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## **NATIVE TITLE NEWS OF JUNE - JULY 1996 [Go back to contents](#)**

### **NTA: MEETINGS....MEETINGS....MEETINGS....**

Key officers of the representative bodies and other indigenous stakeholders at their Sydney meeting on 22-23 April endorsed the proposal by the Council for Aboriginal Reconciliation (CAR) to facilitate a meeting between indigenous and industry representatives to discuss the Government's proposed amendments to the *Native Title Act 1993* (NTA).

The first such meeting was held on 2 June in Canberra. It included indigenous representatives from ATSIC, the representative bodies, the Indigenous Land Corporation (ILC), the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner, industry representatives from the Minerals Council of Australia, the National Farmers Federation, the Australian Petroleum Production and Exploration Association and the Native Title Tribunal. The meeting agreed to set up two working groups and reconvene on 16 June.

The first working group was assigned to look at voluntary agreements outside the NTA and the second group was to consider the Government's proposed amendments. The reconvened meeting on 16 June did not call for the postponement of the introduction of the Government's Amendment Bill, hoped for by some of the indigenous representatives, but did produce two joint statements of outcome on voluntary agreements and the workability of the NTA.

Basically, the outcome on voluntary agreements stated:

- a preference for voluntary negotiated agreements;
- the NTA should provide statutory support and give legal effect to such agreements;
- the need for adequate resources for all negotiating parties;
- such agreements to be facilitated by an enhanced role for Native Title Representative Bodies which should
  - have a statutory mandate to facilitate agreements
  - be the only body with statutory responsibility under the NTA in each region
  - have sole responsibility for providing funding and
  - be accountable to native title holders within their jurisdiction.

The statement of outcome on the workability of the NTA was much more tentative, noting the different concerns of industry and indigenous representatives and essentially only agreeing on statutory responsibilities for adequately resourced representative bodies and a threshold test for the right to negotiate.

The indigenous representatives rejected the Government's proposed registration test for the right to negotiate but would accept the registration test

in the previous Government's Amendment Bill, with some modifications. They resisted the industry position of one negotiation per project, maintaining a distinction between rights which were granted as part of the balance of interests and compromise in the original NTA as opposed to the machinery of the NTA which they were willing to discuss. However, there was agreement on setting up a technical working group to develop the broad areas of common ground.

The joint Technical Working Group met in Broome on 9-10 July and 23 July in Canberra. A meeting of all representative bodies to discuss the progress of the Technical Working Group is planned for 19-20 August and a further meeting of all the indigenous and industry representatives originally brought together by CAR will be held on 4 September.

For those seeking more details on the discussions between the representative bodies and the industry representatives, the following documents are available:

- Details of the indigenous, NTT and industry presentations at the 2 June meeting (from CAR)
- Native Title Stakeholders' Meeting, Sunday 16 June 1996
  - A: Outcome on Agreements
  - B: Outcome on Workability of the Act (from CAR).

Many of the documents from meetings are still in draft form, some with no formal outcomes as yet.

The following individuals or organisations have made detailed submissions on the Government's Outline Paper: ATSIC, NNTT, the Aboriginal and Torres Strait Islander Social Justice Commissioner, Garth Nettheim, the Australian Petroleum Production & Exploration Association Ltd (APPEA), CRA Ltd, the Minerals Council of Australia, the Aboriginal Legal Rights Movement (SA), the Goldfields Land Council, the New South Wales Aboriginal Land Council and the Northern Land Council. Copies of those submissions are available from the respective individuals or organisations.

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## **AMENDMENT BILL INTRODUCED**

Meanwhile, the Government introduced its Amendment Bill on 27 June 1996. In summary, it seeks to:

- change the application procedures to overcome the constitutional problems raised by the Brandy Decision
  - claims to be made to the Federal Court, then referred to the NNTT for mediation
  - only the Federal Court to make determinations of claims
- allow for greater Federal Court supervision of NNTT mediation and referral of questions of law or fact to the Federal Court for a ruling [These matters were covered in the previous Government's Amendment Bill]
- separate the claims process from the right to negotiate and introduce a registration test for access to the right to negotiate. The new registration test is similar in some respects to the previous threshold test prior to recent court interpretation but lifts the hurdle higher by requiring that the Registrar be satisfied that
  - prima facie each of the elements of a claim be made out
  - there is compliance with new requirements about precise

- description of claim area, maps, title searches, description of the factual basis of the claim, basis of assertion of group rights
    - o all relevant searches have been conducted
    - o the claim area is not freehold, or a residential or commercial lease
- add greater protection for parties to regional agreements (s.21) and people taking advantage of the non-claimant provisions (s.24)
- insert new provisions for negotiating land use
- allow pastoral leases to be re-granted to authorise non-pastoral activities
- ensure all funding of claimants is through native title representative bodies.

However, the Bill does not contain detailed provisions about representative bodies or the right to negotiate. The justifications for these omissions were: the meetings organised by CAR, which may produce something which the Government wishes to incorporate into the amendments; and the Government's need to consider written submissions which have been made. The Government is expected to introduce its own amendments fleshing out these matters in the Budget Sittings. Copies of the Second Reading Speech, the Explanatory Memorandum and the Bill (*Native Title Amendment Bill 1996*) are available from Jacinta Burford, Native Title Branch, Office of Indigenous Affairs, Department of Prime Minister and Cabinet, 3-5 National Circuit, Barton, ACT 2600, Tel 06 271 5051, Fax 06 271 5810.

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## **Consultations: Joint Parliamentary Committee on Native Title And The Aboriginal and Torres Strait Islander Land Fund**

The Government has referred the Amendment Bill to the Parliamentary Joint Committee On Native Title And The Aboriginal and Torres Strait Islander Land Fund. The new Committee is as follows: Senator Eric Abetz (LP), Senator Christabel Chamarette (GWA), Senator Chris Ellison (LP), Senator Chris Evans (ALP), Senator the Hon Margaret Reynolds (ALP), Hon Ian Causley MP (NP), Hon Nick Dondas MP (CLP), Mr Warren Entsch MP (LP), Mr Daryl Melham MP (ALP) and Mr Harry Quick MP (ALP).

Committee representatives will be embarking on two consultation trips to speak to indigenous groups and acquaint new members of the Committee about Native Title and what stakeholders think about the amendments. From 26-31 August members will visit Brisbane, Cairns, Darwin, Kununurra, Broome and Perth, and from 23-27 September they will visit Alice Springs, Adelaide, Melbourne, Launceston and Sydney.

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## **CONSULTATIONS: SENATOR MINCHIN**

Senator Nick Minchin, Parliamentary Secretary to the Prime Minister with responsibility for amendments to the NTA is currently undertaking a second round of consultations on Government's proposed amendments. The first round of consultations were in April and May this year, the second round have been during the Parliamentary winter recess. Main locations for the consultations have been Darwin, Perth, Broome, Kalgoorlie, Alice Springs,

Cairns, Brisbane, Adelaide, Canberra, Melbourne, Echuca and Sydney.

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## LAND RIGHTS CONFERENCE

A Conference, Land Rights - Past, Present and Future, will be held at Old Parliament House, Canberra, from 16-17 August 1996. There will be plenary and concurrent sessions. Plenary session speakers on Land Rights and Native Title include Galarrwuy Yunupingu, Tracker Tilmouth and Henry Reynolds. John H Clarke of the Maori Strategic Development Unit, New Zealand Ministry of Justice, Gordon B Peters, an Ontario Regional Chief from Toronto, and, possibly, Erica-Irene Daes, Chairperson- Rapporteur of the United Nations Working Group on Indigenous Populations, will be providing international perspectives. Speaking on Land Rights and Social Justice will be Mick Dodson, Pat Turner and Ian Viner QC. Noel Pearson and Peter Yu will speak on regional agreements and Pat Dodson and David Ross will present a national overview.

The Conference commemorates and celebrates the passage of the *Aboriginal Land Rights (Northern Territory) Act 1976*. One of its many aims is to assist participants in gaining an understanding and recognition of the positive benefits of land rights and native title to all Australians.

The Conference is jointly convened by the Northern and Central Land Councils. For further inquiries please contact CMS Indigenous Consulting, Tel 06 253 4955, Fax 06 253 4954, Mobile 015 786 541.

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## CONFERENCE ON SCIENCE AND OTHER KNOWLEDGE TRADITIONS

A conference on Science and Other Knowledge Traditions will be held at James Cook University, Cairns, from 23-27 August 1996. The provisional program includes sessions on Cultural & Intellectual Property and Community Research, Theorising Indigenous Knowledge and Western Science, Knowledges and Their Uses, Material Culture and Media as Knowledge and Problems, Challenges and Solutions. The conference is convened by Henrietta Fourmile, Bukal Consulting Services, Queensland, David Turnbull, Studies of Science in Society Centre, Deakin University, and Paul Turnbull, Department of History and Politics, James Cook University of North Queensland. For further information, contact the conveners, c/o History and Politics, James Cook University, PO Queensland 4811, fax 077 814 487, e-mail Paul.Turnbull@jcu.edu.au. Inquiries to Conference Administrator, Humanities Research Centre, ANU, Canberra ACT 0200, Tel 06 249 2700, fax 06 248 0054, e-mail, administration.hrc@anu.edu.au.

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## NATIVE TITLE IN THE NEWS

(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.)