensure competency in undertaking any expanded role.²⁰

17 *Submission 9*, p. 3; *Submission 13*, pp 7-11; *Submission 14*, pp 2-3.

18 *Committee Hansard*, 30 January 2007, p. 45.

19 *Submission 9*, p. 3.

20 *Submission 4*, p. 4.

1.37 The evidence obtained by the committee is consistent with a study undertaken by Griffith University which found that the most fruitful agreements were negotiated outside the NNTT.²¹ In addition, the *Native Title Claims Resolution Review* (the Review) noted that, as of January 2006, 76 per cent of mediation in the NNTT had been going on for more than three years and that just under 48 per cent of mediation had been going on for more than five years.²²

1.38 There is also significant concern over the proposals in the Bill for the NNTT to be given powers to report its belief that a party, or a party's legal representative, has not acted in good faith. As Mr Levy pointed out to the committee:

...any such report will likely (if not invariably) be the subject of judicial review by aggrieved parties or representatives seeking to defend their reputation from reports made by administrative officials under protection of privilege.

This concern is fortified when considered against the background of Commonwealth funding arrangements...It may be expected that an adverse report as to lack of good faith will be relied on by the Commonwealth to withdraw funding [from applicants or respondents]. The result will be that the Commonwealth, in reliance on reports by Commonwealth appointed public officers performing administrative functions...may through withdrawal or alteration of funding arrangements substantially influence the course of litigation before the Court.²³

1.39 In addition, Labor and Greens Senators are concerned that the Bill does not make it clear that participation in reviews by the NNTT as to whether a native title claimant group holds native title rights and interests is voluntary. Similarly, it is not clear that participation in native title application inquiries conducted by the NNTT is voluntary. The EM states:

[p]articipation in the reviews will be entirely voluntary and there will be no power to compel parties to attend or to produce documents for the purpose of a review...

Participation in a native title application inquiry will be entirely voluntary.²⁴

1.40 Proposed subsection 136GC(6) is drafted to ensure that a party is not under an obligation to provide documents or information to a member conducting a review. Otherwise, the voluntary nature of participation in these reviews and inquiries is not reflected in any explicit provisions in the Bill.

21 Ciaran O'Faircheallaigh and Rhonda Kelly: *Review of native title agreement making practices in relation to mining in Australia*, HREOC, 2001.

22 Graham Hiley QC and Dr Ken Levy, *Native Title Claims Resolution Review*, Commonwealth of Australia, March 2006 (in Attorney-General's Department and Department of Families, Community Services and Indigenous Affairs, *Submission 1*, Attachment C), p. 16.

23 *Submission 14*, p. 5.

24 p. 31.

1.41 Fundamentally, the granting of these expanded powers to the NNTT conflates the NNTT's role as a mediator with determinative, quasi-judicial functions. The Office of the Registrar of the Federal Court submitted that these powers involved:

[a] confusion of the mediation role of the NNTT with other functions of a determinative nature, particularly the power to make coercive directions.²⁵

1.42 Similarly, the Northern Land Council made the following comments:

...the proposal that the Court's mediation and case management function be curtailed in favour of the Tribunal is extraordinary, cannot be justified, and is a fundamental policy error.²⁶

1.43 Labor and the Greens consider that the proposed expansion of the NNTT's powers will make the native title system slower, more bureaucratic, and more litigious. Further, like a majority of stakeholders, Labor and Greens Senators are not convinced that the NNTT is capable of exercising these expanded powers effectively, or properly. Labor and Greens Senators are concerned that the NNTT is not guided by the same standards of impartiality and independence as the courts. While Recommendations 3 to 7 of the majority report offer some piecemeal improvements to the proposals in Schedule 2 of the Bill, they do not fix a fundamentally flawed scheme.

Additional powers to strike out claims

1.44 Proposed section 94C will require the Federal Court to order that a claimant application be dismissed where certain criteria are met including that:

- the application was made in response to a notice under section 29 of the Native Title Act;
- there has been a determination that the future act may or may not be done; and
- the applicant has not produced connection material or sought to advance the substantive resolution of the application.

1.45 Similarly, under proposed subsections 190D(6) and (7), applications may be dismissed by the Court where they fail the merits aspect of the registration test applied by the Native Title Registrar.

1.46 The Aboriginal and Torres Strait Islander Social Justice Commissioner considered that these proposals may be discriminatory and stated that:

There is no justification in principle for these new provisions. Nor has any argument been advanced as to why the Court's existing discretions are not sufficient for the management of native title applications...The proposed amendments adopt a 'presumptive' approach to the dismissal of certain

25 *Submission 8*, p. 5.

26 *Submission 14*, p. 2.

native title applications which effectively places the onus on the applicant to 'show cause' as to why the application should not be dismissed.²⁷

1.47 Labor and Greens Senators agree with the Social Justice Commissioner that these proposed provisions are unfair to native title claimants, and may be unlawfully discriminatory on the basis of race.²⁸

Prescribed Bodies Corporate

1.48 Labor and Greens Senators support the majority report's recommendation in relation to PBC funding (Recommendation 2). However, it is disappointing that the government did not take this opportunity to legislate a regime that ensures PBCs receive adequate funding to perform their functions under the Native Title Act.

Recommendation 1

1.49 Labor and Greens Senators recommend that Schedules 1 and 2 of the Bill should not be passed because they undermine the capacity and independence of NTRBs and potentially make the native title system slower and more bureaucratic.

Recommendation 2

1.50 Labor and Greens Senators recommend that multi-year funding arrangements should be introduced for NTRBs to promote capacity building and to reduce the administrative burden on NTRBs.

Recommendation 3

1.51 Labor and Greens Senators recommend that the Federal Government increase funding for NTRBs to:

- **improve staff tenure and expertise; and**
- **give NTRBs greater flexibility in determining their funding priorities.**

Recommendation 4

1.52 If Schedules 1 of the Bill is to be passed then Labor and Greens Senators recommend that section 203A of the Bill be amended to require the Minister to invite a representative body to apply for a further period of recognition within a reasonable time prior to its current recognition period expiring.

Recommendation 5

1.53 Labor and Greens Senators recommend that the Federal Government focus on ways it can improve 'upwards accountability', governance and representativeness of NTRBs.

27 *Submission 10*, p. 34.

28 *Submission 10*, p. 35

Recommendation 6

1.54 Labor and Greens Senators recommend that the Federal Government fully implement the recommendations of the PJC Inquiry that have not been accepted or have only been partially accepted by the government.

Recommendation 7

1.55 Labor and Greens Senators recommend that the Federal Government negotiate with the National Native Title Council and other stakeholders to draft improved reforms to the claims resolution process, which embody a more realistic expectation of the NNTT's capability and role.

Senator Patricia Crossin

Senator Linda Kirk

Deputy Chair

Senator Joseph Ludwig

Senator Rachel Siewert

Recommendations of Report of Parliamentary Joint Committee on Native Title and the Torres Strait Islander Land Account from its Inquiry into Native Title Representative Bodies.

Recommendation 1

2.54 The Committee recommends that the OIPC develop comparative data, based on a range of key performance indicators, to assess the relative effectiveness of NTRBs in meeting their statutory obligations and that this data be published annually.

Recommendation 2

2.77 The Committee recommends that the Commonwealth establish an independent advisory panel to advise the Minister on the re-recognition of NTRBs once their recognition period has expired.

Recommendation 3

2.81 The Committee recommends that the Commonwealth provide further details of the proposed transitional arrangements that will apply when the recognition period for NTRBs expires in order to avoid uncertainty for claimants.

Recommendation 4

2.83 The Committee recommends that the Commonwealth address the issue of native title claims that overlap the boundaries of different representative bodies to avoid uncertainty for claimants.

Recommendation 5

3.74 The Committee recommends that the Commonwealth immediately review the adequacy of the level of funding provided by the OIPC to NTRBs for capacity building activities including management and staff development, and information technology.

Recommendation 6

3.75 The Committee recommends that the Commonwealth, in conjunction with industry groups, consider providing additional pooled funding for emergency and unforeseen situations, such as future act matters, litigation or court proceedings; and that the OIPC develop guidelines and procedures that will enable funding to be available in these situations in a timely fashion.

Recommendation 7

3.76 The Committee recommends that the Commonwealth ensures that the level of funding available to the Office of the Registrar of Aboriginal Corporations provides

NTRBs with adequate training and support to meet the requirements of the introduction of the new corporate governance regime under the Corporations (Aboriginal and Torres Strait Islander) Bill 2005.

Recommendation 8

3.77 The Committee recommends that the Commonwealth immediately review the level of operational funding provided to NTRBs to ensure that they are adequately resourced and reasonably able to meet their performance standards and fulfil their statutory functions.

Recommendation 9

3.116 The Committee recommends that the OIPC, in close consultation with NTRBs, develop standardised criteria for use in the recruitment of representative body staff; and that these criteria be used nationally to provide consistency in standards of recruitment.

Recommendation 10

3.117 The Committee recommends that the Commonwealth investigate the feasibility of:

- the secondment of expert government staff to NTRBs;
- the establishment of a centre of excellence to develop the legal capacity of NTRB lawyers and from which NTRBs could draw expertise as required; and
- the provision of scholarships for post-graduate study to further enhance skills in areas of relevance to the work of NTRBs.

Recommendation 11

3.118 The Committee recommends that the Commonwealth implement a national recruitment strategy to address the professional staffing needs of NTRBs and that this strategy:

- promote the status and positive image of work in NTRBs;
- focus on promotion of careers in NTRBs to the professions;
- introduce an ongoing NTRB student placement program; and
- promote the employment of Indigenous people to positions in NTRBs.

Recommendation 12

3.119 The Committee recommends that representative bodies focus on the professional development needs of NTRB professionals and enhance the support structures and programs available to them, including:

- developing a formal induction training program for new recruits;
- establishing ongoing training programs to further enhance skills in particular areas;
- creating a mentoring system; and
- implementing performance evaluation systems to assist in the identification of professional development needs.

Recommendation 13

3.120 The Committee recommends that the OIPC continue to monitor the salary differentials provided to senior professional staff of NTRBs; and introduce a scale of salaries to provide consistency across the system if significant differentials continue to apply.

Recommendation 14

3.121 The Committee recommends that representative bodies investigate the feasibility of implementing a system of 'pooling' of professional staff in situations where an NTRB may lack a full complement of particular professional staff.

Recommendation 15

4.23 The Committee recommends that the OIPC continue to support NTRBs in improving the quality of their strategic planning processes and especially in integrating strategic plans, operational plans and performance based budgeting and reporting.

Recommendation 16

4.24 The Committee recommends that the OIPC, in consultation with representative bodies, review the current compliance and accountability requirements placed on NTRBs with a view to reducing unnecessary duplication of reporting and streamlining reporting procedures.

Recommendation 17

5.61 The Committee recommends that the amended Guidelines on the Provision of Financial Assistance by the Attorney-General under the Native Title Act 1993 due to come into effect in June 2006 provide:

- provisions to encourage agreement-making rather than litigation to resolve native title disputes; and
- that eligibility for assistance be subject to means testing along similar lines to those applying for grants of legal aid.

Recommendation 18

5.84 The Committee recommends that the Commonwealth examine appropriate means for resourcing the core responsibilities of Prescribed Bodies Corporate.

Recommendation 19

5.85 The Committee recommends that the Commonwealth, State and Territory Governments widely publicise the availability to Prescribed Bodies Corporate of different funding sources, particularly in relation to the PBCs' land management functions.

