



INDIGENOUS PEOPLES' ORGANIZATION (IPO)

AUSTRALIA



Attention: Sophie Dunstone,
Committee Secretary

Legal and Constitutional Affairs Inquiry into the Native Title Legislation Amendment Bill 2019 [Provisions]

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The Indigenous Peoples Organisation (IPO) welcomes the opportunity to make a submission to the Legal and Constitutional Affairs Inquiry into the Native Title Legislation Amendment Bill 2019 [Provisions].

1. INDIGENOUS PEOPLES ORGANISATION

Australia's Indigenous Peoples Organisation (IPO) is comprised of a coalition of 270+ members, including Aboriginal and Torres Strait Islander peak organisations, community organisations and individual members across Australia. The IPO was established to facilitate constructive and collaborative advocacy of Indigenous rights at the United Nations and to promote the recognition of internationally recognised Indigenous rights within Australia.

1.1 History of the Indigenous Peoples Organisation

The international advocacy work of the IPO was originally established, funded and staffed through ATSIC throughout the 1990s. However, with the abolition of ATSIC, the Howard Coalition Government commenced the annual funding of Aboriginal and Torres Strait Islander delegates in 2006, through a \$100,000 annual grant administered by the Australian Human Rights Commission. The grant provided funding through competitive merit selection for Indigenous representatives and to build the experience of emerging leaders. However, in 2014 the Abbott Coalition Government cut the funding available to the IPO. In response, in March 2016, the IPO was reconvened as a national voluntary body. The IPO has since revised its operational structure, conferring a male and female Co-Chair and a national Executive within the Constitution to provide national direction and accountability back to the membership.

1.2 Structure of the Indigenous Peoples Organisation

The IPO is an open association for Aboriginal and Torres Strait Islander communities, organisations and individuals who seek to promote and defend the rights of Indigenous Peoples at the national, regional and international levels. The IPO operates through the direction of the national executive and two elected Co-Chairs.

1.3 Summary of the IPO Submission

The Final Report of the Australian Law Reform Commission, 'Connection to Country: Review of the Native Title Act 1993 (Cth) (ALRC Report 126) examined its inquiry into the *Native Title Act 1993 (Cth)* 'within a broader context of the common law, international law and comparative law', through the lens of the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.¹ Citing the Law Council of Australia in the ALRC Report 126:

¹ Australian Law Reform Commission, Connection to Country: Review of the *Native Title Act 1993 (Cth)*, Report No 126 (2015), 14-15.

The UNDRIP, whilst lacking the status of a binding treaty, embodies many human rights principles already protected under international customary and treaty law and sets the minimum standards for the States Parties' interactions with the world's indigenous peoples.²

The IPO affirms that any proposed amendment to the *Native Title Act 1993* (Cth) should be guided by 'Australia's international obligations; and to promote sustainable, long-term social, economic and cultural development for Indigenous Peoples of Australia'.³

The submissions of the IPO are made in relation to the proposed amendment to the authorisation provisions.

The IPO has not provided commentary on the decision by the Full Federal Court in *McGlade v Native Title Registrar [2017] FCAFC 10* which raised issues on the validity of Indigenous land use agreements that have not been signed by all of the registered claimants for a native title claim. However, the IPO does not regard the *McGlade* decision as a "flaw", as stated in the House of Representatives Explanatory Memorandum 'Native Title Legislation Amendment Bill'.⁴

These amendments contemplated by the Government to the *Native Title Act 1993* (Cth) are inconsistent with international law and the Government's obligations under article 1 of the ICCPR and article 1 of the ICESCR, that is, 'the right to self-determination is a collective right'⁵ to 'freely determine their political status and freely pursue their economic, social and cultural development'.⁶ The Governments' proposed amendments to the *Native Title Act 1993* (Cth) undermine Indigenous traditional decision-making and any form of revitalised decision-making which Indigenous claim groups consider appropriate. Further these proposed amendments breach article 1 of the ICCPR in creating a statutory regime that individually, and collectively, ceases to respect the right to exercise authority of each authorised member within the claim group.

The IPO recognises and affirms that the exercise of the authority of each and every member of the claim group, and the exercise of their decision-making power, whether traditional or revitalised, in the course of discussion, consensus, abstention or dissent, represents the ontological concept of Indigenous decision-making and affirms the right to self-determination. The proposed amendments undermine the cultural fabric of Indigenous claim groups and such amendments seek to impose western concepts of majority and minority membership within Indigenous groups.

For further enquiries please contact:
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² Ibid 14.

³ Ibid 15.

⁴ See Explanatory Memorandum 'Native Title Legislation Amendment Bill 2019' paragraph 52 at 14.

⁵ See Ibid paragraph 62 at 16.

⁶ ICCPR art. 1.1.