

- That the approach to statutory access rights takes no account of the dispersal of Aboriginal people from pastoral leases
- That the proposed amendments regarding water management permit de facto extinguishment of native title to onshore and offshore waters by ensuring that non-indigenous interests always take precedence. (*WAus, 26 July, p24*)

Gareth Evans said that the Opposition's bottom line on Wik is that there must be no defacto extinguishment and no undermining of the right to negotiate, particularly in relation to mining interests. (*Fin R, 28 July, p17*)

Senator Nick Minchin, the parliamentary secretary who has special responsibility for native title, dismissed as absolutely ridiculous calls by the National Aboriginal and Islander legal service secretariat for mediation by the United Nations or New Zealand to resolve the Wik dispute. ATSIC head Geoff Clark said 'the 10 point plan was not the product of negotiations with the indigenous people'. (*CT 31 July, p2*)*.

GENERAL NATIVE TITLE ISSUES

National

The federal Opposition and Democrats have called in Parliament for the names of pastoralists receiving legal aid for native title cases to be disclosed. The Attorney General declined to guarantee that wealthy pastoralists or groups had received assistance saying names are protected by privacy legislation and confidential. (*Sun Age, 1 June, p7*)

In a letter to the editor (*Aus, 6 June, p8*) Hal Wootten QC responded to criticism of Aboriginal leaders' public and media behaviour. He said the media often seek controversial comment in favour of in depth interviews. Aboriginal leaders represent a community 'deeply ruptured and hurt'. In the Wik debate their constant but ignored refrain was to 'please sit down and let us talk things out.' 'The symbols of the Aboriginal struggle are not of violence and rejection but of a peaceful appeal to the humanity of the non-Aboriginal community'. (*Aus, 6 June, p8*)

Helen McInerney of the NNTT has commented on the failure and refusal to negotiate land claims outside the court system. Ms McInerney said that whilst it is perfectly reasonable for parties to have legal representation, lawyers and peak bodies were being used increasingly by pastoralists in native title land claims and some farmers groups have advised members not to attend mediation. A breakdown in mediation means the case must go to court. (*HS, 11 June, p15*)

Robert Thorpe failed in the High Court to have it declared that the Commonwealth had a special or fiduciary obligation to indigenous people. He hoped the Court would request an advisory opinion from the International Court of Justice. (*CT, 13 June, p4*)

Greater autonomy for the Torres Strait Island area has been granted with the passing of the ATSIC Amendment (TSRA) Bill which will give the Torres Strait Regional Authority a

separate budget allocation from ATSIC. (*Press release, Minister for Aboriginal and Torres Strait Islander Affairs, 25 June*)

A program to help local councils and communities work with native title was launched by the Australian Local Government Association and the National Native Title Tribunal. John Campbell, President of the Association said, 'We need to generate better understanding amongst the parties of each other's position, and especially to promote negotiated outcomes'. (*Rep, 10 July, p23*)

The inaugural Women for Wik meeting was held in Sydney. It was stated at the meeting that Australians should strongly oppose the Howard Government's plan to extinguish Native Title because it was 'unnecessary, divisive, unjust and unworkable'. (*CT, 13 July, p2*)*

Sir Anthony Mason, a former High Court Chief Justice, criticised Attorney General, Daryl Williams, for failing to defend the court from Wik-inspired political attacks that threatened its independence and the rule of law. Mr Williams said that many of the comments made in the three months after the Wik decision were 'inappropriate' and that he had spent 'a lot of time responding to those and rejecting the criticism'. Sir Anthony said it was plain nonsense to allege the Wik decision was an instance of judicial activism when it was clearly a classical question of real property law. He also said a letter about the Wik case written by Chief Justice Gerard Brennan to Mr Fischer was 'an appropriate and correct response'. (*Aus, 17 July, p5*)* Sir Anthony also described Mr Fischer's observation that judges who were 'Conservative with a capital C' ought to be appointed to the court because of its controversial Wik ruling on Native Title as 'a very foolish remark'. (*CT, 17 July, p2*) Mr Fischer responded that he had criticised the court's judgement as was his right, and the fact that it was a split decision justified this. (*Age, 17 July, pA2*)

A claim by the Pitcairn Islanders that they were indigenous to Norfolk Island was flawed and unnecessarily divisive, Territories Minister Warwick Smith said. He also said that the claim has only a minority support on the island and is not accepted by the Commonwealth. (*Tel M, 26 July, p6*)

New South Wales

The Director of Public Prosecutions, Nicholas Cowdrey QC, has asked staff to support a Prominent Citizens Native Title Statement. The petition urges politicians to 'endorse publicly and unequivocally the High Court's native title decisions as just and correct decisions'.

(*D Tel 4 June, p2*)

Queensland

The Labor Party will vote on election platform policies at their state conference on the weekend. The policies include compensation to Aboriginal people for loss of land, the setting up of land acquisition programs for urban Aboriginal people unable to show continuous traditional links to land, and providing financial assistance for identification of land of significance. (*CM, 6 June, p6*)

The State government has contested in the Court of Appeal, a 1996 decision by a Mt Isa magistrate upholding a native title right to hunt otherwise protected animals. Murrandoo Yanner was acquitted of charges under the Nature Conservation Act for spearing crocodiles in a creek on Bundella Station leased by the Carpentaria Land Council. The crown has argued that the native title right was extinguished through the Fauna Conservation Act 1974. (*CM, 6 June, p16*) Mr Yanner's lawyer, Angelo Vasta QC, said it is the first case since the 1993 Native Title Act dealing with the question of whether Aborigines have the right to hunt and fish over territory which their ancestors had the right to hunt and fish. (*CT, 9 June, p4*)

Western Australia

The full bench of the Federal Court dismissed an appeal by the WA Government over a ruling by Justice Lee which allowed 'gender restrictions' to apply during an upcoming native title claim. The Court recognised that Aboriginal law and customs sometimes meant that discussion of some culturally sensitive issues could only be amongst members of the same sex. The implication for native title claims is that restricted evidence can be given and not passed on to lawyers of the opposite sex, or published in court documents. (*Aus, 9 July, p4*)

An Indigenous Art gallery is being stopped from opening in East Perth due to Native Title claims. Aboriginal activist Clarrie Isaccs claims the WA government rejected the proposal because the land was subjected to several claims. (*ST, 13 July, p21*)

The Miriuwung-Gajerrong case could become a test case for Native title rights over water. If the Federal Court does find Native Title rights exist over water, the state is likely to appeal. (*WA, 21 July, p6*)* Premier Richard Court defended the cost of fighting the claim, but said he was angry taxpayers money was being spent on both sides. He also said the Government had to oppose a claim that called for exclusive possession and occupation of such a big area. Mr Court claimed that the Mabo and Wik decisions had said people could not have exclusive occupation and possessions of lands. (*WAus, 23 July, p13*)*

South Australia

The Ngarrindjeri people have launched a High Court challenge to the Hindmarsh Island Bridge Act and will present their case to the First Nations' International Court of Justice. Lawyer Stephen Kenny said that Hindmarsh was no longer a local issue but a national issue with national significance to the rights of indigenous people. (*Aus, 16 June, p2*)

Victoria

The Victorian Farmers' Federations says it recognises mediation as necessary and encourages members to become informed about the native title process before mediation. The VFF has more than 150 members registered as interested parties in the Wimmera claim area. (*HS, 13 June, p29*)

RECENT PUBLICATIONS

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