



North Queensland Land Council

Native Title Representative Body Aboriginal Corporation

ABN: 19 047 713 117 ICN 1996

www.nqlc.com.au

Reply to: pbcsupport@nqlc.com.au

Our Ref: CATSI Amendment Regulations 2021

26 November 2021

National Indigenous Australians Agency
Canberra ACT 2600

By Email: CATSIActREview@niaa.gov.au

Dear CATSI Act Review Team,

NQLC Submission on the Exposure Draft of the Corporations (Aboriginal and Torres Strait Islander) Amendment Regulations 2021

The North Queensland Land Council (NQLC) welcomes this opportunity to comment on the exposure draft of the *Corporations (Aboriginal and Torres Strait Islander) Amendment Regulations 2021* ("Amendment Regs").

The NQLC makes this submission in its capacity as the Native Title Representative Body (NTRB) for an area extending from the Daintree and Bloomfield Rivers in the north to south-east of Sarina and west to beyond Richmond and Croydon.

The NQLC provides legal advice to native title groups to secure recognition of their native title rights and interests; establishes the prescribed body corporate (PBC) to hold the recognised native title rights and interests on behalf of the common law holders; provides services to support the PBC fulfil its legislative and cultural responsibilities; and assists PBCs in pursuing their broader social and economic development aspirations. All 31 PBCs in the NQLC's region are registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* ("CATSI Act").

Proposed Items 1 – Size Classification Thresholds

1. The current proposal recommends increasing the size thresholds for small corporations to reflect current or new thresholds for the Australian Charities and Not-for-profit Commission (ACNC).
2. The NQLC supports the adoption of the size classification thresholds in line with the new thresholds for the Australian Charities and Not-for-profit Commission (ACNC). In other words, the consolidated revenue threshold for a small corporation should be revised upwards to \$500,000.

Proposed Item 3 – Related Party Transaction Threshold Amount

3. The current proposal seeks to remove the need for member approval to give a financial benefit to a related party if the total amount of the benefit is less than the proposed amount of \$5,000 across the financial year.
4. The NQLC supports the \$5,000 related party transaction threshold, but further submits that removal of the need for member approval should also be extended to deeds of indemnity and contracts of insurance such as those noted under section 191(2)(v) of the *Corporations Act 2001* (Cth).

Proposed Items 10, 12, 18 and 20 – Remuneration Reporting

5. The current proposal seeks feedback on whether the requirement introduced in the CATSI Amendment Bill 2001 for medium or large corporations to prepare a remuneration report should be extended to small corporations.
6. The NQLC generally support the proposal for the preparation of a remuneration report, however:
 - (a) if the lower threshold of \$250,000 is adopted then small corporations should be relieved of the need to provide a remuneration report; alternatively
 - (b) in the event that a remuneration report is required for a small corporation clarification is sought on whether a small corporation which is also a sole member of a related body corporate is permitted to prepare a remuneration report on a consolidated basis in the same way that a corporation may include other entities in its financial statements. The purpose of this clarification is to avoid unnecessary duplication in the preparation of a remuneration report; and
 - (c) further, we submit that consolidated remuneration reporting should also be made available to medium and large corporations.

Proposed Item 11 – Directors’ Sitting Fees

7. The current proposal requires that the financial reports include the fees that were paid to each director and the number of meetings attended by each director during the financial year.
8. This proposal is supported by NQLC, however clarification is sought why Directors’ ‘sitting’ fees are required to be reported separately to the remuneration report. For streamlined reporting, Directors’ sitting fees should be outlined in the remuneration report.
9. The NQLC also notes that ‘sitting fees’ is dated terminology that does not reflect the nature of fees paid. Indeed, in the explanation it is characterised as “*fees...paid...meetings attended*”. The more appropriate terminology in this circumstance would be ‘meeting attendance fees’.

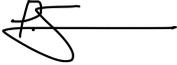
Proposed Items 38-50: Schedule 2

10. Under the CATSI Amendment Bill directors are required to make a determination within 6 months regarding membership applications unless that timeframe is extended by application to the Registrar.
11. NQLC submits that decisions with respect to membership applications should not be timebound but instead determined by whether a corporation has sufficient information to make a decision. The practical outcome is that many PBCs are likely to decline a membership application on the basis of insufficient information rather than formally apply for an extension from the Registrar. The timely consideration of membership applications by a board that meets on a quarterly basis, is under resourced or has little administrative experience or support is not always possible. In addition, in the absence of ready access to genealogical material a board may have no ability to make a determination on a membership application in circumstances where the applicant is unknown to the Corporation.
12. We would also note the collateral function of Aboriginal and Torres Strait Islander corporations (and particularly PBCs) is the provision of certificates of Aboriginality. Given

that membership of an Aboriginal and Torres Strait Islander corporation must meet the Indigeneity requirement acceptance of an application for membership is prima facie of an applicant's Aboriginality and may be relied upon as such. Refusal on the basis of insufficient information or because that information has not been provided within the mandated timeframe may have significant consequences for an applicant.

If you wish to discuss any aspect of this submission, please don't hesitate to contact Philippe Savidis, PBC Support Unit Coordinator by phone on (07) 4042 7000 or email pbcsupport@nqlc.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'G. O'Dell', written over a horizontal line.

Per Graham O'Dell
CEO (Acting), North Queensland Land Council NTRBAC (ICN 1996)