



**Australian Government**  

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**Department of the Prime Minister and Cabinet**

**SECRETARY**

**Submission to the Senate Select Committee  
on the Aboriginal Flag**

1. On 4 September 2020, I was invited to make a written submission to the Senate Select Committee on the Aboriginal Flag by 18 September 2020.
2. The Minister for Indigenous Australians, the Hon Ken Wyatt AM MP, and the National Indigenous Australians Agency are managing discussions around copyright of the Australian Aboriginal Flag. I understand that the Agency will be making a separate submission to the Committee.
3. Under the Administrative Arrangements Order, the Department of the Prime Minister and Cabinet (PM&C) is responsible for 'Australian honours and symbols policy' and the administration of the *Flags Act 1953*. I am making this submission in that capacity.
4. In 1995, following support from the Minister for Aboriginal and Torres Strait Islander Affairs, the Government requested that the then Governor-General of Australia proclaim the Australian Aboriginal Flag an official flag of Australia under the *Flags Act 1953*.
5. In response to the proclamation of the Australian Aboriginal Flag, Mr Harold Thomas launched a legal campaign to assert his copyright ownership over the design of the flag.
6. In April 1997, the Federal Court declared that Mr Thomas was the owner of copyright of the Australian Aboriginal Flag<sup>1</sup>, with its use protected under the *Copyright Act 1968*.
7. However, permission is not required to fly or display the Australian Aboriginal Flag.
8. PM&C provides flag protocol advice to assist individuals and organisations with respectful and dignified use of flags.

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<sup>1</sup> Thomas v Brown & Tennant [1997] 215 FCA (9 April 1997)

9. The Australian Government encourages the flying of the Australian Aboriginal Flag and the Torres Strait Islander Flag along with the Australian National Flag at times of special significance to Indigenous Australians, such as National Reconciliation Week and NAIDOC Week.
10. Flying the Australian Aboriginal and Torres Strait Islander flags confirms our national respect for Indigenous Australians.
11. Many Australian Government agencies, including PM&C, fly the Australian National Flag together with the Australian Aboriginal and Torres Strait Islander flags all year round.
12. I trust this submission is of assistance to the Committee.

Philip Gaetjens

14 September 2020