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Australian Institute of Aboriginal and Torres Strait Islander Studies

Native Titles Research Unit

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NATIVE TITLE NEWSLETTER

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STOP PRESS

As we go to press the Federal Government has released the draft legislation which will amend the Native Title Act and incorporate its response to the Wik decision. Called The Native Title Amendment Bill 1997. Working draft. It is available from Senator Minchin's office at Parliament House Canberra. Phone: (06) 277 7130. It will also be loaded on the Dept. of Prime Minister and Cabinet's web site at www.nla.gov.au/pmc/pmchome.html.

AIATSIS has two current projects relating to native title being undertaken by consultants:

- Jon Stanhope and Chris Fabricius, legal consultants, have been contracted to prepare a manual for general use, covering each Australian jurisdiction, of legislation relevant to native title and heritage. The manual will contain summaries of relevant legislation. They may be contacted at the Institute on telephones (06) 246 1160 or 246 1163 or fax (06) 249 7714, and would be pleased to discuss any aspect of the project with anyone interested.
- Lee Godden and Shaunnagh Dorsett from the Faculty of Law, Griffith University are preparing a publication on overseas precedents relating to native title. Call the NTRU if you would like to discuss any aspects of this project.

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NATIVE TITLE IN THE NEWS

APRIL - MAY 1997

(Note: Where an item also appears in other newspapers, etc, an asterisk (*) will be used. People are invited to contact the Native Title Research Unit at AIATSIS if they want the additional references. As usual, NTRU will try to provide people with copies of particular newspaper articles on request.)

Aus = Australian
Ad = Advertiser (SA)
CM = Courier Mail (QLD)
CP = Cairns Post
CT = Canberra Times
Fin R = Financial Review
HS = Herald Sun (VIC)
Mer = Hobart Mercury
LE = Launceston Examiner
NTN = Northern Territory News
SMH = Sydney Morning Herald
Tel M = Telegraph Mirror (NSW)
WA = West Australian
WAus = Weekend Australian
KM = Kalgoorlie Miner

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CLAIMS

ACT

Ngunnawal [NNTT Ref#AC96/2]

ACT Chief Minister, Kate Carnell, said a native title claim over one fifth of the ACT, might be settled by a regional agreement providing for compensation and joint control of national parks. Ngunnawal lawyer, Peter Kilduff said the status of long term private leasehold or public monuments and buildings in Canberra would not be challenged (WAus 31 May, p1).

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New South Wales

Shellharbour [NNTT Ref#NC95/9]

The Shellharbour marina still could be built if native title claims are successful. There have been six separate claims on the marina site and the project has been held up while waiting for claims to be finalised. Developers believe that if native title is granted the project may proceed if compensation can be negotiated. Two claims in the area [NNTT Ref# NC96/31 and NC96/32] have been rejected by the National Native Title Tribunal. (*Illawarra Mercury*, 1 May, p18)

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Byron Bay [NNTT Ref#NC95/1, NC96/23]

An agreement between the Arakwal people and the NSW government will allow the creation of a new State Recreation Area at Cape Byron. The agreement recognises the Arakwal's historical links with the area and they will have representation on the management trust. The agreement does not recognise native title over the 47 hectares and claims on this and adjoining areas are going ahead under the Native Title Act. (*SMH*, 4 Apr, p6)

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Crescent Head [NNTT Ref#NC94/5]

Formal recognition of the Dunghutti as the native title holders of land at Crescent Head was given in an order by Justice Lockhart of the Federal Court in Sydney. 60 Dunghutti elders joined Kempsey Mayor and the NSW Attorney General in the courtroom for the hearing. Following consent of all parties the government will acquire the land and compensate the community with \$1.2 million. (*NNTT Press release 7 Apr; Aus*, 8 Apr, p3)*

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Victoria

Gournditch-mara [NNTT Ref#VC96/3]

A claim for unalienated water frontage and ocean from the SA border by the Gournditchmara people extends for 75 km along the coast and 40 km offshore. It includes fishing grounds of holders of Victorian rock lobster and shark licences. (*Adv*, 28 Apr)

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Queensland

Gold Coast [NNTT Ref#QC96/69]

The Kombumerri people have lodged a claim stretching from Surfers Paradise to Northern New South Wales. The claim includes beaches, sea beds, the sea and its resources, and any undersea minerals. State forests, national parks, reserves and parts of South Stradbroke Island and other Moreton Bay islands are also included. The claim had been accepted by the National Native Title Tribunal. (*CM*, 23 Apr, p4)* In response to National Party Senator Bill O'Chee's statement that it would prevent tourists' use of beaches Kombumerri representative David Dillon said the entire coast was included only to assist in determining what was valid native title. (*CM (Qld)*, 24 Apr, p3)

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Glass House Mountains [NNTT Ref#QC96/70]

The Gubbi Gubbi people have lodged a claim over the Glass House Mountains. They hope to gain management of the national park and believe climbers and tourists are loving the mountains to death with no regard for their environmental or cultural values. (*CM*, 22 Apr, p6) The claim has been disputed by Aboriginal historian Val Wright who believes there is no such tribe and that the group is a breakaway from the Kabi Kabi. Dr Eve Fesl who lodged the claim on behalf of the Gubbi Gubbi says confusion has been caused by white historians muddling the names.

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Western Australia

Nguluma Injibandi [NNTT Ref#WC94/5, 95/3]

Nguluma and Injibandi peoples have a native title claim over much of the resource rich Pilbara including land the WA planning Commission has earmarked for housing in Karratha where the population is predicted to rise by almost 70% in the next 15 years. The native title claim needs to be resolved before housing development can proceed. (WA, 16 Apr, p6)

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Ord River Development Area [NNTT Ref#WC94/2]

Bob Hannan, coordinator of the Miriuwung and Gajerrong Families Heritage and Land Council, announced native title claimants would seek compensation for the creation of Lake Argyle which dammed the Ord River 25 years ago. (WA, 17 Apr, p28)

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Wom-Ber [NNTT Ref#WC96/105]

The Koreng, Minang and Wudjari people have lodged a claim to the 800 km coastal strip between Walpole and Point Malcolm, 200 km east of Esperance and inland to Hyden. The claim includes perpetual leases which have not been converted to freehold and has been accepted by the NNTT. (WA, 29 Apr, p4) Similar leases which were released to returned servicemen in the 1950s are affected by two further claims in the Bridgetown, Margaret River and Busselton Shires. Under Mr Howard's ten point plan native title would be extinguished on such leases. (WA, 30 Apr, p4)

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Wiljen

Teresa Holmes who lodged a claim on behalf of the Wiljen people to land in the goldfields area has agreed to extinguish native title on pastoral, conditional purchase and war service perpetual leases and has called for cross-claimants to do the same. (WA, 14 May, p8) Support for Mrs Holmes came from another claimant, Mr Glen Colbung, who announced plans to exclude pastoral and other leasehold land from the Southern Nyoongar claim. (WA, 17 May, p46)

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Northern Territory

Larrakia claim [NNTT Ref#DC96/7]

The NNTT announced that the Larrakia claim has been accepted for mediation. Interested groups have two months to register their interest and be included in the mediation process. (NNTT press release, 4 Apr) The NNTT was criticised by NT Lands, Planning and Environment Minister, Mr. Mike Reed, for not testing the validity of the claim before referring it

to mediation. (*NTN, 4 Apr, p4*)

The Parliamentary Joint Committee on Native Title announced an inquiry into the Larrakia claim. Chair of the Committee, Senator Abetz, said 'the Committee needs to acquaint itself with major claims such as that lodged by the Larrakia people in order to make informed decisions about the operation of the Native Title Act.' (*Press release, 14 Apr*) At the Committee hearing in Darwin the NT Government claimed that compensation for native title claims in the NT could exceed 'tens of millions'. This figure was based on suggestions there could be up to 20 regional agreements in the NT. The joint Larrakia Northern Land Council submission rejected a 'Larrakia tax' to fund such a regional agreement but have agreed taxation was an option. Larrakia cited frustration with government negotiations as the reason for lodging the native title claim. (*NTN, 18 Apr, p4*)

Chief Minister Shane Stone suggested that under the proposed Federal Government 10 point plan the Larrakia claim would be hard pressed to succeed in either gaining native title or compensation. (*NTN, 30 Apr, p2*) However the NT government estimates the Larrakia claim would cost \$3.44 billion in compensation, a figure based on the compensation awarded in the Crescent Head case. (*NTN, 26 May, p14*)

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Croker Island [NNTT Ref#DC94/6]

A ten day hearing of the Federal Court began on Croker Island that will determine what native title rights exist to the seas surrounding Croker, Grant, McLuer, Oxley, Valencia, New Year and Darch islands. A spokesman for the Northern Land Council said the traditional owners wanted to share the sea resources with the fishing industry and wanted to negotiate a joint management agreement. (*WA, 22 Apr, p8*)* The claim will be contested by both Commonwealth and Territory Governments and the Northern Territory Fishing Industry Council. (*Aus, 23 Apr, p2*) The hearing is expected to set a precedent for some 85 other sea claims which have been lodged. (*SMH, 23 Apr, p6*)*

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South Australia

Nukunu [NNTT Ref#SC96/5]

An offshore claim has been lodged in Spencer Gulf 40 km south of Port Pirie by the Nukunu people and includes Spencer Gulf waters, claimable below the high water mark, if continual fishing usage could be established. The SA Fishing Industry Council has stated that 150 of the State's 960 professional fisherman are working in areas currently under claim and the industry would negotiate on a case by case basis rather than under compensation arrangements as suggested by the claimants. (*Adv, 28 Apr*).

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REGIONAL AGREEMENTS

Wendy Craik of the National Farmers Federation said land councils and

representative bodies had allowed past agreements between Aboriginal people and land owners to fall through. NT Cattlemen's Association president David Bayly, said regional agreements don't work. (WA, 24 Apr, p30)*

Recently elected Cook Shire Council Mayor, Graham Elmes, has used a casting vote to withdraw Shire support for the Cape York Heads of Agreement. He said ratepayers were not properly represented by the agreement and the Council supported all avenues open for upgrading of leases. David Kempton of the Cattlemen's Union said the decision was unfortunate as no one was in danger of losing land under the agreement; David Byrne of Cape York Land Council said the Cook Shire includes only 700 voters of 12,000 people in Cape York. (CM 13 May, p4) The future of the agreement was placed further in doubt after Queensland graziers at the Longreach meeting opposed to the agreement won a concession from Mr Howard to reconsider the use of \$40 million allocated in last year's budget to facilitate the agreement. (Aus, 20 May, p2) The Cattlemen's Union and conservationists disagreed with Mr Howard's plan to reconsider his commitment to the agreement as most Cape York cattlemen still supported the agreement. (Aus, 21 May, p2)

Federal Environment Minister, Senator Robert Hill and Queensland Planning and Local Government Minister, Mrs Di McCauley welcomed the release of the Cape York Land Use Report jointly commissioned by the Commonwealth and Queensland governments. The report completes stage 2 of the Cape York Peninsula Land Use Strategy. (Press release, 27 May) Senator Nick Minchin met with members of the Cattlemen's Union of Australia. He reiterated the Government's support for voluntary agreements and noted the Government's commitment of \$40 million in the 1997-98 Budget allocation to ensure protection of the Cape York environment. (Press release 28 May) Cattlemen's Union spokesperson John Purcell said the Cape York Heads of Agreement was alive and well and signatories to the agreement had reaffirmed their commitment in writing. (CM, 29 May, p6)

Broome Shire and the Rubibi Land Heritage and Development Council received reconciliation awards for their joint resolution of native title claims. (WA 28 May, p4)

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MINING AND NATURAL RESOURCES

National

Jon Altman, Director of the Centre for Aboriginal Economic Policy Research, ANU, analysed the implications of the Wik judgment and the proposed amendments to the Native Title Act for resource developers. He encourages developers to work within the framework of the Act and not be drawn into negotiating directly with native title parties. (Fin R, 1 Apr, p 15)

Managing Director of North Ltd, Mr Campbell Anderson, says unresolved issues surrounding the Native Title Act threaten the viability of mining. Legislation should clarify who is entitled to make a claim under the

Native Title Act and limit the compensation that can be claimed. (*FinR*, 13 Apr, p16)

Traditional Kakadu owner, Jacqui Katona, told a peace conference in Canberra that many uranium mining agreements had not given Aboriginal people any social or economic benefits. (*Sun CT*, 27 Apr, p3) The conference supported a resolution acknowledging Aboriginal health risks and community dislocation and called on the Government to reduce uranium mining. (*Sun CT*, 27 Apr, p3)

Access Economics reported that native title claims had overtaken environmental objections as the chief hindrance to future mineral developments with 17 projects worth \$11.5 million subject to claims. (*Aus*, 7 May, p1 and 8)

Indigenous Land Corporation Chairman, David Ross, again refuted claims by the National Party and the Northern Territory Chief Minister Shane Stone that the Aboriginal and Torres Strait Islander Land Fund was set up as a trade off for the extinguishment of native title on pastoral leases. (*Press release* 5/6 May)

Mr Leigh Clifford, chief executive of Rio Tinto's energy division appealed for bipartisan negotiations on the Federal Government's approach to Wik. Normanby Ltd's chief executive Mr Robert Champion de Crespigny agreed that industry was circumspect on the 10 point plan and wanted to see the legislation. (*FinR*, 27 May, p4)

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Northern Territory

Energy Resources Australia and Jabiluka

A spokesman for the Northern Land Council confirmed that the Mirrar, traditional owners of the land around Jabiluka, had instructed the NLC to investigate the possibility of a native title claim which would allow the right to negotiate process on the Jabiluka mine. (*Fin R*, 4 Apr, p7) ERA announced it would push ahead with its Jabiluka uranium mine with or without the support of the senior Aboriginal traditional owner. (*CT*, 20 May, p3) The validity of the mineral lease for the Jabiluka mine could be challenged in the Federal Court by the Gundjehmi Aboriginal Corporation. They believe the NT government did not have the power to issue the lease. (*NTN*, 21 May, p6) Spokeswoman Jacqui Katona said traditional owners wanted to reject royalty payments from ERA and end an agreement to develop the Jabiluka mine. ERA pays \$75,000 a year in rent to Djabulukgu Association under a 1992 agreement between the Northern Land Council and Pancontinental the former leaseholder. (*NT News*, 29 May, p6)

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Western Australia

Murrin Murrin

The United North Eastern Goldfields claimant group gave approval to the development of the Murrin Murrin nickel project. As part of the agreement

Anaconda will make an annual cash contribution of \$1 million to a trust to enable young Aborigines to establish business ventures. Anaconda is committed to employing at least 20% of its workforce from Aboriginal communities. The United North Eastern Goldfields comprises 18 groups and will now be the sole representative in future native title negotiations in the area. (*Fin R, 4 Apr, p43*)* Native title claimants are yet to withdraw their appeal against Anaconda Nickel's Murrin Murrin project because several mining lease applications were subject to negotiation. (*WA, 12 Apr, p61*)

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West Angelas

A feasibility study has been launched into the development of the Robe River Iron Associates' West Angelas iron ore deposit in the Pilbara; the project depended on the resolution of native title issues, regulatory approval and a positive outcome from the feasibility study. (*Fin R, 4 Apr, p50*)*

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Yandicoogina

An agreement, hailed as native title's biggest success story since the legislation came into force, has been signed between RTZ-CRA subsidiary Hamersley Iron, the Gumala Aboriginal Corporation and 13 native title claimants. The agreement allows the Yandicoogina iron ore mine in the Pilbara to proceed. Under the agreement Hamersley Iron will pay \$60 million in compensation over the life of the mine into a trust fund to pay for community development. (*Aus, 7 Apr*)

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Binduli

Kalgoorlie gold miner, Croesus Mining, blamed native title claims for its decision not to proceed with a new treatment plant at its Binduli project. (*WA, 12 Apr, p61*)

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Queensland

Ernest Henry

Aboriginal groups split over the \$3 million a year transport contract with Ernest Henry will meet in Cloncurry with ATSIC representatives. (*CM, 3 Apr, p2*)

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Century Zinc Mine

Opposition leader, Peter Beattie, said Aboriginal leaders advised him that an agreement could be reached within a week if the Queensland government would negotiate a cultural management agreement. (*CM, 3 Apr, p2*)

Hopes of the Century Mine proceeding through a negotiated agreement

collapsed when five native title claimants withdrew their support alleging that other claimants who initially refused the deal had been offered special inducements by Century Zinc and ATSIC. (*WAus*, 12 Apr, p1 and 2)* ATSIC Commissioner, Mr Ray Robinson, said all claimants were ready to sign an agreement which would allow the Century Zinc mine to proceed. However the Queensland Government still had to agree and their stance has been that the claims are now in formal arbitration. (*FinR*, 14 Apr, p5)* Four opponents of the Century Zinc project have now signed a draft agreement supporting the project but five claimants who withdrew their support are still to sign. (*FinR*, 15 Apr, p7)* Deputy Chairperson of ATSIC, Mr Ray Robinson, announced that all 12 native title claimants were now in agreement and that the Queensland Premier was the only remaining obstacle to an agreement. (*ATSIC Press release 17 Apr*) However five Waanyi elders issued a statement contradicting Mr Robinson and reiterating they had withdrawn from any agreement. The five claimants wanted an investigation into claims of inducements offered to other claimants. ATSIC Commissioner, Mr Ray Robinson, announced that ATSIC had now withdrawn from the discussions. (*CM*, 19 Apr, p8)*

All 12 claimants are now supporting the project placing pressure on the Queensland Premier to resurrect the Government's offer of \$30 million compensation to ensure the project proceeds. (*Aus*, 2 May, p14) Century Zinc will ask the Queensland Cabinet to reinstate the compensation package. (*CM*, 3 May, p12) Signed agreements enabling the Century Zinc mine to proceed would be handed to Mr Borbidge tomorrow when the government is expected to reinstate the compensation package. (*CM*, 5 May, p1) The National Native Title Tribunal granted an adjournment of an arbitration hearing to allow Century and the Queensland Government to iron out final details. (*Age*, 6 May, pB3)*

Mr Borbidge announced a special cabinet meeting at which he would seek authority to sign the document restoring the compensation package. This followed the delivery of the signed agreement between the claimants and the company. (*FinR*, 7 May, p5)* State Cabinet approved a \$30 million package to complement a \$60 million Century Zinc company offer to Aborigines in return for agreement that the mine proceed. (*CM*, 8 May, p2) Mr Borbidge told Parliament the agreement signed by the Government, Century company and the 12 claimants would go to the National Native Title Tribunal arbitration panel. Federal Resources Minister Senator Parer, said the green light for the mine had come after two years of unnecessary delay but the National Native Title Tribunal president, Justice French, said the negotiations leading to the agreement - while difficult - underscored the worth of the act and the tribunal. (*Aus*, 8 May, p4)

The chairman of ATSIC, Gatjil Djerrkura said the endorsement of the agreement demonstrated that the Native Title Act provides a framework that produces results. (*ATSIC press release 7 May*) The editor of *The Australian* agreed: 'The Century Zinc agreement ... is a reminder that the Federal Native Title act, for all its difficulties, can work.' (*Aus*, 8 May, p10) The *Courier Mail's* editor states that 'once the celebrations are over, everyone should study the problems associated with Century and ensure the next mine does not suffer the same avoidable delays.' (*CM*, 8 May, p14)

The Century Agreement proposes to establish the Gulf Aboriginal

Development Corporation, a regional administrative organisation to coordinate funds and compensation. Jane Karkadoo, one of the claimants, believes the Corporation should be quickly established and all compensation should go through it. The Corporation may bring claimants together to reconcile differences in relation to rates of cash compensation. (*CM, 17 May, p4*)

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Goondicum

Monto Minerals announced that mining lease applications central to its proposed ilmenite project 120 km south of Gladstone could be further delayed as a result of the Wik decision. The company has applied for two mining leases: one on pastoral land and one on freehold land which had been converted from pastoral lease. (*Aus, 4 Apr, p21*)

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South Australia

About 100 claims granted to opal miners on Lambina Station in northern SA have been withdrawn because the pastoral lease may be the subject of a native title claim. (*Ad, 11 Apr, p7*)

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GENERAL NATIVE TITLE ISSUES

National

A former Foreign Affairs officer and now consultant, Bill Barker, has addressed the UN Commission on Human Rights in Geneva. Speaking on behalf of eight peak Aboriginal organisations Mr Barker called on the Howard government to guarantee through legislation that common law native title rights were not further diminished. (*CT, 3 Apr, p1*)*

State and national tourism associations aligned with the Tourism Council of Australia agreed to unanimously support native title and called for greater involvement of indigenous people in tourism development. (*CM, 9 Apr*) A position paper issued by the TCA considers the current legal system for dealing with native claims to be confrontational. (*FinR, 9 Apr, p8*)

The National Native Title President, Justice French, has stated that: 'Recent public statements suggesting native title claims have been made over private freehold land and accepted into mediation by the tribunal, were wrong.' (*NNTT press release, 15 Apr*) The Federal government has decided to hold off appointing a successor to the head of the National Native Title Tribunal, Justice Robert French, until the end of the year when it expects to have amended the Act. The government wants to amend the Act to remove the requirement that the position must be held by a person with a judicial background. (*Aus, 18 Apr, p2*) Justice French defended the National Native Title Tribunal against claims that it was too slow to deal with cases, pointing to delays by both claimants and State governments outside its control. (*Aus, 22 Apr, p5*)

Aboriginal leader, Ms Lois O'Donoghue, speaking at a Constitutional Centenary Foundation conference, accused Australian governments of 'leading a shameful charge against indigenous rights'. She said 'there is no point preaching economic development at a people whose native title rights are under threat.' (*Ad*, 22 Apr, p3)* Constitutional lawyer Geoffrey Bolton contrasted current political behaviour that is being displayed in response to Wik with historical examples from earlier in the century when politicians had shown 'grace in defeat' in relation to the narrow victories of others. (*SMH* 26 Apr, p37)

Of 517 native title claims, 400 are in or near mediation, 16 are before the Federal Court. 100 are in the early stages of processing. Only one - Crescent Head - has reached determination although a number of agreements which have the force of contract have been made. (*WAus*, 3 May, p2) The National Native Title Tribunal has received only five applications for compensation. The applicants seek compensation for the validation of more than 500 titles in 1993. (*WA*, 29 Apr, p4)

Federal Health Minister, Michael Wooldridge, said land rights would not solve health problems in Aboriginal communities although this did not mean land rights may not be important. He said there was a need to fix basic infrastructure in Aboriginal communities. (*Sun CT*, 25 May, p2) The Royal Australian and New Zealand College of Psychiatrists has urged the government to solve the issue of land ownership to protect Aboriginal and Torres Strait Islander people from further health risks. (*Press release*, 27 May).

Anglican Priest and Mabo litigant Dave Passi, claimed that denying Aborigines the use of their land was to make them 'vagabonds' in their own country. He said all Australians must resolve the issues by sitting together. (*CT*, 27 May, p5)

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Australian Capital Territory

The Ngunnawal people have asked that a vineyard development not proceed as it contains significant trees. The developer, Bell Management, agreed. A Government spokesperson said they the trees are being added to the Interim Heritage Register. (*CT*, 30 May, p2)

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Northern Territory

The Northern Land Council has lodged 35 claims before the June 5 deadline for claims under the *Aboriginal Land Rights (Northern Territory) Act 1976*. (*SMH*, 30 May, p2)* Mr Howard said the 35 claims would harm investment in the Territory. Galarrwuy Yunupingu of the Northern Land Council said there was more mining and exploration on Aboriginal than non-Aboriginal land. (*WAus*, 31 May, p10)

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Queensland

Girringun Aboriginal Corporation is suing the Queensland Dept of Natural Resources for allowing work on Hinchinbrook Island. Girringun is arguing that it is an aggrieved party under the Native Title Act. (*CM, 11 Apr, p2*)

Taribelang-Bunda and Gooreng Gooreng peoples have successfully proven the cultural significance of land in Bundaberg known as Waterview and Paddy's Island. The Indigenous Land Corporation bought the land in December 1996 for \$440,000 and will transfer it to the two groups. (*CM, 19 Apr, p11*)

Under legislation before the Queensland Parliament 3000 Queensland pastoralists will be able to turn their leases into freehold by taking interest-free government loans over 30 years. (*CM, 3 May, p1 and 12*) The editor of the *Courier Mail* is critical of the proposals stating that 'a valuable resource - land - could be disposed of ... there are important issues of planning, land conservation and environmental concerns which should be considered ... there is a real issue as to whether selling off a large portion of the state at discount rates would benefit all the people of the state rather than just a few thousand local and foreign leaseholders.' (*CM, 3 May, p22*)

The Opposition leader, Peter Beattie, accused Natural Resources Minister, Howard Hobbs, of a conflict of interest over the land title legislation because he held a perpetual lease. (*Sunday Mail(Qld), 4 May, p11*) The Queensland Government was forced to withdraw the land legislation when Independent MP Liz Cunningham supported the Opposition. (*CM, 7 May, p1 and 2*)* Leader of Government Business in the House, Tony Fitzgerald, said that the Natural Resources Legislation Amendment Bill would not be reintroduced into Parliament before May 27 as it had to be reprinted.

Senator Reynolds has called on the Queensland Government to publish details of all pastoral leases held in Queensland. (*CM, 8 May, p2*) The editor of the *Courier Mail* believes that the legislation is unjustified because it 'would benefit only those who are financially able to make their land freehold. This change is not designed to help the battlers ... the Government's real agenda is concerned with obliterating native title rights.' (*CM, 8 May, p14*)

Queensland has 133 claims under the Native Title Act, 24 are still to be accepted, two have been rejected and 11 withdrawn. (*Sunday Mail(Qld), 4 May, p38*)

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Western Australia

The Kimberley Land Council has distributed 6,000 pamphlets to every house and business in the Kimberley in an effort to counter the 'sensationalist misinformation' about the Wik judgment. Public meetings were also planned. (*WA, 3 Apr, p6*)

Tourism, agricultural and horticultural ventures would be allowed on pastoral leases under the Land Administration Bill which would pass through the WA State Parliament, but the Government's pledge to provide pastoralists with perpetual tenure of leases would not be fulfilled because

of restrictions under the Native Title Act. (WA, 4 Apr, p10)

The National Farmers Federation admitted that the number of farmers breaching their leases could be high. The WA Pastoral Board admitted they had no idea how many pastoralists were breaching their lease conditions. Legislation to allow tourism, horticulture and agriculture on pastoral leases is before the WA parliament but existing law only allows activities directly related to pastoralism. The Kimberley Land Council released figures that claimed 27% of the Kimberley's 97 stations were owned by Aborigines and 37% by absentee landlords. (WA, 18 Apr,) Western Australia's pastoral leaseholders include the Aboriginal Lands Trust and companies and business people. The article explains how rents totalling \$490,000 per year are assessed on WA's 563 pastoral leases. (WA, 9 May, p8) More than 30 tourist ventures are illegally operating on pastoral leases because the State Government refuses to enforce the law which allows only pastoral activity on pastoral leases. (WA, 1 May)

The Conservation Council of WA has called for the state's Pastoral Board to include Aborigines, conservationists and scientists which would enable it to deal with extra land management responsibilities foreshadowed by the Howard Government. (WA, 3 May, p8)

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Victoria

The President of the Victorian Farmers Federation said battles over native title are a waste of money and the millions of dollars paid to lawyers would be better spent on houses and hospitals for Aborigines. (HS, 9 Apr, p26)

A State National Party Conference called for protection of water rights through amendments to the Native Title Act. Mr Fischer told the conference water was sacred and not for ownership. The Deputy Premier Pat McNamara said native title claims were affecting public land and resources under current legislation. (Weekly Times, 23 Apr, p4)

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WIK DECISION

Conflicting views on the Wik judgment are presented by *The Australian's* economics editor, Alan Wood, the Kimberley Land Council's director, Peter Yu and the President of the National Farmers Federation, Donald McGauchie. Alan Wood argues the case for paramountcy of pastoral leases; McGauchie defends the advertising campaign of the National Farmers Federation; Peter Yu argues the case for the role of co-existence on pastoral leases and criticises the NFF advertising. (Aus, 1 Apr, p15)

Anglican Archbishop of Perth, Peter Carnley, in his Easter message, delivered a stinging rebuke of the tactics employed by the farm lobby in the Wik Debate. (WA, 1 Apr, p2)

The National Party Senate leader, Ron Boswell, warned Mr Howard that he risked alienating rural blue collar workers if he did not extinguish native title on pastoral leases. (CM, 4 Apr, p4)

Aboriginal leader, Peter Yu, called for pastoralists and Aborigines to work together on the Wik decision, claiming they had more in common than was generally recognised; Mr Yu said both groups were struggling economically unlike absentee landlords such as Kerry Packer who owned 37% of Kimberley stations. (WA, 4 Apr, p10)

Ecologist Mark Horstman argues that upgrading pastoral leases towards freehold would lead to environmental damage because freeholding would allow unsustainable land uses such as broad scale land clearing, intensive irrigation and agriculture, native forest logging and unregulated tourism. (CT, 4 Apr, p9)

Senator Nick Minchin, speaking in Broome at a conference of the Northern Australian Cattlemen's Association, said the Federal Government was yet to decide what action to take over Wik but he welcomed Senator Bob Collins' commitment that the ALP would view any Government proposal with an open mind. Speaking at the same conference Mr Pat Dodson, chairman of the Council for Aboriginal Reconciliation, expressed concern about the increasing divisions in the community as a result of the Wik debate. (WA, 5 Apr, p6)

Divisions within the NSW State coalition surfaced after the Attorney General Mr Shaw disclosed that the State Government opposed extinguishment in favour of codification of the rights of pastoralists and native title holders. National Party leader, Mr Ian Armstrong, claimed extinguishing native title was the only solution. Meanwhile in Queensland senior Liberals told the Queensland Premier, Mr Borbidge, to tone down his attack on the High Court and the Wik ruling, fearing it is damaging their electoral support. (WAus, 5 Apr, p9)

The National Farmers Federation increased pressure on the Federal Government to extinguish native title on pastoral leases by warning that pastoralists might make compensation claims if this did not happen. In response, Mr Peter Yu warned that Aboriginal people would seek High Court action on any legislation that extinguished native title rights. (WA, 7 Apr, p22)* Speaking in Melbourne to the Victorian Liberal Party Council, Mr Howard warned that if an agreement could not be achieved he would recommend 'a clear and definite course of action.' (CT, 7 Apr, p3)*

Senator Bill O'Chee on a tour of rural Queensland has threatened to quit the coalition over the Wik issue. In an interview on ABC radio he said that claimants were Aborigines who couldn't be bothered to buy their own land. (CT, 8 Apr, p1 and 2)* Responses to his statements were made by Cape York Land Council, Goolburri Land Council and ATSIC deputy chairman Ray Robinson. (CM, 8 Apr, p3) Senator O'Chee later claimed that Aborigines should give back the \$1,400 million that was used to set up the Indigenous Land Fund as compensation for loss of native title on pastoral leases and private property. (Press release 10 Apr)

A seven point plan on native title being developed for Prime Minister Howard excluded extinguishment of native title on pastoral leases but met state concerns for protection of cities, towns and waterways from land claims. The package would also introduce a sunset clause on claims although a cut-off date has not been determined. The package did not meet the approval of State Premier Mr Borbidge who has called for

extinguishment of native title on pastoral leases. (*Aus, 11 Apr, p7*)* He was supported by NT Chief minister, Shane Stone, who called for the abolition of the National Native Title Tribunal and a moratorium on further claims in 2001. He said claim mediation should be transferred from the National Native Title Tribunal to state based magistrates. (*NTN, 12 Apr, p2*)

The Mining Industry rejected the Governments plan to remove the right to negotiate of native title claimants on pastoral leases. Miners argue that it would make it more likely that Aborigines would resort to court challenges and end any possibility of cross-party support from the ALP. (*FinR, 14 Apr, p5*)

National Party Senator, Bill O'Chee said threats from the National Party to withdraw from the Coalition if native title was not extinguished were not bluff. (*CT, 14 Apr, p3*)* Meanwhile pressure mounted on Deputy Prime Minister Tim Fischer to ensure the Coalition Government extinguishes native title on pastoral leases. (*CM, 14 Apr, p5*)*

Deputy President of the National Native Title Tribunal, Hal Wooten, argues that legislation which reflects the rights of both sides is the only solution to the Wik debate and once this legislation is passed 'we might hope to resume constructive debate about issues affecting mining and development, the resolution of intra-Aboriginal disputes and stimulating State governments to set the recognition of native title in a context of enlightened contemporary community interest, committing themselves to positive outcomes rather than obsessive and expensive concern with legal and anthropological technicalities.' (*Aus, 15 Apr, p15*)

Prime Minister Howard under pressure from National Party members and the threat of a coalition split announced that he had 'never ruled out extinguishment of native title on fair terms, which does have the appeal of certainty and simplicity.' This statement in turn placed Aboriginal negotiators under pressure to give more ground in negotiations. Professor Marcia Langton, chairwoman of the National Indigenous Working Group on Native Title, said Mr Howard would face unending litigation if he tried to extinguish native title. (*SMH, 15 Apr, p1*)* ATSIAC Commissioner Geoff Clark said the push to upgrade pastoral leases to freehold titles to get 'certainty' on the native title issue would be the 'biggest land grab since 1770' and would give Queenslanders 'a licence to shoot blacks.' (*AAP, 15 Apr*)

The Prime Minister Mr Howard briefed Cabinet on his Wik plan which had grown from seven to ten points. The plan favours pastoralists although one of the extra points includes a special compensation package for indigenous people. All stakeholders will be consulted on the plan but he would be struggling to win the support of Aboriginal negotiators. (*Aus, 16 Apr, p1 and 2*)* Peter Yu, on behalf of the Aboriginal negotiators, said that 'attempting to extinguish our title, either outright or by stealth, will not generate certainty but quite the opposite.' (*CT, 16 Apr, p1*) The editor of the SMH is critical of Mr Howard's 'veiled threat to extinguish native title ... Legislative quick fixes, such as seeking to remove the rights of one group of Australians, will achieve nothing.' (*SMH, 16 Apr, p14*) Mr Don McDonald, National Party President, said that the entire National party is calling for extinguishment and believed that for 'farmers to continue to invest in and operate successfully they must know they have security of

tenure and sole occupancy of their land.' (*National Party Press release 16 Apr*)

The Real Estate Institute of Australia released results of a survey that found the sale of 'Commonwealth and state government land has been disrupted, projects including housing, agricultural developments, business and commercial property to infrastructure construction have been put on hold as a result of native title claims.' (*REIA Press release 16 Apr*) The Catholic Bishops of Australia released a press statement saying that forcibly extinguishing native title would be wrong and futile and it would be wrong to solve the problem by weakening the Racial Discrimination Act. (*Press release 17 Apr*)

Age journalist Kenneth Davidson provides the historical background to pastoral leases and the Wik decision. Drawing on the work of Henry Reynolds he concludes that the 'majority decision of the High Court is not an example of judicial activism. The decision is firmly grounded in common law and the concept that property rights are property rights, even where they are issued to graziers and Aborigines jointly.' (*Age, 17 Apr, pA11*)

The National Indigenous Working Group on Native Title released its position paper on Wik. It rejected extinguishment of native title on pastoral leases and 'de facto extinguishment' by codification, tough threshold tests, tests of physical connection with the land and sunset clauses; blanket validation of mining leases since 1994; amendments to the Racial Discrimination Act and upgrading leases to 'primary production' status under the Income Tax Assessment Act. It recommended regional and site specific agreements over access to land; retaining the right to negotiate over any radical change in lease use; a threshold test requiring claimants to make a case to lodge a claim; outlining the role of Representative bodies in the Native Title Act; a national model to protect Aboriginal cultural heritage; funding for an Indigenous Economic Empowerment Package to develop native title lands. (*WA, 17 Apr, p10*)* Noel Pearson announced that the group were still willing to negotiate with the Government. (*CM, 17 Apr, p9*)

In a five page press release the National Farmers Federation responded: 'The position paper does not deliver certainty that farmers were promised in 1993 ... and is destined to produce unending disputation and litigation.' (*NFF press release 17 Apr*) Media analysts agreed that a negotiated resolution to the Wik impasse appeared no closer. (*CT, 18 Apr, p9*)* National Party federal president, Don McDonald, also rejected the position paper stating that 'there is little point in putting up to the Senate a soft solution on native title that falls short of extinguishment.' (*Aus, 22 Apr, p15*)

Peter Yu, Executive Director of the Kimberley Land Council, explains the position of the National Indigenous Working Group on Native Title. 'Certainty can be provided to all by achieving co-existence through negotiation ... Regional and site specific agreements between native title holders and other people and organisations are the key to achieving native title solutions ... Any legislative response to native title by the Government should not be prescriptive and exacerbate division in society.' (*CT, 19 Apr, p15*)

Aboriginal leaders warned of a massive compensation bill, United Nations

action and the possibility of trade sanctions after the Federal Government confirmed plans to effectively extinguish native title. (*SMH, 19 Apr, p1*)* Mr Fischer criticised the threats of trade sanctions as a betrayal of Australians. (*CT, 20 Apr, p1*)* Coalition party presidents in Queensland, WA and the NT called on Prime Minister Howard to stand up to Aboriginal threats of trade sanctions. The call came as the National Farmers Federation demanded that the Government hand down its response to Wik within a fortnight. (*CT, 21 Apr, p3*)* Senior Federal National Party figures said they will support the Prime Minister's plan. (*FinR, 21 Apr, p1 and 8*) This was later denied by the Queensland National Party President, David Russell QC, who said 'reports in some sections of the media suggesting the Nationals had agreed to a ten point plan proposed by the Prime Minister were not correct.' (*Press release, 21 Apr*)

Michael Lavarch, Attorney General in the Keating Government, discusses the 1993 debates on the Native Title Bill and the legislative outcome. He states that 'while it is true the Government believed as a matter of law that native title [on pastoral lease] had been extinguished, it was never promised that this would be achieved by legislation. In fact, it was consciously decided that legislation would be silent on the issue.' (*SMH, 21 Apr, p15*) It follows various letters to the editor including one by Professor Marcia Langton explaining the negotiators' position (*Aus, 9 Apr, p12*) and a response by Senator Boswell. (*Aus, 15 Apr p14*)

The Federal Government and Aboriginal negotiators have taken firmer positions on the Wik problem, with disillusioned indigenous leaders now looking to the Senate to protect native title rights. Mr Howard said 'considerable progress' had been achieved and more talks would be held on Thursday. (*Age, 22 Apr, pA5*)* He claimed the legislative response to Wik would not breach the Racial Discrimination Act or international conventions. Aboriginal representatives warned they would seek trade sanctions against Australia if Mr Howard implemented his response to Wik which is yet to be made public. (*Aus, 22 Apr, p5*) Sources said Mr Howard told negotiators he was prepared to forgo a sunset clause on native title claims, conceding such a move was unlikely to get Senate support. (*CM, 22 Apr, p4*) The WA Greens have voted to oppose extinguishment of native title on pastoral leases. (*WA, 22 Apr, p8*) Mr Borbidge dismissed the ten point plan as 'cute' and said Mr Howard should adopt a one point plan and extinguish native title on pastoral leases. (*SMH, 23 Apr, p6*)*

The South Australian Government is progressing a plan to formalise coexistence for pastoralists and Aborigines in the state. The plan details the rights and responsibilities of both parties including access, hunting and water use rights. It requires Aborigines to refrain from native title claims over pastoral leases while the agreement is in force. Pastoralists would be required to consult the Aboriginal community about any future developments and changes of land use. The plan has the support of both the South Australian Farmers Federation and the Aboriginal Legal Rights Movement. (*SMH, 22 Apr, p8*) Such a plan for Western Australia was rejected by the Pastoralists and Graziers Association who said it would make no concessions. (*WA, 23 Apr, p26*)

The Australian Conservation Foundation told the OECD that the 10 Point Plan will cause 'environmental chaos' (*WA 25 Apr, p22*) and a report

published by the Australia Institute says that Wik will have no significant impact on the valuation of pastoral leases and does not require a legislative response. (*Press Release, Australia Institute, 24 Apr*)

Professor Holmes comments on the role of pastoral leases in land management. (*WAus, 26 Apr, p10*) Pastoral leases cover 42% of Australian land with only some Queensland and NSW leases being possibly convertible to freehold. Queensland has 70 different types of tenure. Half the Queensland leases have a 30 to 50 year duration and many are perpetual leases. Both have limitations on land use activities. (*WAus, 26 Apr, p10*)

The Prime Minister is expected to tell Aboriginal leaders today of his 10 Point Plan on native title and to announce that extinguishment is not required to protect farmers and development projects on pastoral leases. (*Aus, 24 Apr, p1,4*) Mr Fischer believes the 10 Point Plan satisfies National Party demands but members have indicated support for Mr Borbidge's calls for extinguishment. (*Aus, 24 Apr, p1,10*)* Mr Borbidge will meet the Prime Minister and Mr Fischer to seek clarification of the meaning of 'continuous physical connection'. (*CM, 24 Apr, p3*) Queensland considered the option of State legislation to guarantee title to pastoralists (*WA, 25 Apr, p22*)* but modified this to say any Queensland response would be in accordance with Commonwealth legislation. (*CT, 26 Apr, p3*) NSW Premier Bob Carr indicated support for Mr Howard's plan. (*CT, 25 Apr, p3*)

Mr Peter Yu from Kimberley Land Council and Aden Ridgeway from the NSW Land Council said the Prime Minister was aiming for extinguishment whilst appearing to negotiate. (*SMH, 24 Apr, p8*)*

The Social Justice Commissioner Mick Dodson said from Geneva that indigenous people would make increasing use of international forums to highlight Australia's treatment of indigenous people. (*WA, 25 Apr, p13*) Chairman of the Council for Aboriginal Reconciliation said extensive litigation would result if the Government's option on native title was extinguishment. (*DT, 25 Apr, p2*) The president of Qld Graingrowers, Ian McFarlane said Mr Howard had sealed a deal with the Aborigines ensuring their statutory access rights without providing farmers with protection. He said a campaign of protest letters would be sent to Mr Howard's office. (*SunH, 27 Apr, p6*)

In a meeting with the Queensland Premier the Prime Minister is reported to have suggested the state may be given power to provide for extinguishment of native title. (*SMH, 25 Apr, 1,5*) The Prime Minister told Mr Borbidge the Senate would not pass legislation which provides for explicit extinguishment. Mr Court, WA Premier, met with Mr Howard over the 10 Point Plan's failure to extinguish native title asking for more detail on compensation. (*Aus, 28 Apr, p2*) Tim Fischer had said the states would be allowed to extinguish native title but the Prime Minister said the states would only be allowed to set up separate land management systems with the same procedural rights for all. (*CT, 27 Apr, p3*) A states' plan would remove Aboriginal powers on development projects and States would carry responsibility for compensation. (*Aus 28 Apr, p1*)

Tensions between the Prime Minister and National Party leader over the 10 Point Plan emerged when Mr Howard's office stated the plan was not

open to change although Mr Fischer had suggested this. The two met at Kirribilli House with Mr Borbidge and pastoralists representatives. (*Adv*, 28 Apr, p6)* Mr Fischer said his extinguishment proposals did not go as far as Mr Borbidge's. (*Age* 28 Apr, p3) Leader of the Government's Aboriginal Affairs Committee, Wilson Tuckey, said the Prime Minister is unfair in bringing a recommendation to the party room as a 'fait accompli' and called for a referendum. (*Age* 28 Apr, p3)

The Prime Minister made public his ten point Wik Response, the key points of which are:

- Validation of all uncertain leases granted since 1994
- Extinguishment of native title on freehold, residential and commercial leases
- Aborigines cannot negotiate over third party acquisition of urban land
- Pastoral leases - which will be upgraded to allow other activities - prevail over native title rights
- Aboriginal access to pastoral leases if continuing physical connection can be proved
- Reduced rights to negotiate on mining
- No right to negotiate over acquisition of vacant urban land and a higher test in rural areas
- Government to control water management
- Overhaul native title claims process and include a sunset clause
- Encourage voluntary but binding agreements between Aborigines and other parties.

The Queensland Government refused to endorse the plan and the West Australian Premier expressed serious concerns. (*SMH*, 29 Apr, p1)* Political analyst Peter Cole Adams commented that 'it is now clearer than ever that the indigenous Australians are going to be the big losers and Queensland and NSW pastoralists the big winners.' (*CT*, 29 Apr, p2) Aboriginal leaders said the plan could divide the nation. ATSIC Chairman, Mr Gatjil Djerrkura, accused Mr Howard of failing to negotiate in good faith and vowed that Aborigines would 'pursue every means available to protect our legal rights and entitlements.' ATSIC Commissioner on native title Mr Geoff Clark, said options included a boycott of farm produce and the Olympics. (*Aus*, 30 Apr, p1)* Conservationists have rejected the proposal to upgrade leases. (*SMH*, 30 Apr, p4) The Queensland Government is considering a move to give pastoralists exclusive tenure by upgrading leases to effectively extinguish native title. (*CM*, 30 Apr, p2)

The editor of the *Courier Mail* has criticised the Queensland National Party's campaign saying 'there is no chance of Queensland "going it alone" despite what the National Party might say.' (*CM*, 30 Apr, p14) The editor of the *Canberra Times* claims 'pastoralists are to have, in effect, many of the lease conditions on their leaseholds effectively cancelled, with no payment of value whatsoever to the Crown which owned the residual rights.' (*CT*, 30 Apr, p8) The National Farmers Federation 'won't be satisfied unless the legislation provides them with absolute certainty over their title ... While farmers do not reject the concept of co-existence, they do reject the concept of co-existing title.' (*FinR*, 30 Apr, p18)

Fr Frank Brennan called for five amendments to the 10 point plan:

1. It would be wrong to insist that Aborigines prove an ongoing physical connection to the land when 30 years ago pastoralists kicked them off once ordered to pay award wages.
2. A workable sunset clause would be extinguishment with a time delay.
3. Wik should not be used by pastoralists as a foil to expand their titles to the equivalent of freehold.
4. There is no reason to remove the right to negotiate subject to arbitration and ministerial override in the national interest.
5. Claimants should still have the option of proving in court that their native title rights are more than rights of access and traditional use. (*SMH, 30 Apr, p17*)

The editor of the *Northern Territory News* hailed the 10 point plan as a means of protecting 'our towns, cities, beaches and parks' from claims but also warned that 'it should not mean that miners and pastoralists have a licence to strip the land for development at the expense of the sacred cultural values of our indigenous people.' (*NTN, 30 Apr, p10*) The Parliamentary Secretary to the Prime Minister, Senator Nick Minchin, denied the 10 point plan would enable pastoralists to upgrade leasehold land or that the plan would lead to increased clearing and degradation. (*Aus, 1 May, p2*)

The Prime Minister suggested that the Queensland Government's own performance, rather than any Wik backlash, would be the cause of loss of voter support in Queensland. He also described as 'quite unreasonable' criticism of the plan by Mr Borbidge. Meanwhile the Mining industry warned that the plan could result in the mining industry having to negotiate three different approval regimes for a single mine. (*FinR, 1 May, p5*)*

Mr Howard will press ahead with his controversial response to the Wik decision despite failing to convince key backbenchers of its merits. He persuaded most of the coalition's Aboriginal Affairs Committee to continue discussions but some backbenchers are still calling for blanket extinguishment of native title. (*Age, 2 May, pA13*)* The editor of *The Australian* believes 'the argument over native title has developed into two distinct streams: practical solutions to the questions that have arisen since the 1992 High Court judgement, and the politics of satisfying the impossible expectations of widely disparate interest groups, including those of powerful members of the government Coalition.' (*Aus, 2 May, p14*) The editor of the *Sydney Morning Herald* claims the response to Wik is 'really a response to the near-hysterical commotion raised mainly by the Queensland Premier, Mr Borbidge.' (*SMH, 1 May, p18*)

Mr Mick Dodson said the ten point plan would guarantee the extinction of Aboriginal culture because indigenous culture depended on the land. (*SMH, 2 May, p6*)

Mr Fischer stated that 'extinguishment is in the 10 point plan - and a lot of people don't realise that.' (*WAus, 3 May, p2*)* The National Party is likely to propose amendments to the 10 point Wik plan insisting they are necessary to avoid a Coalition split. (*FinR, 5 May, p5*) The Labor party signalled it was prepared to negotiate with the Howard Government on the plan but would not accept any move to extinguish native title on pastoral leases. (*Aus, 5 May, p4*) WA Liberal backbencher, Mr Wilson Tuckey, intends to lobby his federal colleagues to take a harder line on native title.

(WA, 6 May, p26) A special meeting of the National Party's Federal Management Committee unanimously endorsed a motion rejecting the 10 point plan and called for an amendment to provide that 'the grant of pastoral leases is to be regarded as having extinguished native title.' (Aus, 7 May, p 1)*

Federal Cabinet approved the 10 point plan a day after the National party's management committee condemned it. (CM, 8 May, p1)* National Party backbenchers said they were confused by their party's turnaround and would continue to fight for extinguishment on pastoral leases. (SMH, 8 May, p1) Mr Howard announced that the Commonwealth would underwrite 75% of any future compensation bills arising from native title claims, with the State paying the rest. This will include compensation for upgrading of pastoral leases to freehold. (Aus, 8 May, p4) The editor of *The Age* believes 'the policy that has emerged from this process is flawed. The 10 point plan tilts the scales too far in the interests of the pastoralists.' (Age, 8 May, pA18) Democrats leader, Cheryl Kernot, said thirty members of Federal Parliament, including six front benchers, had pastoral interests which could benefit financially from the 10 point plan and requested an assurance that no coalition members who owned pastoral leases took part in the development of the policy. (WA, 8 May, p28)*

Mr Howard released an amended 10 point plan emphasising that pastoral leases 'conferring exclusive possession' extinguished native title. He dismissed claims he had agreed to further changes at a special meeting with National Party powerbrokers. Mr Howard said the Wik decision had pushed the 'pendulum too far in the Aboriginal direction and the 10 point plan would return the pendulum to the centre.' (Aus, 9 May, p1 and 4)* The editor of the SMH believes Mr Howard 'has allowed turmoil over Wik to develop to the point where its political dimension has been thoroughly distorted by the false expectations of the National Party, disregard of the legitimate rights of the native title claimants and a carelessness about the resulting costs.' (SMH, 9 May, p14) Mr Rick Farley said John Howard's 10 point plan would be a windfall for pastoralists who would get upgraded tenure and increased land values. (WA, 9 May, p8) The SMH reported that the National Farmers Federation admitted its push for extinguishment of native title on pastoral leases contradicted its own legal advice. (SMH, 9 May, p3) This was later denied by the National Farmers' Federation. (NFF Press release, 9 May)

Editorial comment suggests the benefit of legislating against co-existence rights will mostly go to wealthy and foreign interests, not "Aussie battlers." (SMH 13 May, p14) Mr Howard is expected to assure farmers that 75% of compensation payments will be provided by the federal government. (CM 11 May, p2)*

The Prime Minister gained coalition support for his 10 Point Plan. He said the plan was 'non negotiable'. (Aus 14 May, p3)* Party room support included National Party members. (CM 14 May, p3)

Aboriginal leaders from the Northern, Central and Kimberley Land Councils will meet to discuss the 10 Point Plan after withdrawing from further meetings with Mr Howard. (CT 14 May, p6)

The Institute of Valuers and Land Economists says the 10 Point Plan could increase not reduce uncertainty and that pastoral leases' values could fall

with banks exposed to litigation risks. (*CM 11 May, p2*) The Federal Government's Biological Diversity Advisory Council has warned the Minister for the Environment that any proposals to upgrade pastoral leases to freehold could have a serious impact on the environment. (*SMH, 15 May, p4*) The editor of the *Canberra Times* lists a number of wealthy local and foreign leaseholders who stand to benefit from the Government's 10 point plan. 'Many Australians would legitimately like to know who the real Wik winners will be. Names and all.' (*CT, 15 May, p8*) The National Farmers Federation hit out at the media for coverage of wealthy local and foreign pastoral leaseholders. They quoted ABARE figures showing that 99.6% of broadacre farms were owned by families. (*The Land, 22 May, p3*)

Aboriginal leaders strongly condemned a proposal by the Deputy chairman of ATSIC, Mr Ray Robinson, to allow the extinguishment of native title on family farms provided that Aborigines had limited access for traditional purposes. The grazing industry and the Queensland National Party cautiously welcomed the compromise proposal. (*SMH, 16 May, p5*)* ATSIC chairman, Gatjil Djerrkura, rejected Mr Robinson's plan saying that it was his own initiative and that ATSIC's position on extinguishment remained clear and unchanged. (*CM, 17 May, p4*)

130 elected members of the Northern, Central and Kimberley Land councils, representing 65,000 traditional owners, burned copies of the 10 point plan describing it as 'a spear through the heart' and 'the final drink at the poison water hole.' (*CT, 16 May, p5*)*

Mr Howard has dismissed claims that his 10 point plan would involve taxpayers footing the bill for handing over freehold to pastoralists. He said the planned upgrade of pastoralists leasehold rights was reliant on title-holders paying an appropriate amount of money. (*CM, 17 May, p4*) Farmers at Longreach overwhelmingly rejected Mr Howard's plan to solve the Wik crisis. (*Sunday Age, 18 May, p2*)* Speaking on the Seven network Mr Howard stated that the rights pendulum had swung too far in favour of Aborigines. He refused to be drawn on the possibility of a double dissolution over the Wik legislation. (*CT, 19 May, p1*)*

Despite political pressure to convert pastoral leases to freehold, Professor John Holmes argues that vast tracts of unproductive land should remain in public ownership. 'To extinguish native title, freeholding would need to be extended to the most marginal lands where the pastoral interest is flimsy and the Aboriginal interest very substantial.' (*FinR, 20 May, p21*) Elizabeth Fysh, a Queensland pastoralist and convenor of the Regional Women's Alliance, believes 'pastoralists remain sceptical of the plan's ability to deliver the certainty its author promises.' (*Aus, 20 May, p15*) Queensland's Premier, Rob Borbidge, conceded the plan was now more workable as a result of concessions by the Federal Government and indicated grudging acceptance of the plan. (*Aus, 21 May, p2*)*

More than 30 diplomats from 28 countries met with the National Indigenous Working Group to hear their concerns about native title. The group told the diplomats that if the Wik issue could not be solved in a fair and just way then Australia could not hope to deal with the world. (*CT, 22 May, p1*)*

Queensland Graingrowers Association and the United Graziers

Association will offer a proposal to the Federal Government which centres on claimants showing links to the land over a long and continuous period and the need for obligatory State government action on disputes over native title. The proposal is believed to have been broadly endorsed by key Queensland National Party figures. (*Aus*, 22 May, p3)

The Australian Conservation Foundation will begin a national campaign against the Federal Government's 10 point plan in a bid to highlight the environmental impact of the proposals. (*The Age*, 23 May, pA7)

Senator Nick Minchin said Pat Dodson's attack on the 10 Point Plan distorts its objectives and content. Mr Dodson claimed on *Meet the Press* the plan was about extinguishment and removing native title from pastoral leases. (*Press release*, 25 May). On the eve of the Reconciliation Convention Senator Minchin said Mr Dodson should acknowledge the government's rejection of calls for blanket extinguishment on pastoral leases. (*Fin Rev*, 26 May)

Chairman of the Northern Land Council, Galarrwuy Yunupingu, claimed the 10 Point Plan was a one step plan for extinguishment of Aboriginal rights. He said Aboriginal people wanted rights not money. (*Age*, 26 May, p15)

Government plans to use the 'race power' in the Constitution to implement the 10 Point Plan were criticised by Pat Dodson who said the power was for beneficial aims not diminishing Aboriginal rights. Opposition Aboriginal Affairs spokesperson, Daryl Melham called for the tabling of government legal advice on the proposed legislation saying there were moral and ethical issues in using the race power against Aboriginal people. (*Age*, 26 May) Parliamentary debate focussed on the 10 Point Plan and raised the possibility of a double dissolution. Mr Howard said he will not accept any Senate changes to the plan. (*Aus*, 29 May, p6)

The Australian Institute of Valuers and Land Economists said inflammatory comments were complicating the Wik debate. The AIVLE does not favour outright extinguishment. (*CM* 30 May, p32)

Victorian premier, Mr Kennett said a double dissolution should be avoided and urged the Prime Minister and Opposition leader to 'do what is right' not what is seen to be popular. The Attorney General of South Australia said the plan was the best that seems achievable although offering no guidance on compensation. Western Australian Premier, Mr Court said the plan was a 'good fall back position short of extinguishment'. (*Aus*, 30 May, p4) but in an address to the Mineral Council of Australia he was critical of the federal government for working too slowly to amend the native title legislation. (*Fin Rev*, 30 May, p21)

Noel Pearson said Aboriginal leaders were 'political fools' to agree to validation of titles granted after the introduction of the 1975 Racial Discrimination Act. He called the peace offering taken to Cabinet in 1993 a 'strategic blunder' since the concessions which have benefited tens of thousands of holders of titles granted since 1975 were not reciprocated with any graciousness. (*WAus* 31 May, p10)

Mr Howard denied that the 10 Point Plan would benefit the wealthy. NSW has ruled out upgrading the 4230 pastoral leases covering 42% of

the state. Queensland has over 70 types of leases and upgrading is not likely. It is thought that successful claims under the 10 Point Plan would be minimal and not of concern to pastoralists. Pastoral leases cover 41% of South Australia and the Attorney General said clarifying access rights was necessary. The NT government rejected a proposal to freehold leases in 1987 where the leasehold system is seen by government as providing effective controls. The WA government said leases would retain the same conditions if the 10 Point Plan was implemented and co-existence with native title would continue. The lease terms for the 540 leases covering 37% of the state would change from 25 years and be made perpetual or unlimited. (*WAus*, 31 May, p10)

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RECENT PUBLICATIONS

Wensing, E. & Sheehan, J. *Native Title : Implications for Land Management*, Australia Institute, Canberra, 1997. The authors, land planning and valuation experts, report that there is no land use management or planning reason for extinguishing native title and that land use management not ownership is the issue. The discussion paper is available from the Australia Institute, PO Box 72, Lyneham, 2602.

Commercial implications of native title. Published by QUT Centre for Commercial and Property Law and Federation Press. Available from QUT Faculty of Law GPO BOX 2434 Brisbane QLD 4001.

The Human Rights and Equal Opportunity Commission have published a Plain English guide to the Racial Discrimination Act and Native Title called *The RDA and native title: the implications of statutory extinguishment*. Available from HREOC's Public Affairs Unit. (02) 9284 9677.

The Goldfields Mediation Council has released a draft protocol aimed at speeding up negotiations with native title claimants in relation to the proposed grant of mining, exploring and prospecting rights. Copies of the protocol are available from Goldfields Mediation Service, Level 1 Viskovich House, 377 Hannan St., Kalgoorlie.

The June 1997 issue of *Indigenous Law Bulletin* (formerly Aboriginal Law bulletin) includes a critique by the National Indigenous Working Group of the Government's 10 point plan; a further analysis of the 10 point plan is contained in 'Nailing down native title' by Garth Nettheim; and an article by David Yarrow discusses natural resource management in light of the Wik case.

The National Native Title Tribunal and the Australian Local Government Association, with support from the Council for Aboriginal Reconciliation, have produced a guide to help local government authorities in dealing with native title. Called *Working with native title* it sets out practical approaches local governments and communities might take on the way to reaching native title agreements. Contact the Australian Local Government Association, Native Title Program, on (06) 281 1211 for a copy.

The Wik Summit was convened in Cairns on 21 January 1997 with the

aim of initiating some real dialogue between those most affected by the Wik decision. A limited number of the Wik Summit papers are now available from the Cape York Land Council PO Box 2496 Cairns, Qld 4870. The papers cost \$30.00 plus \$5.00 per copy for postage.

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