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Australian National University
NORTH AUSTRALIA RESEARCH UNIT

DISCUSSION PAPER

**ABORIGINAL LAND AND
DEVELOPMENT IN THE
NORTHERN TERRITORY**

G J Crough

No. 7

June 1992

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The Publications Officer

North Australia Research Unit

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NORTH AUSTRALIA RESEARCH UNIT

In 1973 the Australian National University created the North Australia Research Unit for two purposes: to carry out a research program of its own and to provide a base and logistic support for research workers, from ANU and from other Australian or overseas research institutions. The Unit is part of the Research School of Pacific Studies.

The Unit's activities range well beyond its base in Darwin in the Northern Territory to research localities in central Australia and the north and west of Queensland and north Western Australia.

The Unit's academic work is interdisciplinary and principally in the social sciences. An overall aim is to initiate research on problems of development in the north, little studied by other institutions. At present, emphasis is being given to four main research areas:

- Environmental management and planning
- Governance and policymaking structures
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- Quality of community life

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We hope that this series will open up discussion about some issues of northern development and the inevitable conflicts that arise from change, culture contacts and diversity of values.

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ABSTRACT

In the present debates about land and resource development, it is often suggested that ownership by Aboriginal people of large areas of land is an impediment to wealth generation and economic activity. What is often ignored is that much of what is now Aboriginal land, or land under claim in the Northern Territory, has already been subject to a considerable amount of exploration, mining, and pastoral activity during the past one hundred years. The land use and development powers of traditional Aboriginal land owners, conferred under the *Aboriginal Land Rights (Northern Territory) Act 1976*, have only been in existence for a relatively short period of time, and many Aboriginal people still have not gained title to their land. Aboriginal people in the Northern Territory are being subjected to considerable pressure to open their land to 'development', and there are continual threats to their existing land use and development powers.

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Notes on contributor

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ABORIGINAL LAND AND DEVELOPMENT IN THE NORTHERN TERRITORY

G J Crough

Introduction

Government, academic and public images of land and development issues in the Northern Territory since the mid-1970s have been strongly influenced by the Northern Territory Government's Pastoral and General Tenure Map. A visitor to any government department, academic institution or Aboriginal organisation will find this map staring at them from walls, office partitions and the backs of doors. The dominant motif of the map is the distinction between the cool, productive green of the Northern Territory's pastoral leases and the dry browns and yellows of Aboriginal land and unalienated Crown land.

There are perhaps two ways of viewing this map. These two views represent antagonistic approaches to questions of land and development in northern Australia. For some, the map illustrates the encroachment of Aboriginal land ownership over the Northern Territory. For others, the map illustrates the continuing denial of Aboriginal claims over large areas of the Northern Territory.

More than one hundred years of colonisation resulted in large areas of land in the Northern Territory being alienated by non-Aboriginal interests. The lives of Aboriginal people were disrupted, many were removed from their traditional lands, and commercial interests had immense areas of land and resources made available to them by governments at virtually no cost.

What is often forgotten in the present day debates about the 'limitations' on mining and pastoralism is that much of what is now Aboriginal land or land under claim in the Northern Territory has already been subject to

exploration and mining activity, and sometimes pastoral activity. Large areas are criss-crossed by seismic lines and carry the scars of previous mining activity. Some of the largest mining projects in Australia are on Aboriginal land, but were approved by governments in a period well before the Commonwealth was prepared to legislate for land rights in the Northern Territory.

Significant areas of Aboriginal land and land under claim are hemmed in between other non-Aboriginal land uses, particularly those areas of land around Darwin (such as the land of the Kenbi land claim) or Tennant Creek (the land of the Warumungu land claim). Some of the pastoral leases which have been purchased on behalf of Aboriginal interests were in a very poor condition at the time of the purchases.

However, it is also important to note that some of the land has been little affected by non-Aboriginal activities. The overwhelming proportion of so-called wilderness in Australia is Aboriginal land, or land under claim. Two of Australia's world heritage areas, Kakadu and Uluru National Parks, are Aboriginal land.

Aboriginal people in the Northern Territory were given the opportunity to obtain legal title to some of their traditional lands by the *Aboriginal Land Rights (Northern Territory) Act 1976*. It seemed, for a time during the late 1970s, as if the seemingly inexorable expansion of the limits of the non-Aboriginal frontier had finally been interrupted. But in a little over a decade the non-Aboriginal interests which regard themselves as constrained by Aboriginal land have become increasingly assertive. Their cause is substantially helped by the national recession and the country's present economic difficulties.

There is no doubt that there is considerable pressure being placed on traditional Aboriginal land owners regarding development on their land. Even something as apparently straightforward as sealing or upgrading the standard of a road on Aboriginal land can result in enormous external

development pressure on traditional landowners as their land becomes more easily accessible to non-Aboriginal people.

This paper examines these issues in the context of some of the current debates about land use and development in Australia. The paper provides a broad overview of the extent of non-Aboriginal development that has already occurred on Aboriginal land, and land under claim. The paper is intended to be the first of a series on Aboriginal land and development in the Northern Territory. Subsequent papers will examine some of the economic impacts of the Aboriginal Land Rights (NT) Act and Aboriginal attitudes to development and land use issues.

The pastoral alienation of Aboriginal land

The pattern of land tenure in the Northern Territory in 1990s is the result of more than a century of non-Aboriginal settlement of the Northern Territory. But the process of sub-dividing the 'waste lands' of the Northern Territory into parcels of land to facilitate commercial development was very uneven. Indeed, the history of land ownership in the Northern Territory has been marked by major changes, at least on paper, depending most importantly on the state of the pastoral industry, but more generally on the state of the non-Aboriginal economy of the Northern Territory and Australia.

Despite a number of earlier small scale attempts at establishing pastoral activities, encouraged by the numerous glowing reports of the development potential of the Northern Territory, by 1876 only a handful of pastoral leases had been granted, all of which were in central Australia. According to Carment, it was only in the 1880s that some of these central Australian pastoral leases were stocked, including Undoolya and Owen Springs (Carment 1991, 5). It appears that the first pastoral station stocked in the Top End was in 1879 (Reid 1990, 88).

By 1881–82, however, virtually all of the Northern Territory was leased to 'pastoralists' or held under application. Only 33 000 of the 523 620

square miles of land area were not alienated, on paper at least, to pastoral activities. As Bauer noted, in comments that could be applied to any period in the Northern Territory's recent history:

This was a period of great activity, but small accomplishment, in northern agricultural lands. The propaganda drums were thumped resoundingly; legislation and regulations were made and remade; various schemes were put forward to settle the Far North — all in an attempt to attract people and capital ... There was strong talk of a transcontinental railway (Bauer 1964, 112).

The land tenure maps certainly give the impression of significant economic development in the Northern Territory during this period. The problem was that most of the development was little more than some official in the lands department drawing lines on a map. Most of the applications were speculative, and much of the country was, and still is, unsuitable for pastoral purposes. Much of the country had not even been explored by non-Aboriginal people.

It is not surprising that land speculation was an important motive for the applications. Land speculation has always been one of the most important components of economic activity and wealth generation in Australia. Indeed, land speculation and massive attempts to re-mould the Australian physical landscape have endured to this day, despite the increasing awareness of environmental issues. As the writer of a recent 'history of the conquest of nature in Australia' suggested, the Australian farmer and pastoralist were:

... part of the immense nineteenth century effort to establish human dominion over the earth. Australian pioneers felt no emotional ties to the land. No heritage or tradition bound them to this new and strange country. They did not inherit the land; they purchased it. Sub-divided Australia was a commodity; an investment rather than a legacy (Lines 1991, 96).

The speculative fervour of the time is neatly captured in the 1884 Government Resident's *Quarterly Report on Northern Territory*, which

reported on comments by the Duke of Manchester on the development potential of the Northern Territory:

When he heard of its geographical position, its facilities for trade, and the great natural advantages it possessed by reason of its proximity to India and the East, which were within easy reach of Port Darwin, over a smooth sea, he felt sure that ultimately it would become an important port for communication with England and Europe. And when South Australia started the railway to the interior, which is ultimately to be connected with that from Adelaide northwards, it confirmed his previous opinions, and he was convinced that when that railway was opened through, Port Darwin would very shortly become the principal port for the arrival and departure for mails and passengers to and from Europe. But more than that, the railway will enormously advance the interests and increase the population. It, and the proposed harbour works, will give improved facilities for trade, and materially assist the development of the mineral, agricultural and pastoral districts (Government Resident 1884, 3).

Bauer's book provides an excellent series of maps which document the extent of land held under pastoral leases during the period 1881–1922. A number of these maps, and for two later periods, are reproduced in this paper. There are a number of points that can be raised about this period. One is the significant changes in pastoral lease boundaries that occurred during this period. This is of course not unexpected, given the relatively undeveloped infrastructure of the Northern Territory, its remoteness, and fluctuations in the economic fortunes of the pastoral industry. During the period 1890–1910 Australia experienced one of its worst depressions, and there was very little economic activity in the Top End except for some mining activity. There were also a number of important legislative changes affecting the industry, particularly the *Northern Territory Crown Lands Act 1890* which further encouraged the trend towards consolidation.

The second point, which is directly relevant to the issues raised in this paper, relates to the areas of land relinquished during this period. By the

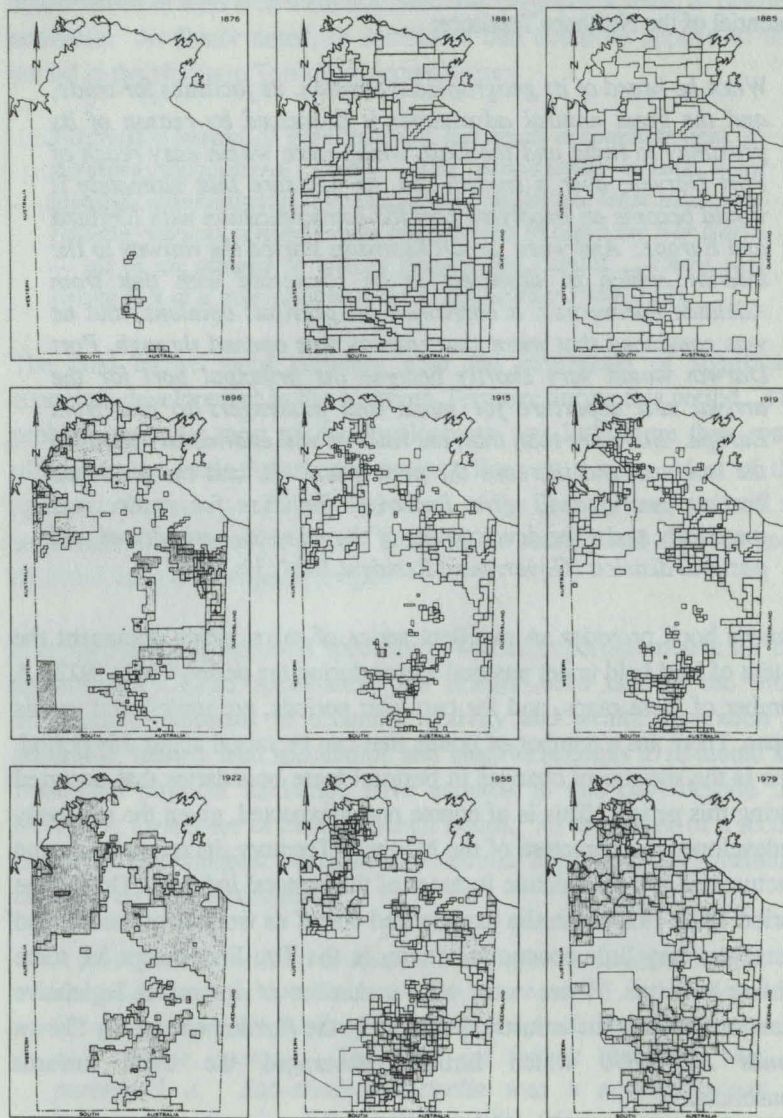


Figure 1 History of pastoral leases

Source: Helyar 1990, 178

time the land tenure maps for the period 1915–22 had been compiled, to a large extent the land that is now either unalienated Crown land, or Aboriginal land, was not held under pastoral lease. The large land areas of the western side of the Stuart Highway, Arnhem Land and the Daly River region, the Gulf region, and a considerable amount of land on the eastern side of the Stuart Highway in central Australia, were not under pastoral lease. Of course, even though the land was of little value to non-Aboriginal people, the traditional Aboriginal land owners did not begin to obtain legal title to the land until the late 1970s. Many are still waiting.

Despite many leases being relinquished, there is no doubt that by the mid-1880s the pastoral industry had finally gained a foothold in the Northern Territory. From this period onwards the disruption to Aboriginal society began to accelerate. This is evident from the reports of the Government Resident of the Northern Territory, which from 1884 begin to express considerable concern about Aboriginal–pastoralist relations. In the 1884 report, under the heading 'Aboriginals and Settlement', the Government Resident warned:

I fear unquiet times may be expected in connection with the native tribes. The blacks are beginning to realise that the white man, with his herds, and his fences, and his preservation of water, is interfering with that they properly enough, from their point of view, regard as their natural rights. Their grounds and game reserves are being disturbed, and their food supply both diminished and rendered uncertain ... The natives will resist the intrusion of the whites and regard themselves as robbed of their inheritance ... That settlement and stocking must and will go on is certain — that outrages will be committed by both sides is probable; but even those who do not claim to be philanthropists are not satisfied with the contemplation that the blacks are to be improved off the face of the earth (Government Resident 1884, 10).

Changes in pastoral lease boundaries, changes in ownership, the relinquishment of leases, and the creation of new leases, have occurred quite regularly since this period. However, it appears that by the mid-

1960s the distribution of leases and their boundaries had essentially stabilised. The land tenure maps have been only slightly modified since this period. The major exception to this statement is of course as a result of land claims under the Aboriginal Land Rights (NT) Act, which have meant that much of the unalienated Crown land, and the former reserve lands, have become Aboriginal land.

One further point can be made about some of the land that has been alienated by the pastoral industry. As is clear from the land tenure maps, pastoral activity in the Gulf region remained relatively limited until the early 1960s. Even now, despite the fact that most of the land in the region is alienated by pastoral leases, it remains some of the most marginal cattle country in Australia. Aldrick and Wilson, writing for the Northern Territory Conservation Commission, indicated that of the 57 land systems in the region, 33 have capability class 5 (the worst) for agriculture, and 20 of those 33 also have capability class 5 for pastoral development. As the major study prepared for the Department of Lands and Housing in 1986 suggested, the reasons that it was not until the early 1960s that the region achieved near-complete occupancy in pastoral leaseholds were:

... the combined impact of favourable legislation, market expectations, improved road access, the prospects of a pastoral 'revolution' and the entrepreneurial skills of land dealers ... right through to 1985, the advertising of this land has concentrated on development 'potential' and capital gain, with little attention to current production and cash flow from a genuine cattle operation ... these blocks have not yet operated as profitable cattle enterprises (Holmes & Millhouse 1986, 4).

More recently Holmes has suggested that the BTEC program highlighted the 'tenuous claims of the pastoral industry over submarginal lands' when these claims were already being questioned from various directions (Holmes 1990, 49).

Why was there so much unalienated Crown land available for claim?

When South Australia first took control of the Northern Territory, the entire area was officially referred to as 'waste lands', with the first use of the words 'crown lands' apparently in the *Northern Territory Crown Lands Act 1890* (Department of the Northern Territory 1973, 17). Despite government encouragement, relatively low rentals, a 'relaxed' monitoring of lease conditions, and sometimes encouraging financial prospects, by the second decade of this century about half of the Northern Territory was still regarded as 'waste land', or what is now referred to as unalienated Crown land.

It is interesting to examine the history of some of this land, which can easily be done by reading the Reports of the Aboriginal Land Commissioners on individual land claims. Many of these reports contain detailed historical information about land usage and land ownership in the Northern Territory. The intention is to illustrate that much of the land claimed by Aboriginal people since the proclamation of the Aboriginal Land Rights (NT) Act is land that, from a non-Aboriginal perspective, was 'waste land'. Of course, as is clearly demonstrated in the reports of the Land Commissioners, this land has a high degree of spiritual, cultural and sometimes economic significance for Aboriginal people.

Much of the Aboriginal land is the least well-watered country, and encompasses large areas of harsh, arid desert and semi-desert country. While there is a rich array of sacred sites and other areas of importance to Aboriginal people on this land, there is no denying that the pastoral alienation of the land resulted in most of the commercially viable land in the Northern Territory being controlled by non-Aboriginal interests.

The NT Government, and certain other interests opposed to Aboriginal land rights, have consistently used certain statistics about the proportion of the Northern Territory under Aboriginal ownership to suggest that the development potential of the Northern Territory is threatened. While Aboriginal land presently accounts for about 35 per cent of the Northern

Territory, when land under claim is included the proportion rises to about 50 per cent. A very significant part of the land under claim includes a large area of land in, and near, the Simpson Desert. This land has only been sparsely populated, and as Justice Olney's reports on the Finke and North Western Simpson Desert land claims show, there has been virtually no non-Aboriginal 'use' of the land.

Despite the often poor quality of the land available for claim, and the lack of any viable alternative land uses, the NT Government has still spent millions of dollars opposing land claims, deliberately attempting to delay claims, and at times taking other actions to prevent land claims. It is a bizarre situation where the statutory bodies funded by the Commonwealth Government to assist Aboriginal claimants to claim land have been actively undermined by the NT Government, which is specifically funded by the Commonwealth for the legal costs associated with land claim litigation.

It is interesting to note, in the context of nearly fifteen years of land claims, the comments of Justice Woodward, the Royal Commissioner who reported on the introduction of Aboriginal land rights in the Northern Territory. On the question of the procedures that should apply to the large areas of unalienated Crown land in the Northern Territory, the Central Land Council argued that the land should be transferred immediately to Aboriginal ownership. Justice Woodward rejected this option, and argued that land claims should be undertaken, and also:

... I think it is undesirable from the point of view of the Aborigines themselves that large areas of country, having little value to them, should be handed over to their ownership. This would inevitably lead to the result that the total area of Aboriginal ownership would be calculated and it could be made to seem that the Aborigines had more than their fair share of the land. Already it is quite often said that Aborigines have, in the reserves, 18% of the total area of the Northern Territory and that since they represent less than 25% of the population, this is a reasonable share. However it must be remembered that large areas of the Central

Australian reserves are desert or semi-desert country having no economic value, unless minerals should be found upon them. This is equally true of much of the remaining unalienated Crown lands (Woodward 1974, 26).

Nowhere are some of these points better illustrated than in Justice Maurice's *Report on the Warumungu Land Claim*, for an area of land covering approximately 11 200 square kilometres immediately adjoining the town of Tennant Creek. The land has never been taken up by pastoral interests, which is a 'testament to its poor soils, lack of permanent water and profound aridity' (Aboriginal Land Commissioner 1991a). It is worth quoting at length from the Foreword to Justice Maurice's report, since it is one of the most moving accounts of the tragedy of the Warumungu people, a tragedy that was replicated throughout many parts of Australia.

One has only to read the accounts and view the photographs and drawings of Spencer and Gillen to realise that in 1901 the Warumungu were a flourishing nation in the ordinary sense: a large number of people of mainly common descent, language and history, inhabiting a territory bounded by defined limits and forming a society under one government ...

Within a matter of years, the Warumungu had been almost completely dispossessed. They had fought vigorously to defend their inland state from the white invasion, but their spears and boomerangs were no match for men on horseback carrying firearms. In 1962 the Commonwealth of Australia revoked the second, and last, of their token reserves: a worthless piece of land upon which no person could survive. When they made this claim in 1978, the Warumungu were landless ...

In a sense, white Australia has been caught 'in delicto' with the Warumungu. We have taken all their good land; no watercourse remains which does not have some European claim to it. We have comforted ourselves with myths about what Aboriginal people wanted, what was important to them, what was good for them — all the while taking more and more of their land, shifting them here, shunting them there; until all that was left was desert

wasteland and what the Northern Territory Government would describe as public purpose lands ...

We nearly got away with it: perhaps another generation or two and the Warumungu would have become so detached from their traditional land base that their spiritual affiliations and much of their oral traditions would have been lost. Had the prophesy of Aboriginal extinction fulfilled itself, we would have been able to sit back confirmed in our earlier judgement of the Aboriginal peoples as unworthy of any claims to cultural survival.

If it costs money to break some of the impasses, to restore some dignity to the Warumungu, to return some vestige of what is theirs to them, then there is a strong argument that it should not be individual pastoralists and miners around Tennant Creek, or the townspeople, who should pay: Australia should weigh in, recognising that the country as a whole has profited, and continues to profit, from the dispossession of these people and the use to which we put their lands. It is not simply a question of rectifying the wrongs of the past, as if the consequences of those wrongs had long ago been worked through: the simple truth is that they have not, yet as a nation we continue to enjoy benefits from them. Nor is it an answer to point to the moneys which may have been wasted on 'welfare' for the recipients neither sought the conditions which occasioned this beneficence, nor designed the programs which have been so disastrously inefficient (Aboriginal Land Commissioner 1991a, vii-ix).

Justice Maurice refers to the revocation of the last of the Warumungu reserves. In the *Northern Territory Report for the Year 1961-62*, this highly significant event, certainly for the Warumungu people, was blandly recorded in the following terms:

Warramunga Reserve, which covered an area of 270 square miles, was revoked on 11th April 1962. The reserve had little water or game and was not used by Aborigines (Department of Territories 1964a, 41).

The first 'land claim' was lodged by the Warumungu in 1974, before the Aboriginal Land Rights (NT) Act was passed. The claim was formally lodged under the Act by the Central Land Council in 1978. At the same time the NT Government extended the town boundaries of Tennant Creek so that the town covered 750 square kilometres, which was subsequently reduced to 240 square kilometres. This was a deliberate attempt to undermine the land claim, since alienated land is not available for claim under the Land Rights Act. Many of the areas were illegally leased to the Northern Territory Land Corporation. Ten years later Justice Maurice delivered his report on the claim, and on 23 May 1991 title deeds to 2 852 square kilometres, less than half of the area claimed, were finally handed over to the traditional owners (Central Land Council 1991).

The title to the remaining land cannot be handed over until the complex and protracted negotiations with the NT Government have been concluded. Justice Maurice, who was writing some years before these negotiations commenced, argued that 'it soon became clear that around Tennant Creek there was land to satisfy everybody's aspirations — except the Warumungu' (Aboriginal Land Commissioner 1991a, viii).

Justice Toohey, in his *Report on the Kaytej, Warlpiri and Warlmanpa Land Claim*, for an area of land 14 420 square kilometres in area to the south-west of Tennant Creek, commented:

*The lack of feed, the presence of the poisonous *Castrolobium* plant and what Chewings described as 'a wilderness of heavy drifting sandhills' left the claim area unalienated (Aboriginal Land Commissioner 1982c, 5).*

The land in the Warlmanpa, Warlpiri, Mudbura and Warumungu land claim had, according to a map prepared in 1905, notional blocks across the area, but little of the land area has been shown on subsequent maps to be alienated by pastoral leases. With the exception of some interest for defence purposes in 1940–41, there was no official interest shown in the area until 1960. According to a stock inspector's report:

From a pastoral perspective, there is not sufficient good country in the area traversed to warrant stocking ... a most depressing and unproductive class of country (quoted in Aboriginal Land Commissioner 1982b, 13)

The land in the area of the Murrniji land claim was, according to Justice Kearney, described 'in the early days on non-Aboriginal settlement as hostile, forbidding, useless and barren' (Aboriginal Land Commissioner 1987b, 1). The land in the Western Desert land claim, which is adjacent to the Western Australian border, was from the 1940s until 1986 virtually inaccessible, and is comprised of undulating sand plains covered in spinifex, shrubs and small trees. The southern third of the land claim area is devoid of water.

As noted above, many of the areas that are now Aboriginal land, or under claim, were covered by pastoral leases at some time in the past century. Many of these leases were abandoned very quickly, but considerable areas of very marginal pastoral land remained under lease until relatively recently. The 4 418 square kilometres of land in the Cox River (Alawa/Ngandji) land claim were part of the Nutwood Downs pastoral lease in 1900, and were later the subject of a separate pastoral lease which was forfeited in 1976, mainly for lack of stock. This land is in the Gulf region, one of the most marginal pastoral areas in Australia. The neat lines, and often romantic-sounding station names, on the land tenure map suggest occupancy and economic activity, but this is sometimes highly misleading. It is not surprising that the Cox River pastoral lease was forfeited, since most of the stations in the region have been characterised by modest and sporadic capital investment, virtually no investment in herd improvement, fitful or negligible maintenance, and mustering has been irregular, opportunistic and inefficient (Holmes & Millhouse 1986, 4).

The Nicholson River (Waanyi/Garawa) land claim also covers an area of land in the Gulf region, except that for most of this century the land has not been alienated for pastoral purposes. In fact, this area of land is one

of the most remote and inaccessible parts of Australia. Justice Kearney commented on:

... the spectacular quality of the country, essentially in pristine condition. As long ago as 1966 the then Wildlife Advisory Council recommended that the claim area be reserved for the conservation of flora and fauna (Aboriginal Land Commissioner 1985a, 61).

Justice Olney recently released a report on the Finke land claim, for an area of land adjoining the Simpson Desert in the south-western corner of the Northern Territory, and noted that:

Apart from some very limited use for living and ceremonial purposes by Aborigines, the land is presently only 'used' for the purpose of oil exploration ... There is no evidence of any other proposed use of the land (Aboriginal Land Commissioner 1990, 57).

As a concluding comment to this section, it is of relevance to note the comments of Paul Seaman, who conducted the Aboriginal Land Inquiry in Western Australia in the early 1980s. In a Discussion Paper he noted that the majority of Aboriginal claims, if some form of land rights to be introduced in Western Australia, would be for land which the wider community regarded as 'economically unproductive'. As Mr Seaman noted, there were numerous submissions which opposed the granting of title to these lands to Aboriginal people on the grounds that:

... even though no economic detriment to anyone could occur now by virtue of the grant of land to Aboriginal people, their claims ought to be refused in case some benefit might accrue one day to commercial interests or to the broader community by other uses of that land. Taken to its logical conclusion I view it as an argument that there should be no land related benefits for Aboriginal people at all (Seaman 1984, 19).

Claims to pastoral land owned by Aboriginal Interests

Quite a number of areas of Aboriginal land were alienated for pastoral purposes, but were later purchased on behalf of Aboriginal interests. Many of these stations were very marginal operations, particularly those in the Gulf region and the desert and semi-desert areas of central Australia. It is only recently that a larger number of more viable cattle operations have come under Aboriginal control.

The description of the type of country in the Cox River land claim can easily be applied to the land subject to the Garawa/Mugularrangu (Robinson River) land claim. The recently released *Gulf Region Land Use and Development Study 1991*, prepared by the Department of Lands and Housing, suggested that only about half the area of this particular area of land is suitable for pastoral purposes, with the remaining areas used for pastoral support, including a relatively large area of land with potential for conservation and recreational uses. While land use decisions of this type will ultimately be made by the traditional Aboriginal land owners, the Department's assessment, and those previously carried out by Holmes and Millhouse, indicate that the land is only very marginal cattle country. The pastoral lease rental for Robinson River station in 1989 was \$1 303.90, or about 25 cents per square kilometre.

McLaren Creek, on the Stuart Highway south of Tennant Creek, was purchased using Aboriginals Benefit Trust Account funds. While Justice Olney commented that the land was capable of being commercially exploited as a cattle station, he also referred to the poor quality of the station when it was purchased.

A Department of Lands inspection report dated August 1984 indicated that the station was in a poor condition at the time of purchase in 1985. There were few branded cattle, but large numbers of feral horses and feral cattle. The stocking covenant of the pastoral lease was technically being complied with, but primarily with feral horses. The waters, yards and fencing covenants were also being complied with. However the

maintenance covenant was not being complied with. The land had been severely degraded by excessive numbers of feral horses and cattle ... (Aboriginal Land Commissioner 1991b, 46).

Clearly the fact that the station was in poor condition at the time it was purchased by Aboriginal interests reflects badly on the administration of pastoral land in the Northern Territory. However, this did not prevent the NT Government from arguing in the Ti-Tree Station land claim that if the land claim were successful it 'deprives the Northern Territory of the mechanism of lease covenants to ensure that the property is used productively' (Aboriginal Land Commissioner 1987a, 50).

A similar story of neglect and bad management was presented to Justice Toohey during the Anmatjirra and Alyawarra land claim to Utopia pastoral lease in central Australia. When the Aboriginal Land Fund Commission acquired the Utopia lease in 1976, there were about 3 000 cattle with virtually no bullocks or heavy steers, yards and watering points were in a 'shocking condition, with most of the internal fencing beyond repair' (Aboriginal Land Commissioner 1980, 7).

Another pastoral lease was subject to the Jila (Chilla Well) Warlpiri land claim, on the southern end of the Tanami Desert. Justice Maurice commented that the best parts of the southern Warlpiri country, in terms of water, were part of Mount Doreen Station, and that Chilla Well was very arid country. However, there is no doubt that the natural soakage Jila (the spring) is of considerable religious, economic and historical significance to local Aboriginal people. The pastoral lease did not take effect until July 1964, and it was subsequently purchased by the Aboriginal Development Commission in 1978. The 2 613 square kilometre pastoral lease was described in very similar terms to the stations mentioned previously:

Few people regard the property as being capable of sustaining cattle breeding or fattening operation except in conjunction with other land ... all of the improvements erected for cattle operations in the past are run down; none of the bores are serviceable and

the yards are incapable of holding stock. The old homestead is in ruinous condition. There are virtually no cattle or horses on the property (Aboriginal Land Commissioner 1988, 8).

Justice Maurice went further in another part of his report, and commented on the extent to which a property that was not capable of sustaining one non-Aboriginal family could possibly be expected to support hundreds of Aboriginal people. This is a familiar picture, but it has not prevented the NT Government from asserting that Aboriginal people will operate the stations unproductively and unprofitably. The reality is that many of these stations were marginal at best, and a very large number should have been forfeited.

In 1976 nobody wanted to buy it for any economic potential it might have. A rural lands officer from the Department of Lands gave evidence that the property was not viable as a separate entity, only as a drought relief block run in conjunction with another lease. Yet somehow the land is supposed to generate the income to keep its covenants satisfied (Aboriginal Land Commissioner 1988, 23-4).

The Mount Barkly land claim in central Australia is interesting in that it was the first pastoral lease in the Northern Territory to be purchased by Aboriginal interests without government assistance. The funds for the purchase were generated by cattle operations on the adjoining Willowra pastoral lease, which had been purchased for the benefit of the Willowra community in 1973. Both leases cover part of the traditional lands of the Warlpiri, and as has been commented on by many of the Aboriginal Land Commissioners, the boundaries do not accord with any meaningful traditional boundaries.

Once again, the NT Government argued that if the land were granted to the traditional owners, the 'claim area may be used less productively'. This is despite the fact that at the time of the claim (1981) the adjoining station was 'efficient within its limits', and the prospects were that the combined land area could be a more viable economic unit (Aboriginal

Land Commissioner 1985d, 36-7). Further, at the time the Mount Allan land claim was heard, the station was regarded as well run and profitable. The improvements to infrastructure and the herd in the decade since it had been purchased by Aboriginal interests in 1976 had, according to Justice Kearney, increased the value of the property some four-fold over its purchase price (Aboriginal Land Commissioner 1985, 31).

The controversy over pastoral lease purchases by Aboriginal interests was fuelled at the end of 1991 following the approval by the Minister for Aboriginal Affairs for the use of Aboriginals Benefit Trust Account funds to purchase a number of leases. NT Government Ministers and members of the Legislative Assembly vehemently criticised the purchases, the land claims process, and the Land Councils. In a blatantly political exercise, the Minister for Lands and Housing argued that the purchases were 'quickly eroding the Territory estate', and that there was 'a loss of valuable land to our pastoral industry'. The Minister argued that Aboriginal-owned properties were generally stocked well below their estimated carrying capacity, ignoring the fact that most of the leases when purchased from non-Aboriginal interests had either no cattle or relatively low numbers of cattle.

Perhaps the most ridiculous suggestion, which was dutifully and uncritically reported in the *Northern Territory News*, was that:

... 80% of the Territory could soon become inalienable Aboriginal freehold land — that is, land which is forever tied up, unable to be sold or mortgaged and out of reach of some Territory laws (Ortmann 1991, 5).

The Chief Minister, in the same debate, actually suggested that Aboriginal interests might be able to purchase most of the remaining 250 pastoral leases and lodge land claims. While this might be possible over perhaps a century (Aboriginal people have purchased only 18 properties since 1973), it is inconceivable that this could be done before 1997. After this date Aboriginal land claims cannot be lodged.

There is clear evidence that the NT Government's administration of pastoral land has been deficient. For example, according to an officer of the Department of Lands and Housing, the income from pastoral lease rentals in 1988-89 (\$408 815) was less than the Department costs of administering the leases (Hockey 1990). The administration may be improved following the passing of the *Pastoral Land Act 1992*, which introduces a type of rangeland management system for pastoral leases. Rentals have also been increased to be more in line with those applying to similar properties in Queensland and Western Australia.

Many pastoral lessees have been allowed to hold their leases without complying with some of the lease covenants. While it can be argued that stocking covenants were set at unrealistically high levels, there is also another motive behind the NT Government's actions. If a pastoral lease is forfeited, as happened with the Cox River pastoral lease, and reverts to unalienated Crown land, the land becomes available for claim. It is highly likely that if the NT Government were to have rigorously enforced lease covenants in the past, many pastoral leases would have been forfeited. Under these circumstances, Aboriginal people could have ended up owning 80 per cent of the Northern Territory. The *Pastoral Land Act 1992*, by removing stocking covenants, virtually eliminates the possibility of this happening.

The Aboriginal reserve lands

Under the Aboriginal Land Rights (NT) Act 1976, most of the former Aboriginal reserves became Aboriginal land (what is known as Schedule 1 land) without the need for a land claim. This transferred to Aboriginal ownership about 258 000 square kilometres of government reserve land, including Arnhem Land and Daly River/Port Keats in the Top End, and the Petermann Ranges, Lake Mackay, and Haasts Bluff Reserves in central Australia.

It is important to note that another large area of land was included in Schedule 1 of the Aboriginal Land (Northern Territory) Bill 1975,

introduced in the last days of the Whitlam Government. This had been recommended by Justice Woodward in his report on Aboriginal land rights. When the legislation, in a revised form, was introduced in June 1976 by the Fraser Government, the Warlpiri lands included in the Tanami Desert Wildlife Sanctuary were still included in Schedule 1. However, when debate resumed on 17 November 1976 the Government announced that the Warlpiri people would need to formally claim this part of their traditional lands. It was only after Justice Toohey's *Report on the Warlpiri and Kartangarurru-Kurintji Land Claim* was completed in 1978 that the land was granted to the Central Desert Land Trust.

It is not the intention of this paper to document the history of the Aboriginal reserves. Rather, in keeping with the overall argument in this paper, it is to briefly summarise some of the non-Aboriginal attitudes to the land included in these reserves.

The Commonwealth Government report which recommended the establishment of some of the larger reserves, or the extension of some of the existing ones, was prepared by JW Bleakley, the Chief Protector of Aboriginals in Queensland. At the time of writing the report (1928), Bleakley suggested, 'the only areas of any extent where it can now be said that the natives hunting grounds have not been encroached upon' were Arnhem Land, the Tanami region, and the Petermann Ranges. The Arnhem Land reserve was gazetted in 1931, although reserves in the Top End had previously been established near Oenpelli in 1920 and the Daly River area in 1923.

The report recommended the establishment of reserves in Arnhem Land, on Melville Island, the extension of the Commonwealth part of the Central Reserve in the Petermann Ranges, and the establishment of a number of missions in other areas. In recommending that an Arnhem Land Aboriginal reserve be established, he commented that:

There should be no obstacle to this, as the country is very poor, no one requires it, and those who previously have taken some of it up have abandoned it (Bleakley 1929, 50).

By the time the first conference of Commonwealth and State Aboriginal authorities was convened in Canberra in April 1937, economic development on Aboriginal reserves had become an issue of some significance, particularly in relation to mining. The discussion at the conference was interesting, certainly in the context of present-day debates about the development on Aboriginal land. At that time, governments were still considering how to prevent non-Aboriginal people from entering Aboriginal land. As the Secretary of the Department of the Interior indicated:

It is the policy of the Commonwealth Government that there shall be no economic development of aboriginal reserves, but we recognise that there are difficulties in the way of enforcing such a policy ... The Commonwealth Government is influenced by the fact that there is in the Northern Territory such a huge area that has not yet been prospected, that it is undesirable to allow prospectors to enter the aboriginal reserve until the rest of the territory has been combed (Commonwealth of Australia 1937, 29).

Although the conference made no decisions on this issue, the Queensland Government did note that preventing exploration and mining was difficult, and that the best approach might be to levy mining royalties which would be payable to Aboriginal people. It was clear, however, that in declaring reserves governments were not intending that the land in the reserves should be handed over absolutely to Aborigines, and that if mineral deposits which could be commercially exploited were discovered, the areas would be withdrawn from the reserve. As the House of Representatives Select Committee on Grievances of Yirrkala Aborigines indicated, by the early 1960s:

The Government's policy of assimilation assumed that development of reserves should take place, provided that the Aborigines shared in the benefits of development (1963, 9).

In the decade before the introduction of the *Aboriginal Land Rights (Northern Territory) Act 1976*, government policy about the purposes of

the reserves began to be further modified. These changes were in part due to the pressure that was developing to open the Aboriginal reserves to commercial development, particularly mining. In the early 1960s, the Commonwealth Government's policy was expressed in the following terms:

The policy of the Government is not one of isolating Aborigines in reserves, but of preparing them for social change by means of settlements and missions established as reserves, where they can be introduced to new ideas and trained in new ways and where their health needs can be met (Department of Territories 1964b, 43).

Somewhat later, the policy was outlined in the following terms:

The policy of the Commonwealth Government is to promote and direct social change among Aborigines in the Territory so that they will have the opportunity to attain the same manner of living as other Australians and live as members of a single Australian community, enjoying the same rights and privileges and accepting the same responsibilities as other Australians, while still retaining connections with and pride in their Aboriginal ancestry (Department of the Interior 1970, 48).

The threats to the reserve lands

While a large number of Aboriginal people maintained access to their traditional lands through the establishment of reserves, of course many others were not so fortunate. But for the Aboriginal people living on the reserves, there was continual uncertainty. The boundaries of many of the reserves were changed over the years, some of the reserves were revoked, either in whole or in part. Aboriginal people were moved from reserve to reserve, depending on government policy and the needs of non-Aboriginal commercial interests, particularly miners. The boundaries of the reserves, as they existed immediately prior to the passage of the Aboriginal Land Rights (NT) Act, of course bore no relationship to

traditional ownership. In fact, for the reserve boundaries to have any relationship to traditional ownership would have required at least some form of recognition of 'native title' and recognition of the enduring significance of Aboriginal tradition.

The intention of this section is to examine some of the changes that were made to the boundaries of the reserve land. It will become apparent that governments have virtually always acted to protect, and extend, the areas available for exploitation by non-Aboriginal commercial interests.

In a previous section of the paper it was noted that the Warrumunga Aboriginal Reserve, which had been proclaimed in 1892, and was re-proclaimed in 1912 by the Commonwealth, was finally revoked in March 1962. Justice Toohey summarised the history of the reserve:

In 1932 gold was discovered in the hills south of the telegraph station and by August 1933 the Tennant Creek gold rush was under way ... Several gold mining leases were within the Reserve and on 12 July 1934 the Commonwealth Gazette published proclamations revoking the old reserve and setting up one further east ... The new reserve was on less hospitable country and left out a Warumungu site of significance, originally to have been included ... In 1948 the new reserve area was inspected by Mr G.Sweeney, a Native Affairs Branch patrol officer ... He stated: 'It is difficult to understand why such an area was reserved for the Aborigines. The Reserve can be of no use to our Branch'. Since 1955 the Director of Welfare had permitted Mr C Perry to use land in the reserve for grazing purposes. In 1961 Mr Perry sought cancellation of the lease in order to graze his cattle there on a more formal basis. After some departmental inquiries, the revocation was approved and effected in March 1962 (Aboriginal Land Commissioner 1982b, 13-14).

The Arnhem Land Reserve had its boundaries changed a number of times, particularly in response to the need to facilitate the exploitation of certain mineral deposits. Perhaps the most publicised change, because of the legal challenge in the Northern Territory Supreme Court mounted by a

group of Aboriginal people from Yirrkala, was the excision of 140 square miles from the Reserve to enable the development of the bauxite deposits on the Gove Peninsula by a consortium led by the Swiss Aluminium Corporation. The size of the area excised provided the company with flexibility for siting of the town, port, alumina refinery and mining activities. As Charles Rowley suggested, it would not be correct to say that the excision of such a large area disregarded the 'rights' of Aboriginal people, since 'rights had not been conceded in the century and a half of contact' (Rowley 1970, 160).

The reporting of the decision to excise the land took up all of three lines in the Department of Territories *Northern Territory Report for 1962-63*. The bauxite deposit was the subject of the *Minerals (Acquisition) Ordinance 1953*, and Special Mineral Leases were granted to a number of companies in November 1958 and July 1961. In a statement on the *Welfare of Aborigines of Gove Peninsula* to the House of Representatives in April 1963, the Minister for Territories stated quite simply that:

Excision was regarded as the most practical way of handling the administrative arrangements to be made both in respect of the mining venture and the welfare of Aborigines ... When talking of compensation I think that in the interests of accuracy it should be stated that the creation of an Aboriginal reserve in 1931 did not create any legal title to the land or resources of that reserve for those living on it (Hasluck 1963, 483).

The bauxite mining and alumina refining project on the Gove Peninsula is one of Australia's largest mineral projects, and since production commenced in 1971 has generated hundreds of millions of dollars in revenue.

The Aboriginal people of Groote Eylandt, who had been living on what was formerly a separate reserve which was incorporated into the Arnhem Land Reserve in 1963, were similarly affected by a large scale mining project. In July 1964 the Groote Eylandt Mining Company Pty Ltd (GEMCO) was granted Special Mining Leases over an area of 33 square

kilometres, for a renewable period of 21 years. This is also one of Australia's largest mining projects.

Probably the most contentious, from a broad national perspective, was the approval of the development of the Energy Resources of Australia Ltd uranium mine in the Kakadu National Park region. The history of the development of this mine is too complex to discuss here, and is presently the subject of protracted legal action between the Northern Land Council, the company and the Commonwealth Government. Another uranium mine, operated by Queensland Mines Ltd at Nabarlek in Arnhem Land, met with strong objections from Aboriginal people in Oenpelli. However, because the discovery of the uranium deposit preceded the Aboriginal Land Rights (NT) Act the traditional owners could not control the development of the mine. Two other large uranium deposits within Kakadu National Park, the Jabiluka and Koongarra deposits, are the subject of Special Mineral Leases which also pre-date the Act.

The fact that these very large mining projects were allowed to proceed, despite objections from some of the Aboriginal people responsible for the areas concerned, highlights a point quoted in a land claim report by Justice Toohey about the difference between negotiation and consultation. While some Aboriginal people were consulted about these mining projects, since they had no legal title to the land they were in no position to negotiate the terms and conditions of the projects.

A major problem for Aboriginal people has been and continues to be the failure to have any property rights in land because without that there is no way they can make people negotiate with them. They are only ever consulted and consultation is of no value because in the end people in consulting Aborigines have made decisions, or they have not consulted them. They do not really listen to them, there is no bargaining and no negotiation (Aboriginal Land Commissioner 1979, 50).

While there are numerous examples of the impact of mining activity on the reserves, evidence presented during the Jila (Chilla Well) land claim

shows how the existence of mining interests prevented the declaration of an Aboriginal reserve. The establishment of an Aboriginal reserve had been recommended a number of times during the mid-1930s and in 1944. Various areas were suggested, and most were south of the Granites and to the east of the Lake Mackay Reserve. No action was taken to establish a reserve in this general area, as the Claim Book prepared by the Central Land Council explains:

The Director of Mines wrote to the Administrator of the Northern Territory arguing that the reserve proposals should be rejected because there was a possibility of a large gold discovery within the proposed reserve area (Central Land Council 1985, 38).

Some examples of previous mining and exploration activity on Aboriginal land

In the reports of Aboriginal Land Commissioners there are many references to exploration and mining activity on the land that has subsequently become Aboriginal land or been claimed. These references are too numerous to refer to all of them in this paper. However, the information in the land claim reports will give an indication of the extent to which mining and exploration has already impacted on the lives of Aboriginal people.

In presenting the following information, there is no suggestion that further mining or exploration is not possible on Aboriginal land. Clearly, past mining and exploration activity reflected levels of technology, knowledge and market conditions at the time. Exploration and mining techniques have improved remarkably in recent decades and there is no doubt that some areas of Aboriginal land are highly prospective.

There are a number of Aboriginal land claims which cover large areas of land in the Tanami Desert. Justice Toohey's *Report on the Warlmanpa, Warlpiri, Mudbura and Warumungu Land Claim* refers to the 'gold rush'

around the Tennant Creek region, which began in late 1933 and precipitated the revocation of the original Warramunga Aboriginal Reserve. Mining and exploration is such an important issue in the Warumungu land claim that Justice Maurice devoted 25 pages of his report to the issue.

The land in the Kaytej, Warlpiri and Warlmanpa land claim, south-west of the above claim, was similarly affected by the gold boom of the early 1930s. According to Justice Toohey:

Increases in the price of wolfram led to the establishment of mines at Barrow Creek and Wauchope. Mines were operating also in the western Warlpiri country — at Mount Hardy, Mount Doreen, Tanami and the Granites; and in eastern Kaytej country at Hatches Creek. The mining industry depended upon labour and many Warlpiri and Kaytej were employed carting rock and working windlasses (Aboriginal Land Commissioner 1982c, 6).

Very considerable tungsten and wolfram mining occurred in the Hatches Creek region, on some of the land included in the Wakaya/Alyawarre land claim. Justice Toohey noted that at the height of the World War II boom there were more than 200 miners at Hatches Creek, although there has been little activity there since 1957 (Aboriginal Land Commissioner 1991d, 51).

The *Report on the Daly River (Malak Malak) Land Claim* notes that the claim area includes land where copper had been mined and where silver, lead and zinc prospects have been explored since the 1890s. Justice Toohey refers to the violence between Aboriginal and non-Aboriginal people at the Coppermine in 1884, which resulted in four miners being killed. During the period 1972–77 more than 40 mineral leases were pegged and applied for by one company, Western Nuclear Australia Ltd, at the time of the land claim the entire area was covered by exploration licence applications (Aboriginal Land Commissioner 1982a, 2,73).

For many of the other areas of land under claim, there are, or were at the time of the claim, pre-existing exploration licences. For example, virtually all of the land of the Stokes Range land claim was covered by two exploration licences. Some of the land in the Nicholson River (Waanyi/Garawa) land claim was covered by exploration licences and mineral leases. An exploration licence was granted by the NT Government to part of the Garawa/Mugularrangu (Robinson River) land claim in 1988, six years after the land claim was lodged by the Northern Land Council. A large number of mining leases and exploration licences cover the land included in the Finnis River land claim. Even one of the most inaccessible parts of the Northern Territory, included in the Western Desert land claim, was almost completely covered by exploration leases. All of these interests are protected under certain provisions of the Aboriginal Land Rights (NT) Act.

Aboriginal land and the present 'development' debate

In early 1992 Australia is deep in recession. At least one million people are unemployed, industrial production is continuing to decline, Australia's foreign debt is still rising, and there appears to be no solution in sight to the country's international trade difficulties. As is usual during a period of economic and social difficulty, large sections of the community are desperate to blame someone else for their problems. Sometimes it is newly-arrived migrants, particularly migrants of Asian origin, who are supposed to be taking jobs away from 'Australians', or are content to claim social security benefits. At other times it is environmentalists, who are said to be undermining 'development' because of their insistence that decision-makers take more account of environmental factors. This might be acceptable in a boom, but, so the argument goes, the country cannot afford such a luxury at this time.

Another group which is more subtly being blamed is Aboriginal people who own land. Many Australians are not prepared to openly criticise traditional Aboriginal land owners, although many are quite happy to blame their 'white advisers'. But there is no doubt that as the recession

measure of mineral ownership; mining will only occupy a minute proportion of the areas presently reserved for Aborigines; the rights of Aborigines in relation to mineral developments on their land should take place within the existing legal framework; and it would be undesirable to allow negotiations for an interest based on the value of the minerals.

After considering the industry's position, Justice Woodward concluded:

I believe that to deny to Aborigines the right to prevent mining on their land is to deny the reality of land rights (Woodward 1974, 102-104).

When the Commonwealth announced in 1989 that the Industry Commission would undertake an inquiry into mining and minerals processing, many in the industry and government expected that the Commission would recommend substantial changes to the Act. One of the terms of reference related specifically to access to land.

In its submission to the Commission, AMIC argued that the 'veto powers' should be removed and a set of non-discriminatory access provisions should be established with simpler administration; negotiations should incorporate earlier participation by traditional owners; and Aboriginal land should be made available for exploration on a similar basis to other land, subject to appropriate protection of Aboriginal social, cultural and spiritual interests. The general flavour of AMIC's submission can be seen from the following quote:

... since the late 1960s the industry has witnessed a steady encroachment over vacant Crown land and leasehold, particularly for the purposes of creating new conservation areas and for the allocation of land to Aborigines. With exploration and mining effectively prohibited in national parks and conservation reserves, and with the granting of the right to Aboriginal landowners to veto exploration or mining access, the industry now faces a situation where over 20 per cent of the Australian land mass is effectively sterilised from exploration or mining (Australian Mining Industry Council 1990, 34-35).

While the Industry Commission did recommend a number of changes to the Aboriginal Land Rights (NT) Act, it generally reinforced the views of Justice Woodward. On the issue of whether the Act was undermining the industry in the Northern Territory, the Commission concluded:

The holding of land rights may lead to smaller levels of mining (and more particularly exploration) activity in the Territory, relative to those which would have occurred. However, provided Aboriginal landowners face appropriate incentives, it would be wrong to conclude from this that land and sub-surface resources were not being devoted to their socially optimal use (Industry Commission 1991, 67).

On the so-called right of veto, the Commission stated:

The Commission accepts that Aborigines should have a right to veto mineral development on their land (Industry Commission 1991, 68).

There is increasing pressure to amend the Northern Territory legislation, and a round-table conference to discuss possible amendments was jointly convened by the Minister for Aboriginal Affairs and the Minister for Resources at Yulara in mid-March. The Minister for Resources has made his view very clear:

The Act, which is designed to assist the Aboriginal people, has caused more divisions in the Northern Territory than any other piece of legislation, and if not amended it will prove to be more of a deterrent than a boost to Aboriginal development and self-management (reported in The Australian, 9 March 1992).

The views of the Minister for Aboriginal Affairs on this issue are less clear, although in deciding not to use his powers under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* to prevent mining at the Yakabindie project in Western Australia, the Minister was reported as

saying that the primary concerns of the local Aboriginal people could be met through employment and training programs.

Conclusion

It is not uncommon to see in the media statements by government ministers and industry leaders about the need to do something about the country's economic problems. The public has been offered the competing visions of the Government's *One Nation* package and the Opposition's *Fightback!* package. Both sides have promised to encourage large scale resource projects, with 'fast-tracking' the new buzz words.

Unfortunately, Aboriginal people in some of the more remote parts of Australia are being seriously affected by parts of this agenda. For many Aboriginal people, there is nothing new in what is happening. Aboriginal land, long unwanted because it was seen as wasteland, has increasingly become valuable to sections of the non-Aboriginal community. Unrestricted access to this land for 'development' has become, in the eyes of some groups, absolutely essential to the future economic welfare of the country.

Aboriginal people are not inherently opposed to commercial development on their land, as the evidence from the Northern Territory demonstrates. As the Director of the Northern Land Council recently indicated, five years ago there was only one mining exploration agreement in place over Aboriginal land in the Northern Territory, while today the Land Councils are party to agreements involving 44 exploration licences covering 55 700 square kilometres (Dodson 1992).

But development must be on their terms and at a pace that they determine. At the moment, despite the external pressures, this is largely still the case for those Aboriginal people who have successfully obtained title to their land. The Aboriginal Land Rights (NT) Act requires non-Aboriginal interests wishing to obtain access to Aboriginal land to *negotiate* with traditional Aboriginal land owners, and not just consult

them. Whether the Australian community is prepared to allow that situation to continue, and indeed to extend it to Aboriginal people in other parts of Australia, will be one of the most important issues facing the country in coming years.

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