28 June 2013

Native Title Unit
Attorney-General's Department
3–5 National Circuit
BARTON ACT 2600
Via email: native.title@ag.gov.au

Dear Sir/Madam

**Australian Law Reform Commission Native Title Inquiry**

**Draft Terms of Reference**

The National Farmers’ Federation (NFF) welcomes the opportunity to provide a submission on the draft terms of reference (draft TOR) for the Australian Law Reform Commission’s Native Title Inquiry (the Inquiry).

The draft TOR seeks to focus the Inquiry on:

- connection requirements relating to the recognition and scope of native title rights and interests; and
- the identification of barriers, if any, imposed by the Act’s authorisation and joinder provisions to claimants’, and potential claimants’ access to justice and access to and protection of native title rights and benefits.

While the NFF does not have any objection to the above focus points, it is perhaps timely to also look at the need for a sunset clause for native title claims in very specific circumstances.

The original 10 point plan proposed by former Prime Minister, John Howard, included a provision for sunset clauses on native title – and the subsequent Native Title amendment bill sought a six year time frame. In the ensuing negotiations to pass the legislation through the parliament, the sunset clause was set aside rightly because the Senate viewed a six year sunset clause as being unreasonable.

However, there is one area in which a sunset clause might be considered by the Inquiry. At present, some native title claims are rejected, not once but several times. The subsequent applications may vary only slightly, for example by varying the area covered by the application.
When such applications come up time and again, this results in a significant resourcing burden for native title claimants, and respondents, including agricultural leaseholders.

The NFF believes it would be worthwhile considering when a sunset clause may be feasible in such circumstances, for example, in the event that an application is unsuccessful on more than three occasions.

The NFF would welcome this being included in the final TOR for inquiry.

Yours sincerely

MATT LINNEGAR
Chief Executive Officer