



Transcript

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Item: Discussion on the Federal Government's proposed changes to Native Title laws.

Interviewees: Graeme Neate, President, National Native Title Tribunal

VEE GARA: And it's that time where we have our national Native Title segment. National Native Title Tribunal segment, that is, [indistinct] fortnightly. And with me today, make welcome Graeme Neate who is the president of the National Native Title Tribunal. Hello and welcome, Graeme.

GRAEME NEATE: It's good to be back on your program again, [indistinct].

VEE GARA: Yes, it's been a while, hasn't it though?

GRAEME NEATE: It has.

VEE GARA: Mmm. So things have been happening, though. We've had some there ... I suppose we'll talk about the Federal Government's proposed changes to Native Title laws. I suppose first up, is just in regards to you shedding some light on this.

GRAEME NEATE: Well, the Federal Government announced a week or so ago, or perhaps a little longer than that now, a series of changes to the Native Title scheme to try and make the system work more efficiently and effectively to deal with somewhere around 550 Native Title claims around the country. More than 160 of those Native Title claims are in Queensland.

The reforms that the government has announced are supposed to streamline the claims system, so the Native Title Tribunal has welcomed those reforms because we believe they have the potential to make the system work a bit better. We're hoping that the reforms will lead to Native Title claims being resolved through mediated agreements rather than lengthy, expensive and unpredictable court cases.

If that can occur, the Native Title claimants should benefit, firstly because they should achieve some results a bit more quickly than have been the case to date, but also because they and the other parties to the proceedings will be agreeing on an outcome, rather than having a court impose the outcome on them. Now, there's a whole range of aspects or details to these reforms but basically, the Native Title Tribunal will be given some more powers and functions to help us help parties reach agreements that meet their interests and also the changes will remove some unnecessary duplication between what the tribunal does and what the Federal Court does in relation to Native Title claims, in particular, strengthening the tribunal's mediating role.

The government's proposing, amongst other things that we be given a new inquiry function and we hope that in some cases this'll mean we'll be able to collect some evidence and make some recommendations about issues such as overlapping claims, which'll help move the process along. And as I say, hopefully help people reach agreement.

VEE GARA:

Now, with these additional powers, will the tribunal be able to put to an end Native Title claims, cutting them to ... cutting them out of the system?

GRAEME NEATE: No, no. Our role isn't to cut claims out of the system. We don't decide and we won't be deciding whether claims remain in the system or not. That's something for the Federal Court to decide.

Under some of the recommendations, the court will be able to dismiss some current Native Title claims under a special set of conditions, but even if those conditions are met, a Federal Court judge will still have the ability or the discretion to keep the claim alive if there are good reasons to do so.

Even with the inquiry function, we'll be able to make some non-binding recommendations about things like overlapping claims and other issues, perhaps between neighbouring Aboriginal groups. But again, the final decision rests [break in transmission] those claims by agreement.

VEE GARA: Okay. Now in regards to players there in the system, the parties such as Native Title claimants, pastoralists, miners and fishers, will they have to change the way they participate in the process as result of these reforms?

GRAEME NEATE: Well, the overriding principle, I suppose is, that parties will have to mediate in good faith. And there's also the suggestion that a code of conduct will be developed for parties involved in Native Title mediation. So all the parties are going to have to be serious about talking to each other. Now that usually happens now, but the law will make that obligation clear.

There are likely to be some other effects on parties. There may be fewer parties participating in some mediations. That's because the tribunal will be able to ask the court to decide whether someone should be removed from the process if they don't have an interest in the area under claim. And sometimes that occurs when Aboriginal people reduce the area covered by their claim and this'll

give the chance to get some people out of the system who don't need to be there.

Also, respondent parties, that is parties other than governments who are involved in the proceedings will only be able to participate in the torts about things that are relevant to their particular interests and the way they may be affected by determination, so that might narrow the areas that some parties are involved in. There are also proposals for a range of technical amendments to be made to the Native Title Act, which we hope will speed up the process.

One of the issues at the moment is that every time people make a change to their Native Title claim, they've got to undergo the what's called the registration test every time. And under the proposals that the government's looking at, at the moment, claimant applications wouldn't have to be tested again if they're making certain sorts of changes like reducing the size of the claim. And if that happens, that will reduce a lot of time for applications and I think, speed up the system, because claimant groups will be more willing to amend their claims and get them in good shape for the discussion with the other parties.

VEE GARA: Now, with these changes, what brought them on? Like how ... you know, why the reform?

GRAEME NEATE: Well, the Native Title Act's been around since 1994, as your listeners will know, I hope. The Native Title Act has delivered many positive results to Aborigines and to Torres Strait Islanders around Queensland and elsewhere in the country. It's enabled some groups to have their Native Title recognised and many groups to negotiate agreements that deliver social and economic benefits to them. But so far in that period of 12 or more years, there have been 88 determinations about Native Title, including 61 that

Native Title exists. Now, I mentioned earlier there are about 550 claims in the system so although runs have been scored, there's a long way to go to get outcomes in the other 550 or so claims.

As well as deciding whether Native Title exists, there have been lots of other agreements that have been negotiated over the years, including more than 250 indigenous land use agreements; more than half of those are in Queensland and there's this real effort in Queensland particularly, but elsewhere in the country also. More and more people are entering into indigenous land use agreements to try and sort out Native Title issues between them. Now, although these are positive things, we've seen progress. The government has said, well, there could be improvements to the process.

Claim groups often say they're frustrated about delays in the process, that the old people are passing away before claims are sorted out. Others such as pastoralists and miners and fishers also say the same thing so there can be frustrations, delays and so on. The government held or commissioned a review of the process late last year and the reforms which have been announced are really to try and make the system work better so that people get the sort of outcomes they aspire to and need quicker and more effectively and more cheaply.

So we're hoping that these reforms will make some far reaching improvements to the system and with the additional powers that the tribunal has, we hope to deliver more outcomes to the parties. So we're committed to doing this and we're looking forward to the reforms starting to operate and everybody getting behind it to see if we can sort out more of these matters by agreement quicker and less expensively.

VEE GARA: Okay, Graeme. A couple of questions there with the reforms now. Are they in ... when do they start? When does that happen?

GRAEME NEATE: A number of the changes will have to be passed by the parliament by amendments to the Native Title Act and I understand the government's hoping to introduce those changes later this year, so in the next few months, we should see the detail of this in legislation, which should go into the parliament.

VEE GARA: Okay. And also, a response to the reforms. Have you had ... you know, like the pastoralists or claimants, miners or fishers contact the tribunal and have a chat about it in regards to the reforms?

GRAEME NEATE: I think most groups are still coming to grips with what these reforms will mean, but across the board, there's been a general acceptance, but anything that makes the system work better should be welcomed. And various interest groups, Native Title representative bodies, the mining industry, the National Farmers Federation and others have welcomed particular aspects of the changes, but everybody, I think, agrees that if we can all work together to make the system work more effectively for all the parties, then as a nation as well as local communities, will all be better off.

VEE GARA: Okay. Oh well, thank you Graeme for you time here today. I wish you all the best, and yes, thanks a lot.

GRAEME NEATE: It's been good to talk to you again. Thanks for having me on your program.

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