



Yingiya Mark Guyula MLA
Member for Mulka, NT Legislative Assembly



06/10/2023

Legal and Constitutional Affairs Committee

LA.Committees@nt.gov.au

Inquiry into a Process to Review Bills for their Impact on First Nations Territorians

I would like to thank the Committee for the work being undertaken to look at the issue of how the Northern Territory Parliament reviews proposed legislation in regard to their impact on First Nations Territorians. I'd also like to note that this is only one part of a movement towards protecting First Nations Peoples' rights to self-determination that should not take the place of the bigger movement towards the creation of Treaties.

Issues and background

The motion that I introduced to the Parliament attempts to highlight the problem that the NT Parliament has few checks and balances when a bill passes through parliament. As a unicameral parliament, any decisions can easily be dominated by the party with the majority of seats, creating a concentration of power in a single body with little oversight. There are 25 people in the chamber who can talk into the debate and when there is a majority government in power – the decision of whether a bill will pass has generally already been decided.

In Yolŋu governance we do not have a 'unicameral' space for decision-making. There are many forums, at different levels, where decision-making takes place over a period of time. Many issues of day-to-day governance are discussed in a Garma space, which is a public forum open to all community members to have their say on issues and solutions. More serious issues such as alcohol prohibition are also discussed in a Garma space. Discussions are also held within clan groups and there are other forums where appointed people who have been given authority by their clan will make governance decisions. Unlike the Westminster system, decisions are not reached by a majority vote but by a consensus decision-making process.

In the NT legislative system, there is little space for people who will be impacted by the bill to have their say. The parliamentary process is very closed off. While bills are published online for anyone to look at and make comment on through the media or by contacting members of parliament, for many First Nations People this is not a process that is easy to participate in. For this reason and many others,

First Nations People are essentially excluded from knowing about and understanding the bills before parliament, and precluded from contributing to the debate.

First Nations People are approximately 30% of the population of the Northern Territory, and the most marginalised people as reflected in the Closing the Gap data. This marginalisation is also reflected in our personal experiences of living in overcrowded housing and impoverished communities with the experience of many avoidable and early deaths within our families.

For this reason, there must be mechanisms in place to facilitate First Nations participation in the decision-making process, and ensure transparency, scrutiny and accountability about the laws that are passed through the parliament.

There are currently no Northern Territory appointed statutory bodies that exist solely for the purpose of oversight of First Nations issues. From 2019 to 2022 the Treaty Commission existed for the purpose of exploring and creating a pathway towards Treaty-making. There are several statutory offices that exist, such as the Office of the Children's Commission and the Anti-Discrimination Commission that do address issues experienced by First Nations People.

Across Australia there are Commonwealth statutory bodies that exist specifically for the oversight of First Nations issues, and many states and the ACT also have statutory positions/bodies for the oversight of First Nations affairs¹. Through these bodies there is capacity for office holders to comment about bills before the parliament, should they choose to, although it is not a specific responsibility attached to any existing position.

From 2016 until an unknown date, the NT Government created an Aboriginal Affairs sub-committee to Cabinet, however the sub-committee only advised Cabinet. This was not an open committee. Members were handpicked and there was no transparency in the membership, the purpose of the Committee, the frequency of meetings, or the outcomes of those meetings.

What systems can best review bills for their impact on First Nations People?

I agree with statements made in the media by the former Member for Nelson, Mr Woods, who has outlined that reinstating the legislative scrutiny committees is very important for the NT Legislative Assembly. The scrutiny committees allow for members of the public, businesses, peak bodies, organisations and communities to actively contribute to parliament scrutiny and debate. I support the reintroduction of these committees to address the serious issues of lack of parliamentary oversight and transparency.

However, I do not think that the reintroduction of scrutiny committees by itself goes far enough for the purpose of including First Nations People to provide insight and comment about the impact of bills on our people. Rather, this should be specifically appointed so that the function can be properly fulfilled.

¹ Please see attached research paper provided by the Independent Research Service, *Statutory Positions and Bodies with Oversight of First Nations Issues*, 27 September 2023.

It is important that a newly created body does not create an additional layer of bureaucratic process that further disempowers First Nations People. Ideally, a new system must ensure that grassroots elders and leaders are heard so their views can be more clearly understood.

Ideally the body must act as a conduit and not assume the authority to speak for all First Nations People but rather take a middle ground cross-cultural role of facilitation. The body should be a safe space where many languages are welcome and listening is prioritised so that the complex concepts of two world views can be explored and better understood. This will require a flexible structure and approach that can grow and evolve as needed to meet the needs of a new cross-cultural space connecting First Nations People with the parliament. Essentially this body should be about creating a space for different worldviews to be conveyed to and understood by the parliament.

There is some risk that a statutory body may be too rigid and defined and could assume the role of speaking on behalf of the people rather than having the flexibility that will ensure that local decision-making and the authority of elders and leaders in our Nations is respected. However, if a statutory body could assume a facilitatory role as a conduit between communities and parliament, the clear benefit would be that it holds an autonomous space from the parliament and the membership could be determined from outside the parliament.

A conventional committee of parliament does not meet the needs of understanding self-determination from a grassroots perspective as it is constrained by membership directly from the parliament. The body created to undertake scrutiny must not reflect the current committee arrangement whereby Government members are the majority of committee members and drive the outcomes of a committee process.

An advisory committee, as outlined in the Discussion Paper at 2.22, would be preferred over a conventional committee model as it can have members from outside the parliament. However, this may not go far enough as the membership of a body that is responsible for determining a measure of self-determination should be entirely comprised of First Nations People. Ideally, no members of parliament would be part of the committee – to ensure that there is genuine oversight and capacity to speak freely without being constrained by party politics.

Statement of compatibility

The compatibility test determined by a newly created body should assess the degree to which a bill:

- affirms and enhances the right of the First Nations peoples of the Northern Territory to enjoy, practice and benefit from their traditional law, culture and autonomy;
- is based on consultation, according to First Nation law and custom, and reflects the principle of free, prior and informed consent;
- is consistent with the principles underlying the Northern Territory Government's Local Decision Making (LDM) Policy Framework for communities to have control

- over their own affairs in order to enhance First Nation peoples' rights of self-governance;
- is consistent with the Northern Territory Government's commitments to Closing the Gap;
- is compatible with the United Nations Declaration on the Rights of Indigenous Peoples; and other international instruments to which Australia is a party, including the right of self-determination in Article 1 of the International Covenant on Civil and Political Rights; and Article 1 of the International Covenant on Economic, Social and Cultural Rights.

This compatibility test should be applied to both legislation and subordinate legislation and be reported upon to the parliament prior to the second reading debate to give clear understanding of the potential impact of proposed legislation on First Nations Territorians.

Recommendations

1. That a new body be established to review and report on the impact of proposed laws on First Nations Territorians.
2. That this body will apply a compatibility statement of self-determination to both legislation and subordinate legislation, as part of a review that will report on their overall potential impact upon First Nations People of the NT.
3. That the new body is composed of First Nations grassroots members from outside the parliament who may change frequently, or be available as a pool of experts, depending on the topic of the bill and the availability of members, and the communities that are affected.
4. That the new body creates a safe First Nations environment where many languages are spoken and a cross-cultural facilitation process allows for different worldviews to be discussed and reflected upon as part of the process of reviewing bills.
5. That the proposed body works alongside, in conjunction with, or as part of the proposed Treaty and Truth Commission but **does not** in any way replace the important functions that these proposed statutory bodies will hold.
6. That the legislative scrutiny committees are reinstated in order to give those outside of the proposed body the opportunity to also comment on issues affecting First Nations People, and to provide the opportunity for all Territorians to scrutinise and discuss all bills and their impact on all Territorians and to allow for transparency and oversight of the Northern Territory Parliament by the people.

Yours Sincerely,



Yinjiya Guyula MLA



Independent Research Service

STATUTORY POSITIONS AND BODIES WITH OVERSIGHT OF FIRST NATIONS ISSUES

**Prepared for Yingiya Guyula
Member for Mulka**

27 September 2023

This report has been prepared in response to your specific request and is presented as a Word document for your convenience.

The Independent Research Service has consulted a range of sources when preparing this report. These sources are identified either within the text or via footnotes.

Please note that, due to the short-time frame to produce this report, much of the text has been copied directly from the relevant websites rather than being summarised. Weblinks are used so that you can consult the original source and obtain further information if required.

The names of deceased persons may be mentioned in the text or in weblinked documents.

The Independent Research Service makes every effort to ensure information is accurate at the time the report is distributed. Again, due to the short time frame, the information provided may be incomplete and may not provide comprehensive coverage of all statutory bodies with oversight of First Nations issues in Australia.

Further research can be undertaken on any issues arising from the report.

Feedback on the content is welcomed.

RESEARCH REQUEST

- What statutory positions/bodies exist in the NT?
 - Are any of these bodies specifically for oversight of First Nations issues?
 - List the statutory positions/bodies that exist in Australia (at both Federal and state levels) that are specifically for oversight of First Nations issues.
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For the purpose of this report, statutory positions/bodies are defined as those which have a basis in legislation. Only current (and one potential) positions/bodies are included.

1. STATUTORY POSITIONS AND BODIES IN THE NORTHERN TERRITORY

Statutory Offices

Statutory offices of the Northern Territory are:

- Ombudsman's Office
- Office of the Independent Commissioner Against Corruption
- Information Commissioner
- Anti-Discrimination Commission
- Northern Territory Auditor-General's Office
- Health and Community Services Complaints Commission
- Office of the Children's Commissioner.

None of these statutory offices were established to specially address First Nations issues.

Statutory Authorities

Independent statutory authorities in the Northern Territory are:

- Aboriginal Areas Protection Authority
- Northern Territory Environment Protection Authority
- Northern Territory Electoral Commission
- Land Development Corporation
- Department of the Legislative Assembly.²

Of these, only the Aboriginal Areas Protection Authority (AAPA) was specifically established with a First Nations oversight purpose (see Appendix A).

Land Councils

Land Councils in the Northern Territory established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) are:

- Central Land Council
- Northern Land Council

² Information in section 2 to this point is from the OneNTG Online Orientation Module 9 Integrity in the NTPS.

- Anindilyakwa Land Council
- Tiwi Land Council.

Section 23 of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) sets out the functions of the Land Councils (see Appendix B).

Statutory Bodies

The statutory bodies in the section were identified from the publication ‘Northern Territory Government statutory bodies classified for remuneration purposes’.³

The **Community Living Areas Tribunal** is a statutory body originally established under the *Crown Lands Act 1992* and retained under Section 93(1) of the *Pastoral Land Act 1992*. Under Section 117, the Tribunal has jurisdiction to hear and make recommendations about objections by registered native title claimants and registered native title bodies corporate to the extension or grant of a pastoral lease.⁴

While these bodies were not established specifically for oversight of First Nations issues, they have functions relevant to protecting sites of spiritual or other importance in Aboriginal tradition.

The *Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act 1981* established the **Cobourg Peninsula Sanctuary and Marine Park Board**. The functions of the Board are detailed in Section 24 (see Appendix C).

The *Nitmiluk (Katherine Gorge) National Park Act 1989* established the **Nitmiluk (Katherine Gorge) National Park Board**. The functions of the Board are detailed in Section 16 (see Appendix D).

The *Batchelor Institute of Indigenous Tertiary Education Act 1999*⁵ established the Batchelor Institute of Indigenous Tertiary Education. The Batchelor Institute of Indigenous Tertiary Education Council conducts the affairs of the Institute while the **Institute Advisory Board** has specific functions in relation to Indigenous people, communities and organisations (see Appendix E).

The **Northern Territory Aboriginal Investment Corporation** (NTAIC) is a Commonwealth entity established under Schedule 1 of the *Aboriginal Land Rights (Northern Territory) Amendment (Economic Empowerment) Act 2021*.⁶ The function of the NTAIC is to promote the self-management, economic self-sufficiency and social and cultural wellbeing of Aboriginal people living in the Northern Territory.⁷

³ [Classification and remuneration of NT Government boards | Department of the Chief Minister and Cabinet](#)

⁴ <https://legislation.nt.gov.au/Legislation/PASTORAL-LAND-ACT-1992>

⁵ <https://legislation.nt.gov.au/en/Legislation/BATCHELOR-INSTITUTE-OF-INDIGENOUS-TERTIARY-EDUCATION-ACT-1999>

⁶ [Aboriginal Land Rights \(Northern Territory\) Amendment \(Economic Empowerment\) Act 2021 \(legislation.gov.au\)](#)

⁷ See [Northern Territory Aboriginal Investment Corporation \(ntaic.org.au\)](#) for further information.

2. FEDERAL STATUTORY BODIES WITH OVERSIGHT OF FIRST NATIONS ISSUES⁸

The position of the **Aboriginal and Torres Strait Islander Social Justice Commissioner** was created by Part IIA of the *Australian Human Rights Commission Act 1986* (Cth).⁹ Appendix F contains information about the functions of the Commissioner.

The **Aboriginal Land Commissioner** is a statutory officer of the Commonwealth appointed to perform functions outlined in section 50 of the *Aboriginal Land Rights (Northern Territory) Act 1976*. The Aboriginal Land Commissioner's functions include undertaking inquiries into traditional land claims in the Northern Territory of Australia.¹⁰

The 2023-24 Federal Budget is providing \$1.6m to stand-up an interim **First Nations Aged Care Commissioner** for 12 months to lead a consultation process with First Nations communities and stakeholders on the design and functions of a permanent Commissioner role, including where it is located. These consultations will form the basis for a proposal to Government on the permanent Commissioner in 2024. The interim Commissioner will also provide a voice for First Nations people and providers that will contribute to the ongoing reforms to the aged care system.¹¹

Note: The Independent Research Service has not been able to determine whether this will be a statutory appointment and the relevant legislation.

The **Indigenous Advisory Committee** is a statutory committee established in 2000 under section 505A of the *Environment Protection and Biodiversity Conservation Act 1999*. It is an advisory, not a decision-making, body and advises the Environment minister on environment, heritage, policy and consultation. Committee members have expertise in Indigenous land and sea management, biodiversity and cultural heritage.¹²

Indigenous Business Australia (IBA) is a statutory authority of the Australian Government established under Part IV of the *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth) and carried over to the *Aboriginal and Torres Strait Islander Act 2005*. IBA was established to assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency. It is also required to advance the commercial and economic interests of Aboriginal and Torres Strait Islander people by accumulating and using a substantial capital asset for their benefit.¹³

The **Indigenous Land and Sea Corporation** (ILSC) is a corporate Commonwealth entity established under the *Aboriginal and Torres Strait Islander Act 2005*. The ILSC's long-term vision is for Aboriginal and Torres Strait Islander people to enjoy the rightful entitlements, opportunities and benefits that the return of country and its management brings. The ILSC's

⁸ Information in this section has been summarised from the relevant legislation or websites.

⁹ Part IIA – Aboriginal and Torres Strait Islander Social Justice Commissioner, <https://www.legislation.gov.au/Details/C2017C00143>

¹⁰ See [Aboriginal Land Commissioner | National Indigenous Australians Agency \(niaa.gov.au\)](https://www.niaa.gov.au/aboriginal-land-commissioner) for more information.

¹¹ See [Interim First Nations Aged Care Commissioner | National Indigenous Australians Agency \(niaa.gov.au\)](https://www.niaa.gov.au/interim-first-nations-aged-care-commissioner) for more information.

¹² See [Indigenous Advisory Committee operating under the EPBC Act - DCCEE](https://www.epbc.gov.au/indigenous-advisory-committee) for more information.

¹³ See [Legislative framework - Indigenous Business Australia \(iba.gov.au\)](https://www.iba.gov.au/legislative-framework) for further information.

primary grant program – Our Country Our Future – provides assistance for acquiring and managing rights and interests in land, salt water and fresh water country in order to achieve this vision.¹⁴

The **National Native Title Tribunal** (NNTT) is an independent body established by the *Native Title Act 1993* (Cth). The Tribunal assists people to resolve native title issues. It essentially has two roles: to mediate native title claims under the direction of the Federal Court; and to assist people in negotiations about proposed developments, such as mining (future acts), and arbitrate in some situations where the people cannot reach agreement about proposed developments.¹⁵

3. STATUTORY OVERSIGHT OF FIRST NATIONS ISSUES IN OTHER STATES

Australian Capital Territory

The **Aboriginal and Torres Strait Islander Children and Young People Advocate** for the ACT was established in 2022 through the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*.¹⁶

The *Aboriginal and Torres Strait Islander Elected Body Act 2008* established the **ACT Aboriginal and Torres Strait Islander Elected Body** (ATSIEB). The objects of the Act are:

- to ensure maximum opportunity for the voice of Aboriginal and Torres Strait Islander people living in the ACT to reach decision-makers in the government and its agencies
- to ensure maximum participation of Aboriginal and Torres Strait Islander people living in the ACT in developing and implementing government policies affecting them
- to ensure coordination by government agencies in developing policies affecting Aboriginal and Torres Strait Islander people living in the ACT without detracting from, or diminishing, the responsibilities of those agencies to provide services for the broader community
- to further the economic, social and cultural development of Aboriginal and Torres Strait Islander people living in the ACT.¹⁷

New South Wales

The provision for representative **Aboriginal Land Councils** was established in New South Wales by the *Aboriginal Land Rights Act 1983*.¹⁸ The New South Wales Aboriginal Land Council is the peak representative body for the 121 Local Aboriginal Land Councils and was formally constituted as a statutory corporation under the ALR Act in 1983.

¹⁴ See [Home Indigenous Land and Sea Corporation \(ILSC\)](#) for further information.

¹⁵ See [Home Page \(nntt.gov.au\)](#) for further information.

¹⁶ See [ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND YOUNG PEOPLE COMMISSIONER ACT 2022 \(austlii.edu.au\)](#)

¹⁷ See [Aboriginal and Torres Strait Islander Elected Body Act 2008 | Acts](#)

¹⁸ See [Aboriginal Land Rights Act 1983 No 42 - NSW Legislation](#)

Queensland

Native Title Representative Bodies (NTRBs) are organisations appointed under the *Native Title Act 1993* (Cth) to assist Indigenous people with all aspects of their native title claims. The **Native Title Representative Bodies** in Queensland are:

- Cape York Land Council Aboriginal Corporation
- Carpentaria Land Council Aboriginal Corporation
- North Queensland Land Council Native Title Representative Body Aboriginal Corporation
- Queensland South Native Title Services Ltd
- Torres Strait Regional Authority.¹⁹

South Australia

In South Australia, the role of the **Commissioner for Aboriginal Children and Young People** was established under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*. The Commissioner is empowered to undertake a range of functions related to Aboriginal children and young people and is the only independent body created solely to promote the rights, development and wellbeing of Aboriginal children and young people within South Australia, at a systemic level. This includes developing culturally safe and informed strategies and promoting Aboriginal voice with regard for the safety and wellbeing of all Aboriginal children and young people.²⁰

The **First Nations Voice Act 2023** came into operation on 12 May 2023. The inaugural First Nations Voice election will be held on 16 March 2024 and will establish six Local First Nations Voices from regions across South Australia. Two members from each region will then make up the State First Nations Voice which will:

- hear the views of each Local First Nations Voice
- form state-wide views and positions that represent the diversity of First Nations people in South Australia
- present views and priorities to the South Australian Parliament, Ministers, and government Chief Executives.²¹

Tasmania

The statutory **Aboriginal Heritage Council** was established in 2017 under the *Aboriginal Heritage Act 1975*. The Council is an independent body which advises the Tasmanian Government, land managers and owners on the protection and management of Aboriginal cultural heritage in Tasmania.²²

¹⁹ See [Native title representative bodies | Aboriginal and Torres Strait Islander peoples | Queensland Government \(www.qld.gov.au\)](https://www.qld.gov.au/aboriginal-heritage/aboriginal-and-torres-strait-islander-peoples)

²⁰ This information is from the website: [Commissioner for Aboriginal Children and Young People \(cacyp.com.au\)](https://www.cacyp.com.au)

²¹ Further information is available here: <https://www.agd.sa.gov.au/first-nations-voice> and the legislation is available here [First Nations Voice Act 2023 | South Australian Legislation](https://www.legislation.gov.au/Details/F13/2023/0002/0002)

²² See [Council Home \(aboriginalheritage.tas.gov.au\)](https://www.aboriginalheritage.tas.gov.au)

Victoria

In Victoria, the *Commission for Children and Young People Act 2012* established the role of the Principal Commissioner and an additional Commissioner appointed under section 12. This section has been used to appoint a **Commissioner for Aboriginal Children and Young People**.²³

The **First People's Assembly of Victoria** is recognised under the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* as the Aboriginal Representative Body (i.e. the sole representative of traditional owners and Aboriginal Victorians for the purpose of establishing elements necessary to support future treaty negotiations).²⁴

The **Yoorrook Justice Commission** was established under Section 5 of the *Inquiries Act 2014* with the powers of a Royal Commission. The objectives concern systemic injustice, developing a shared understanding among all Victorians, building a new relationship between First Peoples and the State of Victoria, and supporting the treaty-making process.²⁵

Western Australia

The **Aboriginal Cultural Heritage Council** was established under the *Aboriginal Cultural Heritage Act 2021*. The WA Government is currently progressing changes to the laws governing the protection and management of Aboriginal heritage.²⁶

The **Aboriginal Lands Trust** (ALT) is a statutory board convened under the *Aboriginal Affairs Planning Authority Act 1972*. The Board advises the Minister for Indigenous Affairs on issues relating to the ALT estate.²⁷

²³ See [Commission for Children and Young People Act 2012 \(legislation.vic.gov.au\)](https://legislation.vic.gov.au)

²⁴ See Part 2 of https://content.legislation.vic.gov.au/sites/default/files/50f587e2-f753-3e01-b2ca-2f86930eef93_18-28aa001%20authorised.pdf and [TREATY FOR VICTORIA | First Peoples' Assembly of Victoria \(firstpeoplesvic.org\)](https://firstpeoplesvic.org) for further information.

²⁵ Yoorrook Justice Commission: <https://yoorrookjusticecommission.org.au/overview/>

²⁶ For further information see [Aboriginal Cultural Heritage Council \(www.wa.gov.au\)](https://www.wa.gov.au) and [Aboriginal Heritage laws \(www.wa.gov.au\)](https://www.wa.gov.au)

²⁷ For further information see [Aboriginal Lands Trust \(www.wa.gov.au\)](https://www.wa.gov.au)

APPENDIX A: Aboriginal Areas Protection Authority

The Aboriginal Areas Protection Authority (the Authority) is an independent statutory authority established under the *Northern Territory Aboriginal Sacred Sites Act 1989*. The Authority is responsible for overseeing the protection of Aboriginal sacred sites on land and sea across the whole of Australia's Northern Territory.

The broad purpose of the *Northern Territory Aboriginal Sacred Sites Act 1989* is to:

‘...effect a practical balance between the recognised need to preserve and enhance Aboriginal cultural tradition in relation to certain land in the Territory and the aspirations of the Aboriginal and all other peoples of the Territory for their economic, cultural and social advancement...’

To ensure that the Authority remains at arms-length from the Government, the operations of the Authority are overseen by a 12-member board. The Board consists mainly of senior male and female Aboriginal custodians from across the Northern Territory. The staff of the Authority is appointed under section 17 of the Sacred Sites Act and the Chief Executive Officer is appointed by the Administrator of the Northern Territory.

The Chief Executive Officer is responsible under the Financial Management Act for managing the day to day operations of the Authority and carries delegated responsibilities from the Board.

The Authority Board comprises five male and five female Aboriginal custodians nominated by Northern Territory Aboriginal Land Councils, together with two Government appointees. Members are appointed by the Administrator of the Northern Territory for three-year terms and may be reappointed. The Board meets at least four times each year, in Darwin, Alice Springs and occasionally in regional parts of the Northern Territory.

The Chair and Deputy Chair of the Board are nominated by the Board and appointed by the Administrator. They must be of opposite gender.

Source: <https://www.aapant.org.au/about-us>

APPENDIX B: *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)*

23 – Functions of Land Councils

(1) The functions of a Land Council are:

(a) to ascertain and express the wishes and the opinion of Aboriginals living in the area of the Land Council as to the management of Aboriginal land in that area and as to appropriate legislation concerning that land; and

(b) to protect the interests of traditional Aboriginal owners of, and other Aboriginals interested in, Aboriginal land in the area of the Land Council; and

(ba) to assist Aboriginals in the taking of measures likely to assist in the protection of sacred sites on land (whether or not Aboriginal land) in the area of the Land Council; and

(c) to consult with traditional Aboriginal owners of, and other Aboriginals interested in, Aboriginal land in the area of the Land Council with respect to any proposal relating to the use of that land; and

(d) where the Land Council holds in escrow a deed of grant of land made to a Land Trust under section 12:

(i) to negotiate with persons having estates or interests in that land with a view to the acquisition of those estates or interests by the Land Trust; and

(ii) until those estates or interests have been so acquired, to negotiate with those persons with a view to the use by Aboriginals of the land in such manner as may be agreed between the Land Council and those persons; and

(e) to negotiate with persons desiring to obtain an estate or interest in land in the area of the Land Council:

(i) where the land is held by a Land Trust or is the subject of a deed of grant made to a Land Trust under section 12 that the Land Council holds in escrow--on behalf of traditional Aboriginal owners (if any) of that land and of any other Aboriginals interested in the land; and

(ii) where the land is the subject of an application referred to in paragraph 50(1)(a)--on behalf of the traditional Aboriginal owners of that land or on behalf of any other Aboriginals interested in the land; and

(ea) to assist Aboriginals in the area of the Land Council to carry out commercial activities (including resource development, the provision of tourist facilities and agricultural activities), in any manner that will not cause the Land Council to incur financial liability or enable it to receive financial benefit; and

(eb) for land that is a community living area and in the area of the Land Council--to assist the owner of the land, if requested to do so, in relation to any dealings in the

land (including assistance in negotiating leases of, or other grants of interests in, the land); and

(f) to assist Aboriginals claiming to have a traditional land claim to an area of land within the area of the Land Council in pursuing the claim, in particular, by arranging for legal assistance for them at the expense of the Land Council; and

(fa) to negotiate, and enter into agreements, as necessary, for the purposes of subsection 70(4); and

(g) to compile and keep:

- (i) a register recording the names of the members of the Land Council; and
- (ii) a register recording the names of the members of the Land Trusts holding, or established to hold, Aboriginal land in its area and descriptions of each area of such Aboriginal land; and

(h) to supervise, and provide administrative or other assistance for, Land Trusts holding, or established to hold, Aboriginal land in its area; and

(i) such other functions as are prescribed by the regulations.

(2) A Land Council may, with the approval of the Minister, perform any functions that may be conferred on it by a law of the Northern Territory, including, without limiting the foregoing, functions in relation to:

(a) the protection of sacred sites;

(b) access to Aboriginal land; and

(c) schemes for the management of wildlife on Aboriginal land.

(3) In carrying out its functions with respect to any Aboriginal land in its area, a Land Council shall have regard to the interests of, and shall consult with, the traditional Aboriginal owners (if any) of the land and any other Aboriginals interested in the land and, in particular, shall not take any action, including, but not limited to, the giving of consent or the withholding of consent, in any matter in connexion with land held by a Land Trust, unless the Land Council is satisfied that:

(a) the traditional Aboriginal owners (if any) of that land understand the nature and purpose of the proposed action and, as a group, consent to it; and

(b) any Aboriginal community or group that may be affected by the proposed action has been consulted and has had adequate opportunity to express its view to the Land Council.

(4) The reference in paragraph (1)(e) to an estate or interest in land includes a reference to a licence in respect of that land.

Source: http://www5.austlii.edu.au/au/legis/cth/consol_act/alrta1976444/s23.html

APPENDIX C: *Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Act 1981*

24 Functions of Board

The functions of the Board are:

- (a) to prepare plans of management for the control and management of the sanctuary and/or marine park;
- (b) to protect and enforce the right of the group to use and occupy the sanctuary and/or marine park;
- (c) to determine, in accordance with the plan of management, the rights of access to parts of the sanctuary and/or marine park of persons who are not members of the group;
- (ca) to advise the Minister for the purposes of section 34A;
- (d) to ensure adequate protection of sites on the sanctuary and marine park of spiritual or other importance in Aboriginal tradition; and
- (e) such other functions in and in relation to the sanctuary and/or marine park as are imposed on it by or under the plan of management.

Source: <https://legislation.nt.gov.au/Legislation/COBOURG-PENINSULA-ABORIGINAL-LAND-SANCTUARY-AND-MARINE-PARK-ACT-1981>

APPENDIX D: *Nitmiluk (Katherine Gorge) National Park Act 1989*

16 Functions of Board

The functions of the Board are:

- (a) to prepare plans of management for the control and management of the Park;
- (b) to make decisions, not inconsistent with this Act and the plan of management, in respect of the Park;
- (c) to protect and enforce the right of Aboriginals entitled by Aboriginal tradition to use and occupy the Park to use and occupy it;
- (d) to ensure adequate protection of sites of spiritual or other importance in accordance with Aboriginal tradition in the Park;
- (da) to enter into agreements with the traditional Aboriginal owners of the Park in relation to the control and management by the Board of land outside the Park in respect of which those owners are also the traditional Aboriginal owners; and
- (e) the other functions in relation to the Park or other land imposed on the Board by or under this Act, the lease, the plan of management or an agreement under paragraph (da).

Source: <https://legislation.nt.gov.au/Legislation/NITMILUK-KATHERINE-GORGE-NATIONAL-PARK-ACT-1989>

APPENDIX E: *Batchelor Institute of Indigenous Tertiary Education Act 1999*

24A Functions and powers of Board

- (1) The functions of the Board are to:
 - (a) advise, and make recommendation to, the Council about indigenous cultural and social issues that are likely to affect the Institute; and
 - (b) consult with indigenous people, communities and organisations to promote constructive dialogue and engagement between the Institute and indigenous people; and
 - (c) advise the Institute on systemic and structural changes aimed at improving outcomes for indigenous students and clients of the Institute, with particular focus on vocational education and training and higher education; and
 - (d) carry out other activities as requested by the Council.
- (2) If the Council agrees, the Board may engage persons with relevant expertise as consultants.
- (3) The Board has the powers necessary to perform its functions, including the power to establish committees to perform particular functions.
- (4) A committee established by the Board must consist only of members of the Board.
- (5) The funding of the Board must be decided by the Council and met by the Institute.

Source: <https://legislation.nt.gov.au/en/Legislation/BATCHELOR-INSTITUTE-OF-INDIGENOUS-TERTIARY-EDUCATION-ACT-1999>

APPENDIX F: *Australian Human Rights Commission Act 1986*

46C Functions of the Commission that are to be performed by the Commissioner etc.

(1) The following functions are conferred on the Commission:

(b) to promote discussion and awareness of human rights in relation to Aboriginal persons and Torres Strait Islanders;

(c) to undertake research and educational programs, and other programs, for the purpose of promoting respect for the human rights of Aboriginal persons and Torres Strait Islanders and promoting the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders;

(d) to examine enactments, and proposed enactments, for the purpose of ascertaining whether they recognise and protect the human rights of Aboriginal persons and Torres Strait Islanders, and to report to the Minister the results of any such examination.

Note: Functions are also conferred on the Commission under section 209 of the *Native Title Act 1993*.

(2) The functions of the Commission under subsection (1) are to be performed by the Commissioner on behalf of the Commission.

(2A) The Commissioner may submit reports to the Minister regarding the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders.

(2B) The Commissioner may submit reports to the Minister regarding:

(a) the operation of the *Native Title Act 1993*; and

(b) the effect of that Act on the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders.

(2C) A report under subsection (2A) or (2B) may include recommendations as to the action that should be taken to ensure the enjoyment and exercise of human rights by Aboriginal persons and Torres Strait Islanders.

(3) In the performance of functions, or the exercise of powers, under this section, the Commissioner may consult any of the following:

(a) organisations established by Aboriginal or Torres Strait Islander communities;

(b) organisations of indigenous peoples in other countries;

(c) international organisations and agencies;

(d) such other organisations, agencies or persons as the Commissioner considers appropriate.

(4) In the performance of functions, or the exercise of powers, under this section, the Commissioner must, as appropriate, have regard to:

(a) the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child; and

(b) such other instruments relating to human rights as the Commissioner considers relevant; and

(c) the object of the *Council for Aboriginal Reconciliation Act 1991*.

Source: <https://www.legislation.gov.au/Details/C2017C00143>