



19 December 2023

Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

RE: Attorney-General's Portfolio Miscellaneous Measures Bill 2023

The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

Native Title Respondent Scheme

The NFF strongly opposes the proposed Bill in respect of Schedule 4, Part 2 which seeks to abolish the Native Title Respondent Scheme (the scheme). The NFF recognises Native Title negotiation as a complex, difficult and tense area. For the Government to take the inequitable approach of allowing (by deed if not by design) the Native Title representative bodies (as claimants) to utilise their existing legal capacities to engage in these processes without commensurate support for respondents is inequitable.

Since 1996 farmers have been participants in native title claims and settlements, under a system that, to date, has provided benefit to both the claimant and the respondent. The scheme supports access to fair and equitable justice by facilitating efficient and effective resolution of Native Title claims. The scheme does this through contributing towards the salary of Native Title Officers, who work with individuals and organisations who are respondent to native title litigation. Ensuring fair and equal access to assistance and legal representation to all parties.

To date, the delivered and intended outcomes of the program are:

- Increasing understanding of native title issues by members of peak bodies or organisations;
- Coordination of instructions to legal representatives; and



- The grouping of respondent in claim areas.

The grouping of Native Title respondents in this manner assists with the efficient and cost-effective resolution of claims as parties with similar interests are represented by one lawyer and supported by one Native Title Officer. As an example of this cost effectiveness, legal fees charged to the Attorney-General's Office for the Ngemba Ngiyampaa matter since 2014 was around \$31,700, averaging less than \$4000 in annual legal fees.

The scheme also provides a single point of contact for Native Title claims affecting pastoral respondents (and there are often several in each claim), working with legal representation to ensure they receive relevant and timely information regarding native title processes and legal developments and can make informed decisions.

Through coordinating legal support in this manner, the scheme aims to substantially reduce legal costs and streamline proceedings which would otherwise involve hundreds of solicitors and other parties, with all the complexity and potential delay that that entails. The current system has contributed to more effective and consistent determinations of disputed matters in a way that benefits all parties and, importantly, the claimants themselves.

The NFF has collated a number of current Native Title claims that we are aware of.

State	Native Title Claim	Respondents involved
NSW	Ngemba/Ngiyampaa	5
NSW	Gomerai People	9
NSW	Warrabinga-Wirajuri	12
NSW	South Coast People	25
QLD	Clermont-Belyando Area	17
QLD	Jangga #3 Part A	14
QLD	Wongkumara People	8
QLD	Gaangalu Nation	8
QLD	Wadja People	4
QLD	Western Kangalou People	9
QLD	Cape York United #1	7
QLD	Mitakoodi and Mayi People	11
QLD	Jangga People #2	13
QLD	Jangga #3 Part B	3
QLD	Gudjala People	7
NT	Dalmore Downs	13
NT	Mary River	5
NT	Mary River – Litchfield Daly	8
NT	Karinga Lakes	3
NT	Ambalindum & The Garden	Several
NT	Huckitta	Several



Given that applications are still pending there does not seem to be a valid argument to remove this as an unutilised system. It therefore appears to be an extremely unfortunate and ill-informed approach that lacks an understanding of the impact of such a decision. The decision sends a worrying signal to the community around a balanced and equitable approach. Every stakeholder deserves to be able to participate in good faith under the principle of natural justice. The scheme needs to be maintained and the decision not to fund it reversed.

The NFF has repeatedly stressed our concerns to the Attorney-General about the Government's intention to abolish the scheme through correspondence in June of 2022 and again in December 2023 (correspondence in attachment 1.) with no reply to either correspondence so far.

The NFF thanks the Committee for the opportunity to provide a submission to this consultation. Please do not hesitate to contact Warwick Ragg, General Manager (Natural Resource Management)

Yours sincerely,

TONY MAHAR
Chief Executive Officer

Attachments: Correspondence to the Attorney-General relating to Native Title respondent scheme

Attachment 1.

**National
Farmers
Federation**



14 June 2022

The Hon Mark Dreyfus QC MP
Attorney-General
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: attorney@ag.gov.au

Dear Attorney-General,

RE: Continuation of the Native Title Respondents Scheme to facilitate timely and equitable NT litigation resolution

The National Farmers' Federation (NFF) is requesting the Attorney General review the government's intention to abolish the Native Title Officer Funding Scheme (the program). Farmers have been willing participants in native title claims and settlements since 1996, under a system that, to date, ensures both the claimant and the respondent have fair and equal access to assistance and legal representation. This arrangement is essential for a timely and efficient settlement of claims – of great benefit to all parties.

As you are aware, the program is funded through the Native Title Respondents Scheme. The objective of the program is to support access to justice by facilitating efficient and effective resolution of native title claims. This is achieved by contributing towards the salary of native title officers (NTOs), who work with individuals and organisations who are respondents to native title litigation.

Delivered consistently to date, the intended outcomes of the program are:

- Increased understanding of native title issues by members of peak bodies or organisations
- Coordination of instructions to legal representatives
- The grouping of respondents in claim areas.

Grouping of native title respondents in this manner assists with the efficient and cost-effective resolution of claims as parties with similar interests are represented by one lawyer and supported one Native Title Officer. The program provides a single point of contact for native title claims affecting pastoral respondents, working with legal representation to ensure they receive relevant and timely information regarding native title processes and legal developments and can make informed decisions.

In providing a single point of contact and coordinating legal support, the program aims to substantially reduce legal costs and streamline proceedings which would otherwise involve hundreds of solicitors and other parties, with all the complexity and potential delay that that entails. The current system has contributed to the

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more effective resolution of disputed matters in a way that benefits all parties and, importantly, including the claimants themselves.

The NFF urges the Government to continue to fund landholder and leaseholder native title respondents to ensure a fair and equitable system for all involved, and to ensure the process of hearing claims can continue in good faith. This is a fundamental matter of equity across participants that have historically been a feature of this complex and contested area.

Funding applications were submitted under existing guidelines (by both parties) prior to the recent federal elections. The Attorney General's Department has not processed these applications or communicated with applicants regarding the outcome. A decision needs to be made regarding these funding applications and the future of the project as soon as possible so alternative arrangements can be arranged if necessary.

NFF would be pleased to meet with the Attorney to further these important matters. Should you require any further information, please contact Warwick Ragg, General Manager NRM,

Yours sincerely

ASH SALARDINI
Acting Chief Executive Officer

National
Farmers
Federation



01 December 2023

The Hon Mark Dreyfus KC MP

Attorney General
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: attorney@ag.gov.au

Dear Attorney General,

RE: Continuation of the Native Title Respondents Scheme

We understand it is the Government's intention to abolish the Native Title Respondents Scheme. We have previously written to you on this matter (attached letter) and urge you once again not to proceed down this path. There is no record of having received a reply in our system.

The NFF recognises Native Title negotiation as a complex, difficult and tense area. For the Government to take the inequitable approach of allowing (by deed if not by design) the Native Title representative bodies to utilise their existing legal capacities to engage in these processes.

Given we understand that applications are still pending, i.e., not processed or responded to, there does not seem to be an argument to remove this as an unutilised system. It therefore appears to be a bloody minded and unjust approach. Every stakeholder deserves to be able to participate in good faith under the principles of natural justice.

We urge you to withdraw this component of your omnibus legislation forthwith. Please contact the undersigned or Warwick Ragg should you seek further information.

Yours sincerely,

TONY MAHAR
Chief Executive Officer

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