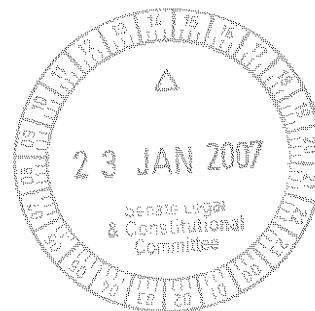




19 January 2007

The Secretary
The Senate Legal and Constitutional Affairs Committee
Parliament House
CANBERRA ACT 2600



Dear Sir/Madam

I write to you regarding a submission in relation to the Native Title Amendment Bill 2006. I am Chairman of the National Farmers Federation Native Title Taskforce and I also represent AgForce Queensland in native title issues.

For your records, please note that the United Graziers Association no longer exists and has amalgamated with other bodies to form AgForce Queensland whose address is PO Box 13186, George Street, Brisbane Q 4003.

The attached submission comes in two parts:

1. Letter to the Attorney-General dated 15 September 2006 giving the Taskforce's comments on the recommendations.
2. Letter to the Attorney-General dated 19 December 2006 expressing concerns that were not addressed in the Second Discussion Paper.

Yours sincerely

John Stewart
Chair
NFF Native Title Taskforce



15 September 2006

The Hon Philip Ruddock MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Copy

Dear Attorney-General

I write to you on behalf of the National Farmers Federation Native Title Taskforce regarding the Native Title Claims Resolution Review and the Government's response.

I particularly want to address Recommendations 1 and 9.

Recommendation 1 supports the National Native Title Tribunal (NNTT) having an exclusive mediation role. History shows that the NNTT does not have a good track record in resolving mediation issues. The Government has obviously given the NNTT further powers which should strengthen their role in mediation.

NFF suggests that the word mediation needs to be exactly defined. NNTT members mediate on behalf of their organisation but in some instances under a State wide banner as well where negotiations are voluntary and not "court ordered". We presume that in those instances changes in the Act will not affect the current position.

You should be aware also that the NNTT tends to put stronger emphasis on claimant rather than respondent issues. In Queensland, for instance, Federal Court Registrars have only become involved in mediating claims, in particular overlaps, when the NNTT has proved incapable of mediating an outcome.

The NFF will continue to closely monitor the NNTT's mediation results and will report back to you if this new approach is not successful.

Regarding Recommendation 9, I understand the Government is giving further consideration to the issue of how claims can be better particularised at an earlier stage of proceedings in order to assist in the identification of relevant issues. In NFF's opinion, the Government is in a position to demand that this happens because the lack of particulars goes to the heart of why claims do not progress. Parties cannot mediate about generalities. This is the opportunity for the Government to put in place a process that should progress native title issues at a much faster rate than is currently being achieved.

Recommendations 12 and 13 are strongly supported, and in this regard, industry would welcome the Government fast-tracking its response to the Technical Amendments Discussion Paper. Recommendation 14 is also supported providing that it is only claims lodged solely for the purpose of securing the right to negotiate that are not notified.

Recommendation 2 regarding powers given to the NNTT in matters referred to it by the Federal Court has qualified support. It is of interest to us how State Governments will respond to this. Industry does not endorse the claimants side-stepping the States' processes on reviewing connection reports by having an NNTT Member directly assess it.

...12

The other recommendations are generally supported. However, in a number of cases, the Government position is to give further consideration to expected outcomes. The NFF will consider any changes made after the Government has given the matters further consideration with a view to ensuring the anticipated outcomes are achieved.

I look forward to your comments.

Yours sincerely

A handwritten signature in cursive script, appearing to read "John Stewart".

John Stewart
Chair
NFF Native Title Taskforce



19 December 2006

COPY

The Hon Philip Ruddock MP
Attorney-General
Parliament House
CANBERRA ACT 2600

A handwritten signature in black ink, appearing to be 'P. Ruddock', written below the word 'COPY'.

Dear Attorney-General

Amendment of the Commonwealth Native Title Act

I write to you on behalf of the National Farmers Federation Native Title Taskforce regarding the Second Discussion Paper that addresses amendments to the *Native Title Act 1993 (NTA)*.

Issues Not Addressed in the Second Discussion Paper

NFF proposed the following two key issues which are not addressed by the Second Discussion Paper or any other Discussion Paper released by the Commonwealth Government:

1. **The NTA be amended to require more detailed information be provided by the claimants in the claimant application**

The NFF proposal, as previously provided to you in letters of 19 January and 15 September 2006, set out in greater detail what was considered should be included in all claims lodged after this amendment took effect.

The Government has said it will give further consideration to this issue and NFF has commented adversely on this before, however, it appears the Government will not be taking this issue any further.

Unless greater detail is required in claimant applications, the current quagmire will continue as claimants purportedly continue researching their claim years after the claim was lodged.

2. **The NTA be amended to prohibit the registration of any claim over an area that is subject to two or more claims or alternatively the NTA be amended to include a process for arbitrating overlaps be established and if not concluded within a certain time (6 months) any claim over the overlap area be struck out to the extent of the overlap.**

It has been made clear to me that the Government's reluctance to address this issue is the desire to avoid the removal of any parties' existing rights. That is, rightly or wrongly, under the existing provisions of the NTA there are claimants who have secured procedural rights by having an overlapping claim registered, and the Government is not going to remove those rights by legislative change.

National Farmers' Federation Limited
ABN 77 097 140 166

You need to be aware that NFF proposal does not need to have blanket application to all existing registered claims. To make this clear the NFF proposal has been amended to say:

The *NTA* be amended to:

- Prohibit the registration of any claim lodged after this amendment takes effect over an area that is already subject to an existing registered claim or claims; and
- Provide that if an existing registered claim is withdrawn, struck out or amended to remove or reduce an area of overlap, then a claim denied registration in respect of an area overlapping that of the withdrawn, struck out or amended claim, can be registered in respect of the former overlap area provided it is registered in respect of the balance of its claim area.

The prohibition on overlaps would only apply to:

- any claim lodged after the *NTA* is amended to this effect – that is, it only applies to the new claim and not the existing claim that gets overlapped and is already registered; and
- any claim amended after the *NTA* is amended to this effect - bearing in mind the proposed amendments to the *NTA* that will remove the requirement to apply the registration test after an amendment to remove an applicant, reduce the claim area or restrict the claimed rights and interests, the threat of this proposal to amended claims is not great.

While a number of the new changes in the Discussion Paper are strongly supported or acceptable to us and do not require further comment (apart from the matter raised below), the NFF requests that the two matters raised in this letter are taken into consideration in any final draft of the amended *NTA*.

Additional Issue

A proposed amendment that is supported is that in relation to Section 24IC to permit combination of two or more leases, licences, permits or authorities under a single renewal.

This proposed amendment leads me to raise another technical matter that NFF would like to see addressed in the amendments.

Part 2 Division 3 Subdivision G dealing with future acts and primary production applies to non-exclusive pastoral leases granted before 23 December 1996 while that lease (including **as renewed** on one or more occasions) is in force.

The use of the expression “as renewed” means the provision potentially does not cover the situation where:

- two or more leases are granted in place of an existing pre-*Wik* lease;
- two or more existing pre-*Wik* leases are combined under a single new lease; or
- a new lease is issued following the surrender of a part of an existing pre-*Wik* lease.

NFF would like to see the existing provision amended to ensure that the protection given by Subdivision G covers pre-*Wik* leases renewed in these circumstances.

I look forward to your reply.

Yours sincerely

A handwritten signature in cursive script, appearing to read "John Stewart".

John Stewart
Chair
NFF Native Title Taskforce