



Native Title Services Victoria Ltd

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10 August 2007

Jackie Morris
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Morris

INQUIRY INTO THE NORTHERN TERRITORY NATIONAL EMERGENCY RESPONSE BILL 2007
(THE BILL)

Native Title Services Victoria (NTSV) provides professional legal and other services to native title claimant groups in Victoria. In part this involves ensuring that the procedural rights mandated under Division 3 of Part 2 of the Native Title Act 1993 are followed.

These procedural rights reflect the traditional right of native title holders to speak for country. They are fundamentally valuable for two reasons: they provide a mechanism for sharing information between native title holders regarding developments relating to their lands and waters and they facilitate consultation between government and native title holders. They may also provide opportunity for benefits to be negotiated for the native title holders.

In this regard, NTSV is concerned that the bill provides that:

1. the procedural rights are not to apply to land leased to, or resumed by, the Commonwealth under the bill (clause 51); and
2. rights of native title holders are not protected in the same way as other non-indigenous rights, titles or interest (sub-clause 34(2)).

The effect of the provisions will be, illogically, to limit participation by those most affected in any development opportunities offered by the intervention in communities.

That said, NTSV's primary concern is the precedent set by the suspension of the procedural rights by the bill. As the Commonwealth's power to suspend the procedural

rights is not confined to the Northern Territory, there is little comfort that there will not be an attempt to remove the procedural rights elsewhere in Australia.

NTSV asks the Committee to ensure a consistent, nationwide operation of the Native Title Act 1993. It recommends the bill be amended to remove sub-clause 34(2) and clause 51.

This has the benefit of ensuring that the protection offered other rights and interests under clause 34 is available equally to native title holders.

Yours sincerely

Libby Bunyan
Principal Legal Officer