The Minister for Justice and Attorney-General Dr Peter Toyne detailed the Government’s Customary Law review today in conjunction with signing the 1997 National Communiqué to progress Indigenous Justice issues.

Dr Toyne said the 1997 Communiqué committed all signatories to addressing customary law and its relationship with the criminal justice system.

"There are many parts of statutory and common laws that incorporate or take into account elements of Aboriginal Customary Law.

"The Toward Mutual Benefit: An Inquiry into Aboriginal Customary Law will seek to find some mutual benefit in areas including but not limited to governance, social well-being, law and justice and economic independence," Dr Toyne said.

The Inquiry will be co-chaired up by eminent Territorian Mr Austin Asche QC and future members of the committee will be announced in coming weeks.

The Northern Territory Government views that, in accordance with Australian and international law, Aboriginal Customary Law should be recognised consistent with universally recognised human rights and fundamental freedoms.

"It is for this reason, that the Northern Territory Government affirms that the Northern Territory Criminal Code applies to all citizens of the Northern Territory without exception. This means that the Northern Territory Government does not condone any of the crimes in that Code, including but not limited to murder, manslaughter, dangerous act, rape, incest, carnal knowledge, kidnap, assault and theft," Dr Toyne said.

The Northern Territory Government believes there is much value in supporting and sustaining Aboriginal Customary Law, and that the knowledge contained in Aboriginal Customary Law can be of mutual benefit to all citizens of the Northern Territory as well as its custodians.

The Toward Mutual Benefit: An Inquiry into Aboriginal Customary Law Preamble and Terms of Reference are following:

TOWARD MUTUAL BENEFIT:

AN INQUIRY INTO ABORIGINAL CUSTOMARY LAW IN THE NORTHERN TERRITORY

A sub-committee of the Northern Territory Law Reform Committee
Preamble

There are many parts of the statutory and common law in Northern Territory, as well as in other State, Territory and Commonwealth jurisdictions, that incorporate or take into account elements of Aboriginal Customary Law.

Aboriginal Law is commonly misunderstood as relating primarily to issues of punishment and payback and its interface with the Northern Territory Criminal Code. This is simply untrue. Aboriginal Law encompasses an extremely broad and complex set of rules and unwritten legislation governing social relationships, economic rights, land ownership, wildlife conservation, land management and intellectual property rights.

It is the view of the Northern Territory Government that, in accordance with Australian and international law, Aboriginal Customary Law should be recognised consistent with universally recognised human rights and fundamental freedoms.

It is for this reason, that the Northern Territory Government affirms that the Northern Territory Criminal Code applies to all citizens of the Northern Territory without exception. This means that the Northern Territory Government does not condone any of the crimes in that Code, including but not limited to murder, manslaughter, dangerous act, rape, incest, carnal knowledge, kidnap, assault and theft.

The Northern Territory Government believes there is much value in supporting and sustaining Aboriginal Customary Law, and that the knowledge contained in Aboriginal Customary Law can be of mutual benefit to all citizens of the Northern Territory as well as its custodians.

Terms of Reference

To inquire into the strength of Aboriginal Customary Law in the Northern Territory.

To report and make recommendations on the capacity of Aboriginal Customary Law to provide benefits to the Northern Territory in areas including but not limited to governance, social well being, law and justice, economic independence, wildlife conservation, land management and scientific knowledge.

To report and make recommendations as to what extent Aboriginal Customary Law might achieve formal or informal recognition within the Northern Territory.

In conducting this Inquiry, the sub-Committee should have regard to the following:

- the views of Aboriginal people in the Northern Territory, particularly those who are custodians of Aboriginal Customary Law;
- the extent of existing arrangements accommodating Aboriginal Customary Law in the Northern Territory and other jurisdictions;
- previous reports and research into Aboriginal Customary Law, including the reports of the Statehood Committee (NT), the Australian Law Reform Commission (1986) and the Royal Commission into Aboriginal Deaths in Custody;
- other public submissions.

The Committee is to report to Government by 30 June 2003.