

MEDIA RELEASE



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Native Title reforms needed to create fairer and more sustainable system

ANTaR has welcomed the introduction yesterday by Greens Senator Rachel Siewert of a Private Members Bill to deliver improved outcomes for native title claimants.

“This bill seeks to address some of the key barriers Aboriginal and Torres Strait Islander peoples face in seeking fair and beneficial outcomes from the native title system,” said Jacqueline Phillips, ANTaR National Director.

“ANTaR hopes that the introduction of the Bill will create an opportunity for national policy debate on the need for reform to deliver benefits to current and future generations.”

If passed, the *Native Title Amendment (Reform) Bill* would effect changes to the Native Title Act to reduce barriers to successful claim-making, by:

- reversing the onus of proof by introducing a presumption of continuity;
- clarifying the obligation to negotiate in good faith;
- re-defining 'traditional' to better recognise the inevitable evolution of laws and customs over time; and
- incorporating the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in the Act's objects.

“A range of international bodies and legal experts, including the current Chief Justice, have called for a reversal of the onus of proof in recognition of the high evidential burden faced by native title claimants. A presumption of continuity would impose a more reasonable burden on claimants.”

The bill requires that parties make all reasonable efforts to come to an agreement and outlines some benchmarks for 'good faith' negotiations including attending and actively participating in meetings.

“Clarification of the requirements of good faith negotiations will help to ensure these processes are genuine and fair and result in better agreement making.”

“The incorporation of the UNDRIP principles would but go some way to giving effect to Australia's existing international obligations.”

Governments, courts and public servants would be required to apply these principles in exercising powers or interpreting provisions under the Act.

ANTaR is a national advocacy organisation dedicated specifically to the rights - and overcoming the disadvantage - of Aboriginal and Torres Strait Islander peoples.

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