

Dear Alex,

Thank you for informing us about the Inquiry into the Native Title Amendment (Technical Amendments) Bill 2007 and the opportunity to make a submission to the Inquiry.

ANTaR Qld has contributed to the statements made by Gary Highland on behalf of ANTaR National on 14th February (see below). We therefore emphasise the points made by Mr Highland and urge the Inquiry to recommend that the Bill in its present form, not be passed.

Yours sincerely,

Monique Bond, Vice President, ANTaR Qld Association Inc

Amendments to the Native Title Act being debated in the House of Representatives today would increase the powers of the Minister and Native Title Tribunal at the expense of traditional owners, their representative bodies and the Federal Court, according to Australians for Native Title and Reconciliation (ANTaR).

ANTaR National Director, Gary Highland said the amendments would further limit the ability of Indigenous people to have their native title rights recognized. Instead they will create greater uncertainty, conflict and confusion by threatening the independence of native title representative bodies, compromising the mediation process and reducing Ministerial accountability.

Mr Highland said the proposal to introduce fixed terms of recognition for native title representative bodies into the Act was particularly concerning.

"The changes take the heavy stick approach to trying to improve the efficiency of native title representative bodies, rather than tackling the real source of the problem - a lack of capacity caused by chronic under funding."

"Under the changes, representative bodies could be recognized for as little as one year - even though it is unheard for a Native Title claim to be resolved within this period of time," he said.

"Limiting recognition for such a short time would make it impossible for representative bodies to adequately plan for the future, attract and retain qualified and experienced staff and develop productive relationships with industry and government.

"In addition, representative bodies frequently find themselves in conflict with the Federal Government which has shown itself to be generally hostile to native title claims. The greater threat of de-recognition could therefore threaten the independence of a representative body seeking to uphold the interests of traditional owners who are opposed by the Government," Mr Highland said.

Mr Highland said the Bill also gives too much discretion to the Minister who could decide to de-recognise a representative body in an arbitrary and non-transparent way.

The Bill also opens the way for non-Indigenous organizations to be recognized as native title representative bodies - further reducing Indigenous decision making and control over these sensitive matters.

Mr Highland said that the proposed changes to increase the powers of the National Native Title Tribunal could ironically diminish its ability to mediate native title claims effectively.

"The changes would allow the Tribunal to compel parties to produce legally privileged documents and enable it to report to the Federal Court on the merits of native title claims - even though the mediation process is meant to be without prejudice."

"These harsh and oppressive measures run counter to the spirit needed to ensure effective mediation," Mr Highland said.

Mr Highland said that the Bill would reduce the ability of the Federal Court to mediate in relation to native title claims - even though this body had proven to be a more effective mediator than the National Native Title Tribunal.

There are already significant hurdles placed in the way of Indigenous people seeking to have the limited rights of native title recognized and protected. The Government's proposed amendments will make these hurdles even higher, further eroding the confidence of Indigenous people in the native title process," Mr Highland said.

"Indigenous organizations, the Federal Court, the Government's own Indigenous Social Justice Commissioner and the mining industry are all opposed to key elements of this Bill. ANTaR urges the Senate to listen to these concerns and not pass the Bill in its current form."