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## **Marine resources**

The Queensland Fisherman's Organisation and the Cape York Land Council had been holding talks for more than 12 months and aim to have a regional agreement by mid 1997 on fishing rights in marine areas subject to native title claims. (*W Aus*, 4 Jan, p6)

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## **SA**

Government and industry hopes of a mining boom for South Australia have suffered as a result of the Wik decision; unlike other states there was already a statutory right in SA for Aborigines to hunt and gather on pastoral leases but Government and industry want a comprehensive solution to the uncertainty rather than a mine by mine approach. (*Ad*, 16 Jan, p4)

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# **GENERAL NATIVE TITLE ISSUES**

## **National**

The Attorney General, Hon. Daryl Williams announced the appointment of two part time members of the NNTT: Professor Douglas Williamson will be based in Victoria and Mrs Joanna Kalowski in NSW. (*Press release 6 Dec*) The NNTT has received 448 applications throughout Australia since the Native Title Act came into force; 228 of these were lodged in 1996. According to Justice French this is 'partly due to the apprehension about what changes to legislation will do to peoples rights if they don't get in early.' (*WA*, 14 Dec p40)

Michael Lavarch reported that compensation for native title may develop through personal injury rather than property law, citing a recent National Native Title Tribunal determination rejecting the view that compensation should not exceed freehold value, and the Crescent Head agreement which included an uplift factor to the base of freehold value to assess compensation. (*Aus*, 21 Jan p13)

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## **NT**

Katherine Combined Aboriginal Organisations may consider lodging a claim to unoccupied Crown land in the Katherine area if discussions with NT government about town camps was not satisfactory; they want land to establish four new town camps around Katherine. The government believed town camps were not the answer and that people should be living on their communities. (*NTN*, 13 Dec, p4)

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## **QLD**

Natural Resources Minister Howard Hobbs said the state Government had

stopped issuing permits and licences on leasehold land on advice from Crown Law; Cape York Land Council said Mr Hobbs should take advice from Crown Law with a grain of salt and sit down and talk to Aboriginal people. (*CM, 9 Jan, p 1 and 2*)\*

Courier Mail's editor believes that Government should be invited and involved in any summit and negotiations; this would assist in avoiding any further provocative statements such as those of Natural Resources Minister Howard Hobbs. (*CM, 9 Jan, p16*)

New mining and exploration licences and leases on non-freehold land were frozen by the Queensland Government; the move follows the freezing of quarry permits and water licences on leasehold land; Queensland Farmers Federation said the state Government was erring on the side of caution; Cape York Land Council stressed their belief that co-existence could occur. (*CM, 10 Jan, p6*) Aboriginal leaders have described the Queensland Governments tactics as scaremongering and encouraging pastoralists to breach their leases. (*WA, 10 Jan, p.6*)\*

Ron Castan QC believes that the Queensland Government's call for a freeze on all new activity on leased farming land is irresponsible: 'in a gesture that is breathtaking in its audacity the State Government has grossly misled the public about the effects of the [Wik] decision. This is the ultimate example of ensuring that "uncertainty" prevails', (*Aus, Jan 10, p17*) a view shared by the editor of the Canberra Times. (*CT, 13 Jan, p10*) In response to the freeze, North Queensland pastoralist Mr Jerry Burnett is considering legal action against the Queensland Government for its refusal to issue title deeds to his pastoral lease. (*CT, 13 Jan, p3*)

The Financial Review is critical of the Queensland Government's poor use of the 'right to negotiate' and 'future acts' clauses provided by the Native Title Act. (*Fin R, 13 Jan, p44*)

Queensland Government officials have defended their stance to put all leasehold land dealings and licensing on hold despite news that it was done without official written Crown Law advice, the revelation comes as a senior government source said the 'closedown' of land dealing was designed partly to send a message to Canberra. (*CM, 15 Jan, p1*)\*

The Fraser Island Land Council want the Queensland Government to hand over the \$6 million tourist levy it collects each year from visitors to the area; John Lee Jones, spokesperson for the Land Council, said 99% of Fraser Island's 800,000 ha were unextinguished native title with about 1000 ha under freehold or pastoral leases. (*CM, 30 Jan, p7*)

The Cape York Land Council offered not to launch any new native title claims or be liable for compensation for property improvements in a set of principles to the Cattlemen's Union based on the Cape York Agreement. The principles require that there is no extinguishment of native title on pastoral leases or disregard for native title rights. (*CM, 25 Jan, p8*).

The Queensland Government has warned that uncertainty over the status of leasehold land could halt \$3 million a day worth of major capital works. (*Fin R, 31 Jan, p4*)

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## WA

West Pilbara Land Council executive officer Jill Churnside said pastoralists have little to fear from Aborigines who mainly wanted access to pastoral stations to continue traditional hunting and religious practices. (*WA, 11 Jan, p28*)

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## VIC

Victorian Aboriginal groups are considering a regional agreement approach to native title issues that could eliminate claims on individual landholders in return for agreements with government on service delivery, funding and access to resources. (*Age*, 15 Jan, pA1 and A2) Aboriginal leaders and the Premier Jeff Kennett discussed native title and options for a state agreement for indigenous rights on pastoral leases. (*Age*, 27 Jan, pA3; 30 Jan, pA4)

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## WIK DECISION

High Court due to hand down decision in the Wik case on Monday (23rd Dec); which will decide the key issue of whether pastoral leases automatically extinguish native title as a matter of law. (*Fin R*, 19 Dec, p3)\* 42% of Australia is covered by pastoral leases. (*Fin R*, 23 Dec, p2)\*

Press releases from a number of bodies including the Indigenous Land Corporation, Human Rights and Equal Opportunity Commission, Aboriginal and Torres Strait Islander Social Justice Commissioner and ACFOA Human Rights Office all welcomed the High Court's decision and urged the government to recognise the rights of indigenous Australians. (*Press releases 23 December, 24 December, 29 December*) The National Farmers Federation claimed the decision will create more uncertainty for pastoralists and others and called for the government to enact legislation which would allow pastoral leases to extinguish native title. (*Press release 23 December*) The Prime Minister expressed disappointment with the decision in the Wik case which he believed appears to overturn one of the principles on which the community's understanding of native title had proceeded. (*Press release 24 December*) Mr Howard foreshadowed an overhaul of the Native Title Act in the wake of the Wik decision. (*CT*, 25 Dec, p1)

Age editor discusses the Wik judgment and concludes: 'unsatisfactory though it may seem to those who prefer clear and neat answers to complex legal, political and moral questions, the High Court decision represents a tolerable compromise.' (*Age*, 26 Dec, pA14) The Australian's editor stresses need for negotiated and regional agreements, (*Aus*, 26 Dec, p8) a view also held by Rick Farley in the same paper. (*Aus*, 26 Dec, p9)

Any bid by the Federal Government to use legislation to resolve legal problems resulting from the High Court decision could face defeat in Senate. (*Age* 26 Dec, p1); Senator Dee Margetts said Green Senators would reject a government move to extinguish native title. (*CT*, 26 Dec, p5)

Henry Reynolds discusses the Wik judgment in the context of the history of land tenure and land law in Australian history: 'the High Court decision to preserve native title rights on pastoral leases is deeply rooted in, and sharply aware of, the realities of history.' (*SMH*, 27 Dec, p13) The editor of the SMH says 'the reaction in some quarters to the High Court's judgment has been intemperate and unhelpful.' (*SMH*, 27 Dec, p18)

Graziers in Cape York want to pursue negotiated settlements rather than litigation, (*SMH*, 27 Dec, p1) whilst the Prime Minister announced that he would consider changes to the Racial Discrimination Act to protect pastoral leases against native title claims. (*Aus*, 27 Dec, p1)