The Native Title Era: Emerging Issues for Research, Policy and Practice

Edited by J. Finlayson and D.E. Smith

Research Monograph No. 10
NATIVE TITLE:
EMERGING ISSUES FOR RESEARCH, POLICY AND PRACTICE

Edited by
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Foreword

Native Title: Emerging Issues for Research, Policy and Practice is an edited volume that includes a number of papers selected after refereeing. The papers were first presented at a session 'Anthropology of Native Title Claims: Emerging Research Issues' convened at the annual Australian Anthropological Society (AAS) Conference held at the University of Adelaide, 27-29 September 1995. The origins of this particular session resulted from a recommendation at an earlier workshop convened in Canberra on 14-15 February 1995 by the AAS and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). That workshop, which discussed aspects of anthropological practice under the Native Title Act 1993, resulted in the publication Anthropology in the Native Title Era: Proceedings of a Workshop (edited by Jim Fingleton and Julie Finlayson, Native Titles Research Unit, AIATSIS, Canberra, 1995). Hal Wootten's paper 'The end of dispossession? Anthropologists and lawyers in the native title process', with which this volume ends, was presented as the keynote address to the plenary session of the entire AAS Conference. The introductory critical survey of the volume's contents 'Emerging issues for policy, research and practice' was written by Diane Smith and Julie Finlayson on receipt of all papers.

The volume as a whole is a timely contribution to a public policy issue: native title and the research and representation needs of native title parties. It is important to observe that while the papers were presented at an anthropology conference, two contributions (Ione Rummery and Hal Wootten) are from a legal perspective. That in itself demonstrates that the parameters of anthropological research, and by implications the boundaries of the discipline of anthropology, are changing rapidly. It is also important to note that two of the contributors (Ian McIntosh and Jeff Stead) work for a determined Native Title Representative Body, the Northern Land Council and three others (Diane Smith, Mary Edmunds and Hal Wootten) have part-time formal links with the National Native Title Tribunal, although the views expressed here are their own and do not reflect those of the Tribunal in any way. Collectively, the contributors have substantial field research experience in land ownership and native title issues. The very diversity of the perspectives presented in this volume is one of its important strengths.

This volume is published in the Centre for Aboriginal Economic Policy Research (CAEPR) Monograph Series for three main reasons. First, the Centre's research objectives include specific mention of assessing the economic implications of indigenous Australian land and sea rights. A great deal of the Centre's research effort in 1995 has intentionally and strategically focused on native title issues because native
Title rights have the potential to fundamentally alter the economic power of indigenous Australians. It is currently a moot point just what proportion of Australia will have some form of native title legally recognised, or how many indigenous Australians might directly benefit from the *Mabo* High Court judgment and the *Native Title Act 1993*. But there can be no doubt that the fundamental and structural relationship between indigenous Australians and the wider Australian economy and state has changed. Increasingly, the nature of anthropological research and practice has significant legal and economic ramifications. This is most clearly seen, from an economic policy perspective, in examination of the potentially crucial inter-cultural and inter-institutional mediating role of Native Title Representative Bodies that will have economic significance to their constituents, but also to wider non-indigenous regional and national interests.

Second, the session was convened by Julie Finlayson and Diane Smith, two social anthropologists working at CAEPR. Both have had significant experience in land rights, and now native title, research issues. Their efforts reflect a recent trend in CAEPR research to further broaden the Centre’s focus beyond what is already a wide interpretation of economic issues. They also reflect a conscious strategy by CAEPR academic staff to maintain strong links between the policy-oriented research undertaken at the Centre and the cutting edge of their own disciplinary specialities.

Finally, there is a great deal of interest in native title research issues, but such issues are often inaccessible to a wider readership who are unable to either attend a specialist conference or to gain access to conference papers. It is partly for this reason that a decision was made to publish these papers as quickly as practicable. I am sure that this volume will inform and advance a very new issue in Australian anthropology and law. I commend Julie Finlayson and Diane Smith for their foresight not just in convening the session on native title research, policy and practice at the AAS Conference, but also for maintaining the enthusiasm and commitment that has been essential to ensure publication of papers just three month after presentation.

Jon Altman
Director, CAEPR
December 1995
Acknowledgments

A number of people assisted in the production of this monograph. We would like to thank the authors for their original contributions to the Australian Anthropological Society conference in late September 1995, and their prompt submission of final papers. As usual, Hilary Bek has provided enormously competent sub-editing, and she, Linda Roach and Joy Humphreys have cheerfully carried out careful proof-reading. We would also like to thank Joy Humphreys for the high standard of the final format made possible by her professional lay-out and design skills, and Gillian Cosgrove for her cover design and coordination of printing. David Martin provided a computer style sheet which was of benefit to some authors and especially to the editors. Jon Altman, David Martin, Will Sanders and Neil Westbury provided useful editorial comments on the Introduction. The combination of legal and social science referencing styles proved as challenging as the combination of lawyers and anthropologists proves to be in land claim cases. We hope the compromise outcome is intelligibly consistent, if not perfect.

Julie Finlayson
Diane Smith
CAEPR

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<tr>
<td>ALRA</td>
<td><em>Aboriginal Land Rights (Northern Territory) Act 1976</em></td>
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<td>ATSIC</td>
<td>Aboriginal and Torres Strait Islander Commission</td>
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<td>ANCA</td>
<td>Australian Nature Conservation Agency</td>
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<tr>
<td>CLR</td>
<td>Commonwealth Law Reports</td>
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<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>FLR</td>
<td>Federal Law Reports</td>
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<td>NNTT</td>
<td>National Native Title Tribunal</td>
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<td>NTA</td>
<td><em>Native Title Act 1993</em></td>
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<td>NTRB</td>
<td>Native Title Representative Body</td>
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<td>VR</td>
<td>Victorian Reports</td>
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