



AIATSIS

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NATIVE TITLE NEWSLETTER

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NATIVE TITLE IN THE NEWS OCTOBER - NOVEMBER 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.)*

Ad = Advertiser (SA)

Age = The Age

Aus = Australian

CM = Courier Mail (QLD)

CP = Cairns Post

CT = Canberra Times

DTel = Daily Telegraph

Fin R = Financial Review

HS = Herald Sun (VIC)

KM = Kalgoorlie Miner

LE = Launceston Examiner

Mer = Hobart Mercury

NTN = Northern Territory News

SC = Sunshine Coast Sunday

SMH = Sydney Morning Herald

Tel M = Telegraph Mirror (NSW)

WA = West Australian

WAus = Weekend Australian

APPLICATIONS

New South Wales

Euahlay-i [NNTT Ref#NC97/6]

The Euahlay-i Dixon peoples' application (yet to be approved), encompassing the County of Finch, also covers the proposed Llanillo flowing artesian bore and proposed pipeline crossing twelve Lightning Ridge Properties. Leaseholders raised concern about traditional owners' requests to inspect the 180-km pipeline site despite a Cultural Heritage Assessment having already been carried out. The leaseholders have denied access to the traditional owners. (*Land*, 23 Oct, p4)

Yorta Yorta[NNTT Ref#VC94/1]

Justice Olney of the Federal Court called on the New South Wales and Victorian governments to negotiate a settlement, commenting on the time and resources put into the Yorta Yorta litigation. (*SMH, 31 Oct, p6*)

Barakandji People [NNTT Ref#NC97/23]1

The Barkandji people have lodged a native title application over land reaching from the South Australian border, east to the Central Darling Shire (based on Wilcannia) and the Murray River in the south. Wilcannia Lands Council chair, Cecil Payne, hopes to stop cropping, wool and beef production and return to managing Barkandji country as was done before these activities started. (*Land, 6 Nov, p11*)*

Worimi Aboriginal People [NNTT Ref#NC97/15]

The Worimi application was lodged with the National Native Title Tribunal in June 1997. The Tribunal is now identifying parties for mediation of the claim after the public notification period. The application covers a 10ha bushland site at Bagnalls Beach, including around 1.8km of public beach. A representative of the NNTT said that public access would not be affected by a successful application. The State Government is holding back a plan to declare Stockton Bight a national park until the claim is resolved. (*Newcastle Herald, 12 Nov, p1*)

Muthi Muthi People [NNTT Ref#NC97/29]

Alice Kelly lodged an application a month ago on behalf of the Muthi Muthi people. The application covers an area that includes Wentworth in the west and stretches south along the Murray River to Deniliquin, east to Jerilderie and Griffith and north to Hillston. (*Land, 13 Nov, p14*)

Queensland

Hopevale Native Title Mediation Settlement [NNTT Ref#QC96/15]

The Queensland Parliament has agreed to recognise native title over much of 110,000 hectares of land in far north Queensland, after an agreement was reached between 13 Aboriginal groups and other key stakeholders including Telstra, Cape Flattery Silica Mine, Cape York Land Council, the Australian Maritime Authority and the Queensland Commercial Fisheries Organisation. This agreement is the first permanent mediated settlement of native title application in Australia. The agreement carries a legal recognition of native title over DOGIT (deed of grant in trust) land, and also has the effect of looking after Aboriginal groups who live on the land but do not claim to be the traditional owners. (*FinR, 12 Nov 1997, 4*)* Under the *Native Title Act*, the application will go before the Federal Court for ratification. (*Aus, 12 Nov 1997, 2*) ATSIIC Chair, Gatjil Djerrkura, said the agreement on the recognition of native title at Hopevale in northern Queensland proves that negotiation is the key to satisfying the widest range of interests. (*Press Release, ATSIIC, 12 Nov*)

Undumbi People [NNTT Ref#QC97/44]

Ken Dalton and Greg Cleary, on behalf of the Undumbi people lodged a native title application over areas of the Sunshine Coast north of Noosa River to Eumundi and South to Bribie Island and the Caboolture CBD. (*CM, 22 Oct, p4*)

Wuthathi People [NNTT Ref#QC97/43]

Wuthathi traditional owners registered a claim over Shelburne Bay on the northeast coast of Cape York Peninsula. It is the first application in Cape York since the Wik peoples case in

June 1993. (*DTel, 10 Oct, p24*) Although contrary to the principles of the Cape York Land Use Agreement, the application has the support of other signatories, including the Wilderness Society, citing the failure of the federal and state governments to progress implementation of the Agreement. (*Media Release, 9 Oct*)

Iman People [NNTT Ref#QC97/55]

Extensions of the Iman application to areas from Dalby and Mitchell in the south to Emerald in Central Queensland have been criticised by some of the group. This second application covers the area of the first and also specifically includes the site of the proposed Dawson River Dam and the Surat Basin. It is expected that dispute over the application may postpone development in these areas. (*CM, 3 Nov, p8*)

Western Australia

Ngaluma Injibandi People [NNTT Ref#WC94/5] [NNTT Ref#WC95/2]

Yaburara Mardudhenera People [NNTT Ref#WC96/89]

The Shire of Roebourne, in the Pilbara, is worried that the slow progress of negotiations between native title applicants and the State Government will frustrate development plans for Karratha. Two native title applicants from the Ngaluma Injibandi people and the Yaburara Mardudhenera group are involved in negotiations. (*WA, 15 Nov, p14*)

Northern Territory

Crocker Island Seas [NNTT Ref#DC94/6]

Barrier Pearls and the Aboriginal people of Croker Island signed Australia's first native title agreement over an area of sea. According to the agreement, Barrier Pearls will pay about \$2 million in royalties over 20 years, provide employment opportunities, respect sacred sites and assist with the development of infrastructure on the island. (*WA, 18 Oct, p5*)*

Bradshaw Station [NNTT Ref#DC/97]

A native title application was lodged on 12 November with the NNTT. The application is over an area, which includes an army-training base at Bradshaw Station. Northern Land Council chief executive Norman Fry said the application was lodged to ensure native title holders' rights were not infringed upon by the defence use of the property. Minister for Defence, Ian McLachlan said the Defence Department was willing to talk to Aboriginal applicants. He is not expecting the application to impact on defence usage of the station. (*NT, 21 Nov, p6*)

Victoria

North West Nations [NNTT Ref#VC97/17]

The Barapararapa, Wamba Wamba, Wadi Wadi, Yeri Yeri, Latje Latje and Wergaia peoples have lodged a native title application with the NNTT over Crown land in north-western Victoria. The application covers two national parks, state parks, state forests, reserves and waterways. A successful application could lead to agreement to jointly manage the national parks. (*Age, 7 Nov, pA4*)*

MINING AND NATURAL RESOURCES

General

Australian Bureau of Statistics figures, showing 20 per cent growth in most areas of exploration for minerals and petroleum, suggest that native title is not necessarily having the

detrimental affect predicted. However, Mineral Council of Australia, executive director, Dick Wells, said native title was definitely slowing development. (*Aus, 1 Oct, p29*)

A report commissioned by the Aboriginal and Torres Strait Islander Commission rejected industry claims that mining and exploration had lost billion of dollars in investment because of native title. The study by Dr Ian Manning of the National Institute of Economic and Industry Research found that contrary to industry claims, there was little evidence of depressed exploration activity after the High Court's 1992 decision in Mabo-Queensland. (*FinR, 27 Nov, p5*)*

Western Australia

Native Title applicants have challenged the expansion of the Anaconda nickel project at Murrin Murrin. Anaconda reached an agreement with 18 Aboriginal groups in the region in April this year over 80 per cent of the Murrin Murrin project. However, negotiations are continuing over the remaining 20 percent. Mr Murray Stubbs said the Bibila-Lungutjarra and Goolburthunoo peoples were also yet to reach agreement over the future mining of sites adjacent to Murrin Murrin. (*FinR, 27 Oct, p23*)

Croesus Mining has reached a settlement of native title claims over Binduli tenements at Kalgoorlie. Croesus managing director, Steve Johnston, said the settlement had come quicker than expected, while the company had been preparing to become a test case for the Tribunal. (*WA, 23 Oct, p66*)

Queensland

Agreements between the Cape York Aboriginal community and COMALCO would be signed 18 months after both the parties signed a memorandum of understanding over development of the company's extensive Queensland bauxite leases. The Napranum and Mapoon Aboriginal communities have agreed to the development of the Ely bauxite project, which is to be constructed by multinational aluminium giant Alcan. (*Aus, 20 Oct, p19*)

Speaking at an Australian Pipeline Industry Conference in Adelaide, Noel Pearson praised the Chevron project and the approach taken by the company toward negotiations with the traditional owners. No settlement has yet been reached on the project but Mr Pearson highlighted the importance of good faith negotiations. (*Aus, 4 Nov, p21*)* United States energy company Chevron has negotiated a land access agreement with native title holders to facilitate a \$3 billion gas project to build a pipeline from PNG to Gladstone, Queensland. The agreement has been reached after nine months of consultation with native title claimants, graziers, farmers and residents. (*Aus, 25 Nov, p23*) In return for guaranteed security of land access for the pipeline route Aboriginal people will receive some employment and training during the pipeline's construction. (*CM, 26 Nov, p13*)

South Australia

Liberal Member for the seat of Grey in South Australia, Mr Barry Wakelin has warned that opal miners were frustrated enough by native title to resort to violence. (*Ad, 2 Oct, p3*)

Merrit Mining NL has reached agreement with Aboriginal bodies on all but one of its Gawler Craton exploration licences west of Ceduna clearing the way to begin systematic fieldwork later in 1997. (*Aus, 20 Oct, p2*)

AMENDMENTS

Senator John Woodley, the Australian Democrats spokesman on primary industries took over Cheryl Kernot's native title responsibilities and confirmed that the Democrats were not changing their position on the Government's Wik legislation. The Democrats identify four areas of fundamental concern in the legislation; one that there be no blanket or implied extinguishment of native title; the restrictions of the proposed sunset clause; possible windfall gains from upgrading pastoral land to freehold; and no watering down of Aboriginal rights to negotiate. (*Aus, Oct 17, p6*)*

United Graziers Association President, Larry Acton, said pastoralists would refuse to engage in native title negotiations if the Senate did not pass the Amendment Bill. The UGA is opposed to amendments put forward by the opposition parties and would argue for a stricter threshold for acceptance. (*CM, 1 Oct, p13*)

The submission by the Australian Law Reform Commission to the Joint Parliamentary Committee on Native Title and the Land Fund, which was allegedly suppressed by the Attorney General, argued that six of the ten points of the Government's amendment plan were contentious. The ALRC argued that the validation of acts between 1994 and 1996 would leave the government open to compensation claims if the law was held to be valid. However, the submission argued that the confirmation of extinguishment, restrictions on the registration test, changes to the Right to Negotiate, the impositions of the sunset clause and the provision for upgrading of pastoral lease activities would offend the Racial Discrimination Act, and were contrary to international obligations and would open the proposed legislation to constitutional challenge. Allegations of intimidation by the Attorney-General have led opposition parties to seek an investigation by the Senate Privileges Committee. (*CM, 2 Oct, p6*)*

The Australian Conservation Foundation has raised concern over the environmental impact of the proposed amendments. The ACF argued that state land management laws would not give adequate protection to the land. In particular, the ACF points to provisions that seek to expand the definition of pastoral activity to include any activity incidental to 'primary production'. (*Media Release, 9 Oct*)

A Joint Parliamentary committee meeting in Cairns was disrupted as Aboriginal people and opposition members of the committee called for the Committee chair, Warren Entsch, to stand down for conflict of interest reasons. It was suggested that Mr Entsch's interests in pastoral properties in Cape York at least gave the perception of bias. The meeting also revealed the first indication that the Labor opposition would reject the Bill in the Senate. (*CM, 9 Oct, p9*)*

Aboriginal and Torres Strait Islander Social Justice commissioner, Michael Dodson, has said that the constitutionality of the government's Amendment Bill means that it cannot provide certainty and that the Bill failed to meet non-discrimination standards under international law. (*WA, 11 Oct, p4*)*

Senator Nick Minchin argued that both the Solicitor-General and Barrister David Jackson QC, had provided legal advice to the government that the Native Title Act Amendment Bill was supported by section 51(26) of the Constitution (the 'race' power. Senator Minchin said that the 'race' power likely extends to laws that are detrimental to the interests of Aboriginal people and in any event, the government believes that the Amendment Bill, if taken together with the original native title act is on balance for the benefit of Aboriginal people. (*Media Release, 13 Oct*)

A visiting Aboriginal delegation has told the South African Government that proposed amendments to the *Native Title Act* were racist and out of step with international trends that enshrined human rights for indigenous people. (*SMH, 20 Oct, p10*)

Nine of the eleven legal opinions submitted to the joint parliamentary committee have said that the legislation is bound to be found unconstitutional on at least one ground, with concern over the detriment to Aboriginal people and the provision of just terms. The two opinions supporting the legislation were from within the government - Solicitor-General Dr Gavan Griffith and Wik Task Force lawyer, Robert Orr. (*HS, 24 Oct, p12*)* Dr Griffith, however, admitted that it was merely his opinion and that the legislation would probably be challenged and the judges may strike down the legislation. (*SMH, 24 Oct, p10*)*

John Basten QC argued that the Amendments would not only be unconstitutional themselves, but would call into question the original *Native Title Act*. (*WA, 25 Oct, p28*) Other constitutional law experts have agreed. (*SMH, 25 Oct, p7*)

The minority report of the Joint Parliamentary Committee on native title has recommended that the Native Title Act Amendment Bill be substantially amended. A number of key issues were identified including the constitutionality of the bill in providing just terms and bringing the Bill within the principle of the Racial Discrimination Act. (*CT, 25 Oct, p2*)* In addition, the report calls for amendments to restrict the definition of pastoral activities, ensure the right to negotiate extends to mining over pastoral leases and offshore waters, with notification rights over inland waters, rejects the sunset clause and the imposition of rules of evidence on native title cases. The report rejects the onerous registration test and argues that incompatible land use should be said to suppress rather than extinguish native title. The Labor party drafted the report with input from the National Indigenous Working Group and received support from the Democrats and the Greens, although both minor parties are expected to suggest further amendments. The government has reiterated that it will not accept substantive amendments. (*Fin R, 25 Oct, p4*)*

Aboriginal elders of the Kimberley have had their evidence to the Joint Parliamentary Committee on Native Title excluded from the Hansard record. The only recording being 'Evidence was then given in a language other than English'. No names, except that Kimberley Land Council executive director, Peter Yu, were included although some were spelled out for the Hansard Reporter, including KLC Chair, Kurijinpi McPhee. The Kimberley Aboriginal Language Resource centre had offered accredited translation services prior to the hearing. The minority report of the Joint Committee was critical of the committee's dealings with the evidence. (*CT, 27 Oct, p1*)*

The majority report recommended the Native Title Amendment Bill be adopted, with only four minor amendments: to broaden the definition of banks in which Native Title Representative Bodies could keep their funds; to allow cases where indigenous people continue to live on reserves but were unable to register native title applications to be dealt with on a case by case basis; to clarify the position in relation to opal exploration, and to amend the bill so that only 'undue prejudice' could prevent the court from taking into account cultural and customary concerns. (*CT, 28 Oct, p5*)*

Queensland National Party members sought a number of amendments to the government's Amendment Bill in the House, crossing the floor to vote against the Coalition. The amendments, based on National Farmers Federation proposals, sought a tightening of the registration test based on physical connection, an expansion of the sunset clause to apply to common law claims as well as claims under the Act, for compensation to be paid by the commonwealth alone and for increased role for the state to intervene to block the right to negotiate. (*WA, 30 Oct, p10*)*

The Amendment Bill passed the House of Representatives on Wednesday 29 October 1997 (80 votes to 46). However, the Bill was not expected to pass easily through the Senate without substantial amendment. The Prime Minister, John Howard, and Special Minister for State, Senator Nick Minchin, reiterated that the government would not allow major amendments. The government suggested that criticisms of both sides are proof that the bill achieves a balance between the competing interests. The seemingly fixed positions suggest that the Senate's rejection of the bill may be used as a trigger for a double dissolution election. Senator Harradine appears to hold the balance of power in this decision. (*CM, 1 Nov, p8*)*

A large number of claims lodged over the last three months were attributed to the impending changes under the Amendment Bill. However, Deputy Prime Minister, Tim Fischer said that the Bill would be retrospective and many of the claims lodged recently would be struck out under the new rules. (*CM, 3 Nov, p8*)

An annual survey of the pastoral industry, published in the Australian Farm Journal, revealed that the largest pastoral holders in the country were in fact increasing their investments in pastoral property despite claims of the financial impact of alleged uncertainty. Among those, Hugh McLaughlin, cousin of Defence Minister Ian McLaughlin, as well as the Minister himself, Don McDonald, Federal President of the National Party, and other Federal Coalition members and Senators were identified in the survey. The National Indigenous Working Group and Democrats Leader Meg Lees called for those with interests in the pastoral industry to refrain from the native title amendment bill debate, and to publicly declare their conflict of interest. Other big investors identified in the survey included some of the richest people, families and companies in Australia. (*WA, 3 Nov, p14*)*

Gatjil Djerrkura, Chair of ATSIC, criticised the government's Amendment Bill and warned that ATSIC would act to protect the rights and interests of Indigenous people. Mr Djerrkura also stated that ATSIC would seek support from the international Indigenous community if the Amendment bill passed the Senate. (*Aus, 6 Nov, p4*)*

Special Minister for State, Senator Nick Minchin, has stated that the government would not subject the Amendment Bill to the *Racial Discrimination Act* because of the perceived legal consequences. (*FinR*, 6 Nov, p7)

Prime Minister John Howard has told State Premiers that he is prepared to use the Native Title Amendment Bill to force a double-dissolution election. His statement came after West Australian Premier Richard Court and Northern Territory leader Shane Stone called for an election on native title if the Senate blocked the legislation. The legislation goes to the Senate on November 24. (*WAus*, 8 Nov, p1, 4)* Mr Howard characterised native title as a 'land management' issue rather than a 'racial' one. (*FinR*, 8 Nov, p3)*

The Senate committee on Legal and Constitutional Legislation, tabled its report on the constitutionality of the NTA Bill. Evidence was given before the committee indicating that the Government's amendments did not abide by the Constitution's requirement that the Commonwealth provide just-terms compensation when acquiring property. The Coalition members of the committee have suggested that Special Minister for State Nick Minchin review the Bill to ensure that it abides by this requirement. (*CT*, 11 Nov, p1)* The Opposition and minor parties believe that the Bill is racially discriminatory. (*Aus*, 11 Nov, p2)*

Senator Nick Minchin disputed that the NTA Bill might not meet requirements for just-terms compensation set by the constitution. He said that he would, nevertheless, look at the committee's findings on that part of the Bill. Opposition legal affairs spokesman Nick Bolkus warned that an unchanged Bill could potentially lead to payment of compensation and uncertainty. (*WA*, 11 Nov, p9)*

British human rights groups protested against the Australian Government's NTA Bill in London, calling for an international boycott of the Sydney Olympics if native title rights were extinguished. British MPs will lobby their Foreign Secretary, Mr Robin Cook, to pressure Australia over the proposed amendments in line with the British Government's commitment to ethical foreign policy. (*SMH*, 12 Nov, p3)*

Former Prime Minister Paul Keating rejected suggestions he had expected that Labor's legislation, the *Native Title Act 1993*, would extinguish native title on pastoral leases in response to Government claims that their amendments were simply trying to do what Labor originally intended. (*SMH*, 12 Nov, p2)*

Human Rights Commissioner, Mr Chris Sidoti, has told a Senate hearing that he is concerned that the Government's proposed legislation will have a racially discriminatory effect and therefore would be in breach of provisions of international human rights treaties. (*Age*, 14 Nov, pA7)*

Federal Minister for Aboriginal Affairs, John Herron, said the NTA Bill was fair and just, and disputed claims that land was the basis for Aboriginal independence or reconciliation. (*WA*, 14 Nov, p10) ATSIIC Chair, Gatjil Djerrkura, said although the legislation was the task of Special

Minister of State, Nick Minchin, the Aboriginal Affairs Minister should be representing indigenous interests. He said that land was the core of indigenous identity. (*WA, 14 Nov, p10*)

The ALP has produced a detailed assessment of the Government's NTA Bill. The ALP insists that the right to negotiate over mines and other developments on pastoral leases be written into the bill. The Labor party is expected to make public their proposed amendments next week. (*FinR, 15 Nov, p3*)

Queensland National Party Senator, Bill O'Chee, told the national conference of the Australian National Sport Fishing Association that native title poses a threat to fishermen as well as graziers because the *Native Title Act* potentially allows people to make claims over oceans and waterways. He said that the Government's proposed legislation would protect the fishing community. (*CT, 16 Nov, p14*)*

Prime Minister, John Howard, said the only way to avoid a double-dissolution election on race was for the Senate to pass the Bill unamended. (*Aus, 17 Nov, p3*)*

The manager of government business in the Senate, Ian Campbell, announced an extra sitting week for the Senate from December 1, in order to complete the debate over the proposed legislation. (*Aus, 18 Nov, p4*)* The Government has allowed 40 hours in its program for debate on this legislation. (*Media Release, 17 Nov*)

Liberal backbencher, Ms Susan Jeanes, criticised her Government's handling of native title and Aboriginal affairs as 'mean-spirited' in the eyes of Australians. She said she was 'very saddened' by the proposed legislation that placed the interests of farmers and miners above those of Indigenous people. (*Ad, 18 Nov, p5*)*

Business council of Australia president Stan Wallis said that the continuing debate over the Amendment Bill is damaging Australia's investment reputation. (*Aus, 12 Nov 1997, p2*)* Mr Wallis said certainty of land tenure was crucial for investment but a continuing reconciliation process was also of 'critical importance' for the nation. Three dangers of a double dissolution election were identified as: the further delay in certainty; the erosion of goodwill, jeopardising negotiations which mining companies have undertaken with Aboriginal communities; and the potential unconstitutionality of the legislation. (*FinR, 19 Nov, p18*)

The Australian Greens said they would vote down the Government's NTA Bill in the Senate rather than support ALP amendments that did not fully protect Aboriginal rights. (*FinR, 19 Nov, p3*) The Greens will move to split the bill so that agreed sections can pass before the end of the year. These include the Brandy amendments and provisions relating to Indigenous Land Use Agreements. (*Media release, 19 Nov*)

The Labor party pursued a unified opposition to the Government's proposed legislation. However, the minor parties demanded that leases granted since 1 January 1994 be reissued, opposing the validation provisions supported by the Labor party. (*Age, 24 Nov, pA4*)* The Labor party's amendments remove and offset parts of the Amendment Bill that are racially

discriminatory or fail to meet the constitutional obligation of ‘just terms’ compensation. (CT, 24 Nov, p2)

After a party-room meeting with the National Indigenous Working Group, the Democrats announced that the party would sponsor a package of amendments as proposed by Aboriginal people. Senator John Woodley said the amendments, would include an amendment opposing validation of intermediate titles. (Media Release, 24 Nov)

A number of senior Australian business leaders have expressed strong support for passage of the essential features of the Government’s Native Title Amendment Bill. They say this will provide greater certainty for investment in Australia. (Media Release, 24 Nov)* Among the 30 people that signed the statement were BHP’s Jerry Ellis and John Prescott, the Commonwealth Bank’s Tim Besley, Western Mining’s Hugh Morgan, AMP’s Ian Burgess, National Mutual’s Geoff Tomlinson, Telstra’s David Hoare, Rio Tinto’s Barry Cusack, the National Australia Bank’s Don Argus, Normandy Mining chief executive Robert Champoin de Crespigny and Don McGauchie, president of the National Farmers Federation. According to David Buckingham, the executive director of the Business Council of Australia, those who made the statement were signing as individuals, not as representatives of the council or companies. (Aus, 25 Nov, p2)* Normandy Mining has distanced itself from the statement of support, with managing director Mr Ian Gould saying its position was “far too complex to be conveyed in that simple statement”. (Ad, 25 Nov, p6)

There were more than 700 amendments to the Government’s NTA Bill from all parties to be considered by the Senate. Labor will insist that native title claimants have a right to negotiate on pastoral leases and will refuse to support a schedule of leases that the Government asserts give exclusive occupancy rights to leaseholders. Labor also proposes that legislation only suppress native title rights rather than extinguish them permanently. They will also oppose moves that allow pastoralists to upgrade their leases to freehold title. They will, however, give some support to Government proposals to validate leases granted since 1994 and to increase the capacity of pastoralists to diversify their activities beyond the formal terms of their leases. (Age, 25 Nov, pA1)*

A letter sent by Tim Fischer’s office informing a property owner that her freehold title had been ‘thrown into doubt’ by the Wik decision, became public. (Aus, 27 Nov, p2)*

Indigenous Australians with Native Title claims threatened by the Government’s Amendment Bill gathered in Canberra yesterday to plead for a change of mind. Mr Juluk Tighe representative of the Walmajari community of Western Australia stated that the community has been locked out of Christmas Creek by the pastoralist. Under the NTA Bill they will have no right to negotiate over new uses of the land. (CT, 28 Nov, p4)*

GENERAL NATIVE TITLE ISSUES

National

Independent Member of Parliament, Pauline Hanson, has said that native title should be extinguished because it is the first step in a long-term strategy to create a separate Aboriginal nation within Australia. (*Media Release, 1 Oct*)*

NSW National Party Member of Parliament, Michael Cobb, has complained that while more than \$100 million had been spent on legal fees for native title cases, no land had been given to Aboriginal people (*WA, 2 Oct, p8*)

Camilla Cowley, pastoral land holder, has argued in support of native title and the co-existence of pastoral and native title interests. (*SMH, 13 Oct, p1*) NFF Director, Dr Wendy Craik argued that farmers have difficulty with co-existing title because it would be unworkable in the business of farming. (*Media Release, 13 Oct*)

United Graziers Association president, Larry Acton, raised concern about Aboriginal families being included in claims without their knowledge or consent. Cape York Land Council co-ordinator, David Byrne, said that it was possible for one person to make a claim on behalf of their relatives but if someone did not want to assert their native title rights it was their prerogative. (*CM, 13 Oct, p8*)*

Noel Pearson, often regarded as a moderate voice in Aboriginal issues reflected growing impatience in the Aboriginal community by calling the government 'racist scum' for persisting with legislation which their legal advice had agreed was likely racially discriminatory. The government labelled the comment as extreme. (*WAus, 1 Nov, p1, 8*)*

David Ross, Chair of the Indigenous Land Corporation, in a letter to the editor, criticised comments by a Daily Telegraph opinion writer. Mr Ross highlighted that the Land Fund was not set up "in return" for the extinguishment of native title on pastoral leases and nor was it established to compensation for dispossession on pastoral leases. The Land Fund, it was argued, was established for a much broader purpose, for the dispossession of Indigenous peoples of their land over a 200 year period. Mr Ross also dispelled some of the misinformation about the cost and budget of the land fund. (*Tel, 5 Nov, p12*)

The NSW Farmers Association held native title information meetings across western NSW last week. Members were told that they need to be aware of their rights and stay well informed on issues of native title as it is important that all those affected have their say. (*Weekly Times (Vic), 12 Nov, p16*)

Margaret Gardiner of Mirimbiak Nations Aboriginal Corporation said that in referring to the Mabo and Wik decisions as granting a property right to Indigenous people, Senator Nick Minchin demonstrated a 'fundamental misunderstanding of the nature of native title'. No grant was made by the High Court in the Mabo decision, rather, Indigenous peoples' relationship with land according to Indigenous law and custom was recognised. The manifestation of that relationship in Western law is called native title. (*Aus, 13 Nov, p12*)

Warren McLachlan ended three years as the Cattlemen's Union representative on the National Farmers Federation. He said that pastoralists have been encouraged to think that

native title claims can dispossess them of their holdings when this is not true. Mr McLachlan suggests a solution to native title would be closer if rural communities communicated with Indigenous representatives, something they have refused to do since January. (*CM, 14 Nov, p3*)

Mr John Sheehan, native title spokesperson for the Australian Institute of Valuers and Land Economists, said that native title has had no effect on statutory leasehold land values. (*CT, 21 Nov, p2*)

Pastoralists Camilla Cowley and Ian Perkins have announced the formation of Rural Landholders for Coexistence. The group says they intend to counter the misinformation that is being spread in country areas by politicians, industry and the National Farmers Federation. (*Age, 25 Nov, pA4*)*

The national general assembly of local government, which represents more than 730 councils, formally recognised native title and unanimously apologised to the stolen children. (*CT, 27 Nov, p2*)

New South Wales

The Deputy Prime Minister, Tim Fischer, has promised federal funding for a test case in the High Court to establish whether NSW Western Division pastoral leases extinguish native title. A lawyer working in the native title area, Andrew Chalk, said Western Division leases were so varied that no one case could set a precedent for pastoral leases for the entire division. He suggests that farmers would be better off seeking regional or local agreements with Aboriginal groups. (*Land, 20 Nov, p8*) The New South Wales Farmers Association plan to bring such a test before the High Court. The farmers have obtained legal advice from a number of sources to support their position. (*Land, 23 Oct, p4*)

Queensland

The Queensland Government has received an internal advisory document aimed at showing the 'worst-case' economic impact of uncertainty. While the report predicts costs of \$100,000 million and job losses of more than 4,600, the authors admit the figures may be 'flawed and rubbery'. The report predicts delays and reduced incentives for investment on pastoral leases and reduced rural tourism investment. Unnamed Queensland mining and industrial executives are reported to have said that the most probable and desirable long-term outcome will see native title negotiations in all developments where rights are accepted and 'reason prevails'. (*FinR, 3 Oct, p69*)

Noel Pearson of The Cape York Land Council lodged an application with the Queensland Supreme Court to review a decision by the Federal and State governments to remove the native title rights section from the Wet Tropics World Heritage Management Plan. It is argued that the Wet Tropics Heritage Protection Act while allowing the minister to approve a plan did not give the power to amend it. (*CM, 31 Oct, p19*)

The Queensland Government has pulled back from its plan to use Commonwealth legislation to extinguish native title by widespread compulsory acquisition of pastoral leases. The Government has decided that this plan would not be feasible because of the amount of

compensation that would have to be paid. Queensland Premier, Mr Rob Borbidge, is to introduce the State's 'mirror' legislation on native title this week. (*FinR*, 25 Nov, p10)*

Western Australia

The High Court has dismissed an appeal by the WA Government against court rulings in relation to the Mirriuwung and Gajerrong application which permit only people of the same gender to hear evidence about secret Aboriginal culture and rituals. (*WA*, 21 Oct, p9)

In a report Premier Richard Court blamed the *Native Title Act* for a mounting backlog of Western Australian land and mining titles. 'The Native Title: State of the Nation' report lists 621 native title claims over Australia and shows 82 per cent of WA under claim. A National Native Title Tribunal source said this figure could be misleading as it failed to exclude freehold land within claims where native title had been extinguished. The report will be sent to Opposition and minor party senators. (*WA*, 25 Nov, p4)

Australian Capital Territory

Deputy Prime Minister, Mr Tim Fisher, warned that residents of Canberra held leasehold titles that were similar to the NSW western division leases. In response, Chief Minister, Mrs Kate Carnell, said Canberra was not affected by native title, being a residential area and that Mr Fisher's statement was 'fundamentally incorrect'. (*CT*, 22 Nov, p3)

South Australia

Adelaide historian Dr Robert Foster said Aboriginal land rights in South Australia had been guaranteed in law in 1851. The first pastoral leases granted in South Australia stated that Aboriginal people retain their rights to the land. (*Ad*, 28 Nov, p4)

Northern Territory

National Native Title Tribunal member Douglas Williamson QC began preliminary hearings in Darwin into the compulsory acquisition of native title rights that may exist over lands and waters at Wickham Point. The hearing will set the direction of arbitration proceedings involving the Larrakia, the Dangkalaba and the Northern Territory Government. (*NT News*, 27 Oct, p14)

Publications

Native Title Research Unit Publications

The following NTRU publications are available from the AIATSIS Publications Sales Assistant (Tel: 02 6246 1191)

Proof and Management of Native Title

(Summary of proceedings of a workshop conducted by the Native Title Research Unit, AIATSIS, on 31 January-1 February 1994 - cost (special discount) \$5 including postage).

Claims to Knowledge, Claims to Country: Native Title, native title claims and the role of the anthropologist

(Summary of proceedings of a conference session on native title at the annual conference of the Australian Anthropological Society, 28-30 September 1994 - cost \$11.85 including postage)

Anthropology in the Native Title Era

(Proceedings of a workshop conducted by the Australian Anthropological Society and the Native Title Research Unit, AIATSIS, 14-15 February 1995 - cost \$11.95 including postage)

The Skills of Native Title Practice

(Proceedings of a workshop conducted by the NTRU, the Native Title Section of ATSIC and the Representative Bodies, 13-15 September 1995 - cost \$15 including postage)

Heritage and Native Title: Anthropological and Legal Perspective's

(Proceedings of a workshop conducted by The Australian Anthropological Society and AIATSIS at the ANU, Canberra, 14-15 February 1996 ~ cost \$20 including postage)

A Sea Change in Land Rights Law: The Extension of Native Title to Australia's Offshore Areas by Gary D. Meyers, Malcolm O'Dell, Guy Wright and Simone C. Muller. (\$12.95 including postage)

The following publications are available from the Native Title Research Unit, AIATSIS, Tel (02) 6246 1158, Fax (02) 6249 1046 (issued free of charge):

Issues Papers published in 1996 - 1998:

No 9: ***The requirements to be met by claimants in applications for a determination of native title***, by George Irving.

No 10: ***Native Title and Intellectual Property***, by David H Bennett.

No. 11: ***Raising Finance on Native Title and other Aboriginal Land***, by Joe Nagy.

No. 12: ***Co-existence of interests in land: a dominant feature of the common law***, by Maureen Tehan.

No. 13: ***Wik- the way forward***, by Rick Farley.

No. 14: ***Lighting the Wik of change***, by Mark Love.

No. 15: ***Neither Rights nor Workability: The Proposed Amendments of the Right to Negotiate***, by Liz Keith.

No. 16: ***Racial Non-Discrimination standards and proposed amendments to the Native Title Act***, by Jennifer Clarke.

No. 17: ***Regional Agreements in Australia: an overview paper*** by Patrick Sullivan (Regional Agreements paper no. 1).

No. 18: ***The Proof of Continuity of Native Title: an anthropological perspective*** by Julie Finlayson.

No. 19 ***Implications of the Proposed Amendments to the Native Title Act*** by Tamara Kamien.

No. 20: ***Compensation for Native Title: Land Rights Lessons for an Effective and Fair Regime*** by J.C.Altman.

No. 21: ***A New Way of Compensating: Maintenance of Culture through Agreement*** by Michael Lavarch and Allison Riding.

Regional Agreements Papers:

No 2: ***Local and Regional Agreements*** by Justice Robert French

No 3: ***The Other Side of the Table: corporate culture and negotiating with resource companies*** by Richie Howitt

No 4: ***The Emperor Has No Clothes: Canadian Comprehensive Claims and their relevance to Australia*** by Michele Ivanitz

No 5: ***Process, Politics and Regional Agreements*** by Ciaran O'Faircheallaigh

No 6: ***The Yandicoogina Process: A model for negotiating land use agreements*** by Clive Senior

Other Publications include:

A Practical Guide to Choosing Consultants for Native Title Claims, by Paul Burke

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