

PRELIMINARY FINDINGS OF MAKARRATA RESEARCH

The following points are presented for your information and discussion. While they represent what many Aboriginal people have asked us to include in Makarrata negotiations with the Government, they do not represent the FINAL basis of such negotiations. Please tell us what you think of these PRELIMINARY points and let us have YOUR ideas on what should be included.

1. Land to be acquired by the Commonwealth for and on behalf of Aboriginal people and vested in freehold title to the Aboriginal people and given in perpetuity not subject to mortgage and or sale outside the Aboriginal community and or communities.

It is further suggested that:

- 1A. The Commonwealth acquire all lands that were originally set aside for the use and benefit of Aboriginals since colonisation, and where possible the Commonwealth acquire an equivalent size parcel of land adjacent or within close proximity to such reserves and that these lands be given to Aboriginal communities in perpetuity with inalienable Freehold Title, if the original lands are not able to be acquired.
- 1B. That all vacant Crown Land throughout Australia be acquired by the Commonwealth Government and given to Aboriginal Communities who are within close proximity and that such land be given in perpetuity with inalienable Freehold Title.
2. The development of self-government in each respective tribal territory to take due respect for the culture of Aboriginals and to ensure their political, economic, social and educational advancement, and by virtue of this, the right to freely pursue their economic, social and cultural development.
3. A National Aboriginal Bank be established with branches in each State of the Commonwealth.

4. The payment of 5% of the Gross National Product per annum for a period of 195 years to come into effect upon the date of this section being given assent and or upon the signing of the agreement.
5. All national parks and forests to be returned to the Aboriginal communities whose territorial jurisdiction prevails.
6. All artifacts, artworks and items located by archaeological diggings from museums and other art centres in Aboriginal territories where the items were located and or found, be returned.
7. Rights to be granted to hunting, fishing and gathering on all lands and waterways under the jurisdiction of the Commonwealth of Australia.
8. Rights over all minerals and other resources that may exist on all lands be given in perpetuity to Aboriginal people and or communities and all minerals from the earth's surface to the centre of the earth, and all the air space from the earth's surface to the

outer perimeters of earth's atmosphere.

9. Recognition be given to Aboriginal customary law in those territories which deem it necessary.
10. Aboriginal schools (pre-schools, infants, primary, secondary and colleges) be established within those Aboriginal territories which deem it necessary.
11. Freehold title and full ownership of all houses currently occupied by Aboriginal people throughout Australia be given in perpetuity.
12. Aboriginal medical centres be established in the Aboriginal territories which deem it necessary.
13. Aboriginal legal aid offices be established in all territories which deem it necessary.
14. All land vested in freehold title to Aboriginal people throughout Australia for a period of 195 years from the commencement of this section and or agreement be exempt from all forms of taxes.

15. Any monies derived by Aboriginal businesses and or commercial ventures within their respective territories for a period of 195 years from the commencement of section or agreement be exempt from all taxes.
16. All monies derived from the Commonwealth as cash compensation from the Gross National Product for Aboriginals for a period of 195 years from the commencement of section and or agreement be exempt from all taxes.
17. That Parliament make laws for the carrying out by the parties thereto on any agreement.
18. Any laws established for Aboriginals by the Federal and State Parliaments prior to the commencement of this section become null and void upon the commencement of this section (129) or agreement. Except for those pieces of legislation that refer to land.
19. Any such agreement may be varied or rescinded by the parties thereto and every such agreement and any such variation thereof shall be binding upon the Commonwealth and the Aboriginals who are a party to such agreement thereto, notwithstanding anything contained within this section and or agreement.
20. The Parliament make laws for validating any such agreement contained in this section and or agreement.
21. The powers conferred by this section not be construed as being limited in any way by the provisions of section and or agreement.
22. Timber rights to all forests and timbered areas within Aboriginal territories including rights to all waterways be granted.

23. The right to move freely across State borders without prejudice due to differences in State Laws be granted.
24. The right to have all Laws and By-Laws of Aboriginal self-governed territories apply equally across State borders where Aboriginal territories involve two or more States be granted.
25. One seat be made available in both Houses of Federal Parliament per State and that one seat per House be available for Torres Strait Islander Representation, further, that each State Parliament make available one seat in each House for representation from each Aboriginal Territory and the Torres Strait Islands. And that all these representatives be elected by Aboriginal people at the time of ordinary State and Federal elections: such election will not jeopardise their normal voting rights.
26. The studying and diggings of all lands by Anthropologists and Archaeologists cease, and that any further studies by the said groups be conducted with the approval of those Aboriginal people whose Territorial Jurisdiction prevails.
27. The rights of all waterways flowing between Australia and the Torres Strait Islands including the rights to control the shipping lanes.

As Dr Coombs reports on Page 1, the Aboriginal Treaty Committee has been heartened by the response of Aboriginal organisations, including the Federation of Land Councils and the National Aboriginal Conference, to the work the committee has been doing. The items published here show some of the current NAC thinking on the development of a Makarrata. They are taken from the current National Aboriginal Conference newsletter, Box 259, Woden, ACT, 2606.

Analysis of points

1. In relation to this point the NAC means that for the purposes of Land Rights in this country we ask the Federal Government to acquire lands for and on behalf of Aboriginal people for the purposes of this Makarrata (Treaty). We are aware of the fact that the States have title to all land but the Commonwealth can acquire land for our purposes in accordance with Section 51, sub-section 31, but this raises another issue particularly with all minerals and other resources. This is yet to be resolved.
 - 1a. In relation to this point we are asking initially that the Australian Government acquire all those lands which were originally designated as land being set aside for the use of Aboriginals and where it is difficult to acquire such lands we ask for an equivalent size of land.
 - 1b. We merely intend for the Government to acquire vacant crown land to enable Aboriginal people and Torres Strait Islanders to develop these lands or should they wish to use them in any other way they should have the right.
2. As you know, Australia has many tribal groupings. However, we must make the point at this time that although we are many, there are in fact, distinct linkages in various parts of Australia. Example: if we were to draw a line from Dubbo in N.S.W. to Lake Frome, South Australia and then draw a line directly to the Gulf of Carpentaria using the Northern Territory Queensland Border, then draw an arc from Dubbo taking in Quirindi, Tamworth, in N.S.W., then drawing a straight line through Tamworth to Mackay, Queensland, we find the Aboriginals who refer to themselves as Murrils. This is only one area in Australia that we can identify as being one

sovereign group of people whose only difference is in their dialects. This is what we call the Murril Nation whose various tribal clans have their own distinctive territories and who only come together when it is time for the initiation ceremonies. It is these tribal and clan interests in respect to their territories that we refer to.

3. This is only raised for the purposes of establishing our own economic system and security and should we wish to use this bank as a means of dispersing monies received as cash compensation.
4. Five percent of the gross national product means, from our point of view, a way of overcoming taxing and seeking from the Government on each prospective subject matter that the Commonwealth acquires money through taxes. For example, past mining operations, past land taxes and other businesses that have given the Government a return over the years by use of lands that have been expropriated from Aboriginal people since colonization.
5. Aboriginal people and Torres Strait Islanders feel that should we gain control of the national parks and forests we would be able to identify in a traditional way the meaning of certain areas and their significances and more importantly we are much more sensitive to the need to protect the flora and fauna as we have successfully done for the last forty to fifty thousand years.
6. Aboriginal people and Torres Strait Islanders are extremely sensitive to this demand primarily perpetrated against our people and that we seek to protect ourselves from further injustices of this kind.
7. Right throughout Australia

there are many Aboriginal and Torres Strait Islander people who still hunt fish and gather their native foods for their own consumption. We feel insulted when we are told that we have to have a permit, but in fact we do not kill for game, we do not fish for game, we merely carry on our custom in order to sustain our needs as we have done from time immemorial.

8. In defining Land Rights granted we not only want the minerals on the surface of the earth but we want title to all that which is below them. Secondly we want to have control over the air space above our lands in order to protect our own interests, particularly in relation to military aircraft. We feel that man is only human and all that he creates is not perfect. Therefore we would like to have some degree of control over military aircraft which may one day have problems over our lands. We do not want to have to suffer the consequences of man's inability to be perfect.
9. We are aware of the Australian law reforms commission rule in advising the Commonwealth and State Government of how we may be able to integrate Aboriginal customary law into the Australian legal system. We see this as a major step forward and would like only to suggest that customary law must be recognized in its entirety. Failing this we can only see the Australian Government as patronizing.
10. It is essential in our future to have independent Aboriginal schools as we are more sensitive to the difficulties of Aboriginal and Torres Strait Islander children coming to terms with the white man's educational system, for the education system in Aus-

tralia has and still is failing Aboriginal people. This has been the result of Aboriginal people being denied the opportunity to determine their own future in education.

The education system still reinforces negative and racist attitudes in a classroom and it has yet to teach a true account of Australian history. This can only be done by incorporating Aboriginal history as an important and necessary component in school curricula.

Aboriginal people are now taking positive action to ensure that changes in Aboriginal education are made. The move to set up more Aboriginal independent schools in Australia is seen by many Aboriginal people as crucial to the future success of Aboriginal education. But more importantly we also understand the health problems associated with the low performance of Aboriginal and Torres Strait Islander children in the present schooling system, which is not recognized by any education department in Australia.

11. This point is raised only because Aboriginal people feel that because their lands have been taken away from them over the years the houses that they currently occupy can only go toward compensating them for being dispossessed of their original homes.
12. Earlier we talked about territories being established and realise that we must also recognize the need to establish medical centres in these areas to upgrade the health of Aboriginal and Torres Strait Islander people.
13. In the past, now in the present, and in the future there will always be a clash of cultures which will inevitably see Aboriginal and Torres Strait Islander people falling foul of the white man's law. If we were to produce the statistics over the last three years of Aboriginal

and Torres Strait Islander people coming before the courts in Australia we will see an increase in the crime rate and this point can only serve as an attempt to curb this now escalating difficulty.

14. We seek exemption only because since settlement the British and now the Australian Government have received numerous wealth without ever compensating the Aboriginal and Torres Strait Islander people. Therefore, we seek the same as another form of compensation. This also applies to points 15 and 16.
17. This point is raised only to establish the fact that in order to implement these demands the Commonwealth, by way of legislation, should create the proper laws.
18. The NAC are seeking from this point a national code on Aboriginal issues if we can no longer tolerate the ambiguities and inconsistencies associated with State and Commonwealth legislation pertaining to Aboriginal affairs.
19. In a way this point is self-explanatory. I merely wish to add that there will always be a need to vary, rescind some of the systems involved in the final Makarrata (Treaty), and this enables us to do that.
20. We are only asking in this demand for the Government to create legislation making the Makarrata (Treaty) legal and applicable to Australian law.
21. This is, in fact, a very important point in that nothing in the Makarrata (Treaty) can be taken as the final chapter in Aboriginal affairs, as this demand will enable our children and their children sometime in the future to enter into other agreements that may be applicable to their time and need.

• Contd on page 6

Makarrata findings

• Contd from page 2

22. This merely identifies the fact that we do want the right to log the forest under our care, for the purposes of regenerating the growth of each forest in accordance with need and that we shall also have power to allow independent logging when the need arises. Further, we want the rights to the waterways merely to protect those waters that are on our lands, in order to protect ourselves from unwar-

ranted usage both upstream and downstream.

23. and 24. Where we identify Aboriginal tribal and clan territories crossing over into another or several States we seek the right to implement any laws or by-laws that may be developed for the purposes of that tribe or clan. In other words, we do not want the present situation of having one people divided by State barriers.

25. In respect to the demand con-

cerning Aboriginal and Torres Strait Islander people representation I must make the following point. In terms of the Federal Parliament we seek one Senator per State and one Member of the House of Representatives for that State. Thus increasing the House of Representatives and the Senate by at least eight members respectively. However, of course we recognise the fact that in order to have this implemented we need to come to terms with the States concerned. For example, in

Queensland it would mean the addition of nine persons per House, in N.S.W. we would be looking for seven Repts per House. In Tasmania we would require one and in Victoria we would require two, etc.

26. In terms of this point we are seeking a law that prohibits anthropological research and archaeological diggings if they are being carried out without the approval of Aboriginal people concerned with those particular areas. Where there are no identifiable groups.

Aboriginal museums and other associated authorities are to be consulted for the purpose of seeking approval to carry out any such research in those areas.

27. It is the wish of the Aboriginal people and Torres Strait islanders to have control over the shipping lanes that are used through Torres Straits. This, in their view, will enable them to derive an income as well as have some degree of control over the usage of the waterways without disturbing their traditional and customary practices.

Aboriginal Treaty Committee Papers

AIATSIS Library, MS 1867

"Preliminary findings of Makarrata Research",

Aboriginal Treaty News No. 5, p. 2, 6

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