



THE SENATE

## SELECT COMMITTEE ON THE ABORIGINAL FLAG

### MEDIA RELEASE

4 September 2020

#### **Senate Committee will examine copyright and licensing arrangements for the Aboriginal flag design**

The Aboriginal flag was designed by Harold Thomas, a Luritja man of Central Australia. In 1997, the Federal Court of Australia officially recognised Mr Thomas as the author of the flag. This meant the flag was protected under the *Copyright Act 1968* (Cth) and can only be reproduced in accordance with this legislation or with the permission of Mr Thomas.<sup>1</sup>

A company called WAM Clothing currently has exclusive rights to use the flag on clothing. Over recent years, there have been instances of WAM Clothing issuing Aboriginal-owned businesses and professional sporting bodies cease and desist warnings over their use of the Aboriginal flag on clothing.<sup>2</sup> This raises questions about the control and use of the Aboriginal flag.

On 3 September 2020, the Senate established the Select Committee on the Aboriginal Flag. The committee will consider the current and former copyright and licensing arrangements for the Aboriginal flag design, in particular:

- (a) who benefits from payments for the use of the Aboriginal Flag design and the impact on Aboriginal organisations, Aboriginal communities and the broader Australian community of the current copyright and licensing arrangements;
- (b) options available to the Government to enable the Aboriginal Flag design to be freely used by the Australian community, including:
  - (i) negotiated outcomes with licence and/or copyright holders;
  - (ii) the compulsory acquisition of licences and/or copyright,
  - (iii) ways to protect the rights and interests of the flag's legally recognised creator Mr Harold Thomas; and
- (c) any other matters relevant to the enduring and fair use of the Aboriginal flag design by the Aboriginal and Australian community.

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<sup>1</sup> Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), *Aboriginal flag*, <https://aiatsis.gov.au/explore/articles/aboriginal-flag#:~:text=In%201997%20the%20Federal%20Court,the%20permission%20of%20Mr%20Thomas> (accessed 4 September 2020).

<sup>2</sup> Tony Armstrong, 'Aboriginal flag's absence from AFL's Indigenous Round highlights ongoing issues', *ABC News*, 18 August 2020, <https://www.abc.net.au/news/2020-08-18/aboriginal-flag-to-be-absent-for-afl-indigenous-round/12569346> (accessed 4 September 2020).

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The committee invites submissions addressing the terms of reference from interested individuals and organisations by **18 September 2020**.

Information about the inquiry is available at:

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Aboriginal\\_Flag](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Aboriginal_Flag).

For media comment contact Martha Tattersall in the office of Senator Malarndirri McCarthy, Committee Chair, on 0417 387 775.

For information about the inquiry process or making a submission, please contact the committee secretariat on (02) 6277 3560.