



NORTHERN TERRITORY CATTLEMEN'S ASSOCIATION INC.

Advancing and protecting the interests of cattle producers in the Northern Territory

Member - National Farmers' Federation & Cattle Council of Australia

NORTHERN TERRITORY CATTLEMEN'S ASSOCIATION

SUBMISSION ON THE EXPOSURE DRAFT NATIVE TITLE REFORMS

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The Northern Territory Cattlemen's Association (NTCA) welcomes the opportunity to provide comment on the exposure drafts of the *Native Title Legislation Amendment Bill 2018* and the *Registered Native Title Bodies Corporate Legislation Amendment Regulations*.

The NTCA is the peak primary industry group in the Northern Territory representing over 90 per cent of the Territory's cattle herd. With over 250 pastoral operations across pastoral lease, Aboriginal freehold, and other freehold land, our industry manages a landmass in excess of 700,000 square kilometres and a herd of over 2.1 million head. Our industry is a significant contributor to the Northern Territory economy, accounting for more than 80 per cent (ABARES) of primary production in the Northern Territory and generating approximately \$1 billion in direct income.

The industry directly provides in excess of 1,900 jobs, mainly in rural areas of the Northern Territory and the NTCA operates a highly successful Indigenous employment program annually recruiting, training and placing in jobs over 25 young Indigenous men and women. Indeed through the Indigenous Land Corporation's Real Jobs Program we have placed more than 400 indigenous men and women in meaningful employment in the pastoral sector and have Indigenous pastoralists as members.

By area, employment, and economic contribution the pastoral industry is the dominant industry in land management in the NT, with a predominant focus on long-term sustainable production. Over 85 per cent of all NTCA members are active participants in Conservation, Environmental and Landcare groups throughout the Northern Territory and the Association encourages members to join their local groups.

In addition to that we have actively assisted the fast-tracked settlement of more than 80 Native Title claims through consent agreements developed through the Newcastle Waters Test case. All of this has been achieved through constructive working relationships.

The NTCA recognises that many of the proposed amendments to the native title legislative framework are designed to improve native title processes and to provide additional clarity. The NTCA supports such intentions.

The NTCA also notes that many amendments are designed to reform the internal processes of native title entities. Whilst generally supportive of such amendments, the NTCA has elected not to provide specific comments on such matters and considers that native title parties are best placed to provide feedback on those proposed reforms.

In this submission, the NTCA has instead limited its comments to those matters which could disadvantage its members in a significant way or could otherwise have unintended consequences.

(The headings in this submission are reflective of the headings used in the public consultation paper about the exposure drafts dated October 2018.)



THE SPECIFIC PROPOSALS

Schedule 3 – Historical extinguishment

Part 1 – Park areas

The NTCA does not support the introduction of the proposed section 47C into the Native Title Act in its present form for a number of reasons.

- The definition of "park area" is too broad. It captures not only national, state and territory parks (ie, areas held by government entities) but also captures areas which could be in private ownership. As an example, a leasehold with a condition requiring the protection of endangered flora or fauna in a small area of the lease could result in the whole of the lease area being a "park area". There does not appear to be any justification for the previous extinguishment of native title to be disregarded with respect to such areas.
- Because of the broad definition of "park area", the NTCA considers that all persons with an interest in the area should be required parties to the agreement contemplated under section 47C. The section otherwise poses an unacceptable level of sovereign risk.
- The NTCA also notes that revised native title determination applications may be brought at any time to claim native title to "park areas" even where there has been a previous determination that native title does not exist. As new "park areas" are established, a new native title claim may be brought, thereby creating a great deal of uncertainty not just for the present but well into the future.
- The NTCA also understands that the intention of the section was to change the effect of particular acts which in the process of creating a national park extinguish native title. The proposed section 47C goes much further by disregarding the extinguishing effect of any prior interest in the area. This seems to undermine the well-considered and accepted means for recognising native title to date.
- The NTCA also has concerns with respect to the possible ramifications of the proposed section on native title compensation liability.

Part 3 – Future acts where prior extinguishment to be disregarded

The NTCA does not support the extension of the "future act" regime to areas which have previously been the subject of a previous exclusive possession act simply because section 47, 47A, 47B or 47C might apply in the future to overturn the native title extinguishment.

Under the proposed amendments to sections 224 and 227 of the Native Title Act, a future act process would be required where currently none is needed. In some cases, this would effectively give native title claimants a veto right with respect to land dealings. As an example, if:

- a previous exclusive possession act lease expires (thereby returning the land to vacant Crown land);
- the area is within the external boundaries of a native title claim (which might not even have passed the registration test); and
- a new lease is proposed to be granted (ie, an act which does not pass the freehold test),

an indigenous land use agreement with the native title claimants is likely to be required.



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The NTCA also has concerns that there could be many more ramifications from the proposed provisions, thereby leading to further uncertainty of process and additional expense within the native title sphere.

We would welcome the opportunity to further discuss the exposure drafts further with you.

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