

ADDITIONAL COMMENTS BY SENATOR ANDREW BARTLETT

1.1 I acknowledge the efforts of the government to improve the inefficiencies in the current system, and the efforts of the Committee to address concerns raised during this Inquiry process.

1.2 However, despite the improvements detailed in the Committee's recommendations, I remain concerned that the proposed amendments not only have the potential to further limit the ability of Indigenous people to have their Native Title rights recognised but will also create greater uncertainty, conflict and confusion by threatening the independence of Native Title Representative Bodies (NTRBs), compromising the mediation process and reducing Ministerial accountability.

1.3 It is worth re-emphasising that a lot of the potential that Native Title presented for Indigenous Australians has already been curtailed by previous legislative decisions of the Parliament. While the residual rights which still remain are important, they are not sufficient on their own to provide true equality, economic opportunity or full reconciliation. Indeed, in some ways the wider Australian community has as much to gain from formal recognition of Native Title and the continuing links to land of the original, traditional inhabitants. Constraining the rights of Indigenous Australians constrains our nation's future and limits our potential.

1.4 I believe the proposed fixed terms for recognition of NTRBs may seriously impede the ability representative bodies to adequately plan for the future, attract and retain qualified and experienced staff and develop productive relationships with industry and government. Whilst the recommended 2 year minimum is better than 1 year, I don't think this goes far enough. The government's changes appear to focus more on taking the heavy stick approach to trying to improve the efficiency of native title representative bodies, rather than tackling the real source of the problem – a lack of capacity caused by chronic under funding.

1.5 The proposed amendment providing ministerial discretion gives too much power to the Minister who could decide to de-recognise a representative body in a manner that is arbitrary, non-transparent and without any accountability. It is inappropriate to continue to increase accountability requirements on Indigenous organisations while reducing them for government Ministers.

1.6 I also retain concerns with proposals that limit representative bodies' procedural rights and the potential for non-Indigenous bodies to be recognised as NTRBs. We need more Indigenous involvement in issues and processes that directly affect them, not less.

1.7 The provisions which allow for summary dismissal of certain Native Title applications was strongly criticised by the Aboriginal & Torres Strait Islander Social

Justice Commissioner in his submission. I share that concern and do not believe it has been adequately addressed in the majority Committee report.

1.8 There are already numerous obstacles which are placed in the way of Indigenous people seeking to have the limited rights of Native Title recognised and protected. Some of these proposed amendments will make them even more difficult to overcome, further eroding the confidence of Indigenous people in the Native Title process.

1.9 I believe the legislation needs further amendment beyond the recommendations put forward by the Committee.

Andrew Bartlett

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