



CAPE YORK LAND COUNCIL  
ABORIGINAL CORPORATION

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Friday, 3 May 2013

Manager  
Philanthropy and Exemptions Unit  
Indirect Philanthropy and Resource Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

**Re: The Cape York Land Council Aboriginal Corporation (CYLC) submission in response to the *Charities Bill 2013***

CYLC appreciates the opportunity to respond to the *Charities Bill 2013*. As the Native Title Representative Body for Cape York our comments are concerned with the interests of native title groups and the effects of the *Charities Bill 2013* on these groups.

Overall, the Bill proposes an improvement to the definition of charity by clarifying the meaning of a charity and expanding the categories that fall within that meaning. However, despite the proposed changes, native title groups will still be constrained in establishing charitable entities to manage funds received through native title negotiations and other sources so that these funds can be effectively utilised for the benefit of native title parties.

More specifically, the provisions of the Bill do not adequately provide for native title groups interests because:

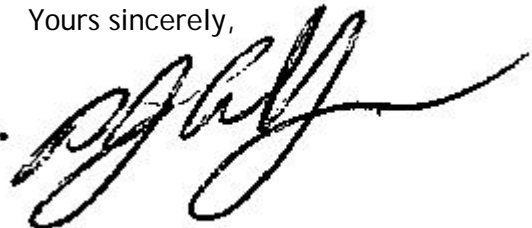
- the definition of charity restricts it to an entity that is not for profit and all its purposes must be charitable purposes for the public benefit. This definition may prevent some native title groups, who distribute the proceeds of native title negotiations or other activities to members, from satisfying the definition of charity even though their dominant activities are charitable. For native title groups the definition of charity should be amended to also include groups whose dominant activity is charitable;

- the new provision that native title groups will not fail the public benefit test solely because Indigenous beneficiaries are related is a positive development. However it may be difficult for native title groups to comply with other requirements of the public benefit test such as the nature of the entity, the activities it undertakes, the beneficiary class, and the relationship between and number of beneficiaries, and so they may still fail the public benefit test;
- the new provision allowing an entity to accumulate profits is positive since it provides an option for native title groups to share benefits with future generations. However the requirement for profits being accumulated to “augment funds available to give effect to the charitable purpose”, and where profits are accumulated over a number of years, must show that the accumulation is still consistent with having a charitable purpose, may be difficult to document and demonstrate.

As indicated in the CYLC 2011 submission, the long term solution for tax exemptions and concessions for native title groups continues to be the establishment of an Indigenous specific taxation and economic development vehicle, such as an Indigenous Community Development Corporation (ICDC), as proposed in the National Native Title Council’s 2011 submission. The ICDC could address specific native title group issues and concerns and charitable requirements. CYLC requests that the Indigenous Community Development Corporation vehicle is reconsidered for inclusion in the regime associated with charitable tax concessions for native title groups.

CYLC would be pleased to discuss the points raised in this submission if further information is required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Callaghan', with a long horizontal flourish extending to the right.

Peter Callaghan  
CEO  
Cape York Land Council Aboriginal Corporation