COMMONWEALTH OF AUSTRALIA

# SENATE

## ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS REFERENCES COMMITTEE

**Reference: Access to heritage**

**ALICE SPRINGS**

**Thursday, 3 July 1997**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

SENATE
ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS
REFERENCES COMMITTEE

Members:

Senator Lees (Chair)

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| Senator Coonan | Senator Payne |
| Senator Hogg | Senator Reynolds |
| Senator Gibbs | Senator Schacht |
| Senator O'Chee | Senator Tierney |

Participating Members

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| Senator Abetz | Senator Cooney |
| Senator Bolkus | Senator Eggleston |
| Senator Boswell | Senator Evans |
| Senator Brown | Senator Faulkner |
| Senator Calvert | Senator Ferguson |
| Senator Carr | Senator Margetts |
| Senator Chapman | Senator McKiernan |
| Senator Bob Collins | Senator Neal |
| Senator Colston | Senator Patterson |

Matter referred for inquiry into and report on:

The question of balancing public access with the principle of "user pays" in order to defray the public costs of maintaining natural and cultural heritage assets such as national parks and museums with particular consideration to issues of fairness and equity.

**WITNESSES**


**ATHANASIOU, Mr Christopher Mark, Native Title Manager, Central Land Council 31-33 Stuart Highway, Alice Springs, Northern Territory . . . . . . 180**

**LIGHTBODY, Mr Graham, Land Management Officer, Environmental Management Unit, Central Land Council, PO Box 3321, Alice Springs, Northern Territory . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 180**

**SACKETT, Dr Lee, Manager, Land Tenure, Central Land Council, PO Box 3321, Alice Springs, Northern Territory . . . . . . . . . . . . . . . . . . . . . . . . . . 180**

**STUART, Mr Max, Deputy Chair, Central Land Council, PO Box 3321, Alice Springs, Northern Territory . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 180**

SENATE

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS

REFERENCES COMMITTEE

*Access to heritage*

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Present

Senator Lees (Chair)

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| Senator Coonan | Senator Hogg |
| Senator Gibbs | |

The committee met at 1.35 p.m.

Senator Lees took the chair.

**ATHANASIOU, Mr Christopher Mark, Native Title Manager, Central Land Council 31-33 Stuart Highway, Alice Springs, Northern Territory**

**LIGHTBODY, Mr Graham, Land Management Officer, Environmental Management Unit, Central Land Council, PO Box 3321, Alice Springs, Northern Territory**

**SACKETT, Dr Lee, Manager, Land Tenure, Central Land Council, PO Box 3321, Alice Springs, Northern Territory**

**STUART, Mr Max, Deputy Chair, Central Land Council, PO Box 3321, Alice Springs, Northern Territory**

**CHAIR**—I welcome the representatives of the Central Land Council. The committee prefers all evidence to be given in public, but if at any time you want your evidence, part of your evidence or an answer to a question to be given in camera, the committee will consider that request. We have before us submission No. 36, dated 28 February 1997. We have authorised the publication of that in a separate volume. Would you like to make any alterations to that submission or any additions to it?

**Mr Lightbody**—Is that the letter?

**CHAIR**—Yes. That has been taken as your submission and is registered as No. 36.

**Mr Lightbody**—There is one area in which the wording could be clarified.

**CHAIR**—Which page is that?

**Mr Lightbody**—It is the second page. The third last paragraph currently reads:

> The Commonwealth Government provides substantial funds to the NT Government for conservation and heritage activities, is a signatory to a number of international agreements upholding Indigenous rights and has primary responsibility for Aboriginal affairs. Hence the Commonwealth Government has a responsibility to ensure free and unimpeded access to natural and cultural heritage sites.

That refers to Aboriginal people—the traditional owners—having free and unimpeded access. We do not think it was meant to infer that necessarily everybody should have free and unimpeded access.

**CHAIR**—We will amend that paragraph to ensure that traditional owners have free and unimpeded access. I now invite you to make some opening remarks. I understand that you have a particular presentation organised.

**Mr Lightbody**—Chris, did you have some amendments to make to that submission?

**Mr Athanasiou**—I put it on the record that we may prefer to expand on these

submissions through subsequent submissions. Could we have your leave to deliver them to you after this?

**CHAIR**—Certainly. The middle of August would be roughly the time when we are going to have to start thinking of putting things together. I will hand over to you for your opening remarks.

**Mr Athanasiou**—Thank you for giving us the opportunity to attend. Again, on behalf of the Central Land Council, I welcome you here to Arrernte country. I point out that at this point in time there is a native title determination application being conducted probably within a number of kilometres from us relating to crown land within the Alice Springs town boundaries before his Honour Justice Olney. We had first thought that it would be best to speak in a separate way, but I think it may be of more assistance if perhaps a more conclusive approach to each of the issues was given, particularly in the context of a number of overlaps. Most of the areas in which we are working are strongly inter-related. Certainly Dr Sackett's submissions on sacred objects will effectively stand on its own.

I will expand upon the description of the Central Land Council and its various statutory duties. The land council is described in the letter of 28 February 1997 to the committee. The land council effectively operates under two pieces of legislation—the Aboriginal Land Rights Act 1976 of the Northern Territory which has responsibility for the lower two-thirds of the Northern Territory and the Native Title Act 1993 which has responsibility for the same area.

Effectively the way the organisation has conducted its dual activities has been reasonably discrete in that there is obviously not much need for the involvement of native title on the areas of Aboriginal freehold within our region, whereas the large pastoral estates, national parks and land within a town boundary attract the obvious attention of the Native Title Act and our resources.

My particular response in the context of the native title debate is specifically to make you aware of just one of the numerous debates arising out of the current 10-point plan and the bill released last week to bring that into effect. It has been put forward as a working draft and it is dated 25 June 1997. In particular, in the context of the terms of the inquiry, I want you to be aware of the effect of the application of just one part of those amendments, which is the primary production definition which is to be incorporated into pastoral lease activities.

There has been growing pressure throughout Australia for diversification of activity on pastoral leases. There have been a number of responses to that, particularly in the context of the ability of that estate to sustainably carry activities, including pastoralism, and whether or not the diversification of those activities would result in significantly increased environmental degradation. That has been the response from the conservation

groups.

**Senator COONAN**—What sort of diversification are you referring to?

**Mr Athanasiou**—The proposed amendments are to incorporate and allow for activity on pastoral leases which is defined as primary production. Primary production would include such things as large scale land clearing, logging, intensive agriculture, the taking of gravel and the taking of other products by the pastoralist. It includes aquiculture and, in particular, extends to farm stay tourism, which is what I wish to specifically address today.

**Senator COONAN**—Could they do that now? I know that the leases vary enormously.

**Mr Athanasiou**—There is a great variation in the leases across Australia. Within the terms of the 1992 pastoral land act of the Northern Territory there is provision for pastoral based farm stay tourism, which is quite confined to tourism based upon those people who wish to go and enjoy the beauty of pastoral activity.

The primary production definition of farm stay tourism is significantly wider. In fact, it just says farm stay tourism, which opens the way for the use of cultural and natural features or areas of cultural and heritage significance to be exploited by the pastoralist. The way that the proposed legislation would operate is to effectively remove native title holders from the equation. Namely, at the ground level a pastoralist will be able to establish farm stay tourism, which will include exploiting and using natural resources such as gorges, water holes and rivers for the purpose of tourism.

They will be able to benefit from that, and those acts or activities will be valid under the Native Title Act. They will be valid without permitting native title holders any procedural involvement in the process whatsoever. So, effectively, under the proposed legislation to conduct broad ranging farm stay tourism on that land, a pastoralist can enjoy the benefits of areas of cultural significance such as gorges, rivers and water holes if there is an effective extinguishment of native title through that activity leaving the native title holders to seek compensation from the relevant Commonwealth or if it is an act attributable to the Commonwealth or the relevant state or territory government.

I will explain the full extent of the application of farm stay tourism. At the moment we have a system where native title rights and interests must be taken into account if a pastoralist is embarking upon activity which exceeds the terms of their pastoral lease. What you will have if the proposed legislation becomes law is effectively native title holders standing by watching areas of great significance being utilised and exploited for the purpose of tourism, and their only right of recourse will be a lengthy native title claim to prove their native title rights followed by litigation over the extent of compensation to which they would be entitled.

The application of the definition goes further. Whilst the full extent of the legislation is not yet understood, it also applies to off lease activity. So, for instance, if you had a pastoral lease and you were permitted to conduct farm stay tourism on that pastoral lease, you could extend that farm stay tourism to off lease areas. That could include crown land, national parks or any other form of tenure. There is no limit on the tenure. Again, it is opening the way for pastoralists and other non-exclusive leaseholders to benefit from activity which will exclude native title holders from any procedural involvement in the process.

**CHAIR**—Basically it is considerably strengthening the pastoral leases by putting in a range of other activities. The Wik decision basically said if there was conflict the pastoral lease dominates. By putting these other possibilities in the pastoral lease, the chances of Aboriginal people even having access as well as a say will be limited.

**Mr Athanasiou**—In the context of the Northern Territory, there are reservations in pastoral leases which provide leases to Aboriginal people. There have been debates as to the effectiveness of this, particularly where gates can be locked and there is nobody to enforce the rights under those reservations. In other states, there are no such reservations and no such clear rights of access. Because we have the reservation here, I have effectively avoided the access question, which I believe will continue. In fact, I know it will continue.

The fourth point under the 10-point plan provides for access. It sets up a somewhat tokenistic access regime in areas where there are not already provisions for access. So the provision for access under the 10-point plan and in the supporting legislation is of no application in the Northern Territory whatsoever as far as I can see. What it is doing is opening up, for instance, an area of high tourist attractiveness. An area which a pastoralist is going to utilise for the purpose of farm stay tourism is also likely to be an area of significant cultural import.

**Senator COONAN**—I know that there is huge variety, but at the moment, as I understand it, if a pastoralist in New South Wales wanted to start a home stay and there were native title claimants, there would be negotiations. Is that your point, or is it that nobody should be able to take it without cognisance of the heritage implications? Or is it a combination of both?

**Mr Athanasiou**—No, it is more complex than that. A major part of the response to both the workability legislation put forward by Senator Minchin last year and the response to the Wik decision through the 10-point plan has been that indigenous people have co-existed, particularly on pastoral leases, since they were first granted in areas. In fact, for most of the life of pastoral leases indigenous people have been the mainstay of the pastoral industry by providing their labour.

As we all know, by 1968 slave labour was abolished. That led to the dispossession

of many of those people from pastoral leases. However, in the spirit of co-existence, the national indigenous working group has gone to considerable lengths to point out that co-existence will ultimately be achieved on the ground through agreement and that statutory imposition of regimes which are only going to cause resentment or impose conditions on one side or another or take away one person's rights and grant them to another are ultimately not going to work. They are win-lose situations which are not exactly in the spirit of reconciliation. So a whole system of agreements has been put forward to enable those sorts of negotiations to which you refer to carry on.

The government's response has effectively removed indigenous people from the equation. In the pastoral lease you referred to, the pastoralist and the native title holders, prior to the legislation, may have been negotiating about a joint tourism project in which, for instance, the cultural heritage of the native title holders was an integral part of the farm stay tourism. The benefits could flow to both parties, and work opportunities would obviously provide a very useful supplement to rural economies. What the farm stay tourism and the general primary production processes will do is effectively remove indigenous people from that process. There will be no need whatsoever for a pastoralist to negotiate with indigenous people.

**Senator COONAN**—Unless they want to render themselves liable for compensation. Presumably an astute one would want to negotiate.

**Mr Athanasiou**—This is effectively where the user pays aspects of your inquiry come into play. The process that has been set up permits state and territory governments to allow pastoralists to embark upon that activity. In allowing pastoralists to embark upon that activity, it becomes an act attributable to the relevant state or territory. If native title holders have been counted out of the equation and are left to seek redress through compensation, it will ultimately be the taxpayer who funds the removal of indigenous rights for the benefit of the pastoralist.

It is in the realm of the relevant state or territory government to try to pass that on to a pastoralist. From what I hear, they are not prepared to accept it. Certainly the way the legislation has been drafted, there is no legislative requirement that it be passed on. The requirement at the moment is that the act is ultimately attributable to a state or territory, and it will be the taxpayer who foots the bill.

**Senator COONAN**—Unless there is a betterment fee to upgrade title. That seems to be the gateway for recoupment from the pastoralist, as I understand it. I have not got a vast understanding of it.

**Mr Athanasiou**—There is no provision for that. Certainly I have heard it mentioned, but again there is no legislative provision for it.

**Senator HOGG**—Can you give me some idea of the extent of this difficulty in the

territory? Are we talking small or large areas of land?

**Mr Athanasiou**—You are talking about approximately 50 per cent of the land mass within this region. We are talking about a substantial part of the CLC region as well as the Northern Territory in general.

**Senator HOGG**—Are we talking about significant sites in terms of the indigenous population?

**Mr Athanasiou**—This landscape is effectively alive with culture. Most of those pastoral leases, as I said, retained the native title holders as a work force from their inception. The connection with the country has never been broken. Our best examples are pastoral leases which have been purchased by indigenous people for the purpose of conversion to Aboriginal freehold under the land rights legislation.

What is revealed through those land claim processes is an extremely rich and vibrant indigenous culture which certainly sees many features within that landscape as of great cultural significance. The areas are literally dotted with sacred sites and areas of significance. At this point in time perhaps Lee may be able to expand upon it. If we are talking about cultural heritage, we should not just be talking about specific sites. Indigenous people derive their very identity and their culture from the land itself. Certainly the sacred sites are focal points within that landscape.

**Mr Lightbody**—Perhaps I can explain the history of this map. I am not sure how this will go into the *Hansard*. The yellow areas on the map are Aboriginal freehold land under the land rights act. The brown areas—and there are a couple of different kinds of brown areas—are the pastoral leases. The green and purple areas refer to national parks. There are national parks dotted through the region.

The reason we have these big areas of Aboriginal land out here is that it is most of the desert country which the pastoralists were not interested in 100 years ago. So the pastoralists took up these holdings. These areas were large Aboriginal reserves which, when the land rights act came in, became Aboriginal freehold land. There have also been several purchases of cattle stations and claims under the land rights act, some of which have been successful. Some of these refer to claims still in process. There are portions of the pastoral country which are being returned to Aboriginal people presently through the land rights act.

**Senator HOGG**—It is fair to say that the pastoralists do not necessarily place the same value upon that land as the indigenous people would.

**Mr Lightbody**—They have quite a different perception of the landscape. Pastoralists are looking for grass for cattle. Aboriginal people have sites of significance, but their attachment to land is quite different.

**Senator GIBBS**—So a lot of the sacred sites would be in that land mass that the pastoralists have.

**Mr Lightbody**—That is right. This boundary here does not have anything to do with sacred sites. This land is not necessarily any more important to its traditional owners than the land over there.

**Senator GIBBS**—No. There would be a lot of sites within that pastoralist area.

**Mr Athanasiou**—There has been a very strong movement, particularly since 1968, for native title holders or general indigenous people to obtain living areas on pastoral leases so they can remain close to their country. That resulted in excisions legislation which is incorporated into the pastoral land act 1992. That legislation, whilst not being a total failure, has all but failed, given that the criteria for obtaining an excision and the somewhat trenchant opposition of the territory government and, in many instances, pastoralists to such excisions has meant that very few living areas have been provided to indigenous people on those pastoral leases. What you have is a situation where there are gathering communities around the pastoral leases. They try to live as close as they can so that they can visit the country as often as they can, but certainly from their point of view they are still seeking and striving to get back on to their country.

**Mr Lightbody**—And to fulfil those traditional obligations about management and protection of sites and preserving that connection with sites.

**Senator HOGG**—Are there any examples of farm stays in those pastoral areas currently where tourists are paying to go to sites that are sacred or important to Aboriginal people?

**Mr Athanasiou**—At the moment it is totally unregulated. We are not privy to that information other than feedback coming through from Aboriginal people saying that the pastoralists are bringing people to these areas or that people are coming to these areas. Many of them, because they are not always living on the pastoral leases, are not generally privy to what is going on. Whilst they are striving to be close to their areas of significance, pastoralists are effectively making a profit out of those same areas.

**Senator COONAN**—Can you give us some ideas of the number of farm stays you are referring to and the sites that are involved?

**Mr Athenasiou**—As I said, as far as we know, it is not regulated. We have no way of compiling figures on those enterprises.

**Senator HOGG**—Is it not an expanding market?

**Dr Sackett**—Economics would dictate that it expand. The cattle industry is in a

giant slump at the moment. People making a fair living off cattle may well be turning around. I know of a couple of instances where people are exploring the options with this sort of activity.

**Senator HOGG**—Do the Aboriginal people currently have free access to those sites?

**Mr Athenasiou**—Again, it is a matter of degree. At law they do. Effective access is sometimes stymied by the operation of pastoralists. I think Max would like to say something about that.

**Mr Stuart**—Not far from here, a lot of my ancestors have been in Alice Springs. We just cannot go and look at objects and that sort of thing. Most of them were taken away hundreds of years ago. We have a tribe here, and there is another tribe a couple of miles away. They have the old objects. They are holding on to them. We pass them down through the families. We pass on knowledge from one to another by song.

I have been trying to talk to this mob here. I cannot go from here to Parke Creek and talk to the owner over there. I have to come back here. We identify ourselves like that. We do it song by song and word by word. We have a boundary, just as cattle stations have boundaries. Stations are marked by squares. We have the same, but ours are set in circles. I cannot go and be in charge of their place, and they cannot come up and just jump onto our land. They cannot tell the traditional owners up here what to do.

**CHAIR**—So several Aboriginal groups may have an interest in different parts of one lease, but there is no access because the pastoralists have fenced it off?

**Mr Stuart**—I have a son and grandson. I am a custodian on my mother's and grandmother's side. Therefore, my children have to follow in the same steps that I have. They have to learn from me. I have to tell them not to do this and that. We are all in the circle. We might be the same people, but we are all different. We are of the same kind, but we have different totems with different meanings. It has been like that for the past 100 or 1,000 years.

Some of the young fellows are learning bit by bit to get on to things now. I am proud of them. I am with the land council. Some of my ancestors went down to Melbourne about 100 years ago. All I want is for them to come back rightfully as the owners. I think there will be more problems. They will be created not by the whites but by the Aborigines with jealousy. That is what is spoiling us. We try to get along, but we have been filled with too much tea and sugar. That is what we have all been talking about.

Mr Lightbody over there knows that we have been travelling around the gap. I showed him where my country is, which is west of here. Women on this side who need water cannot go around and just get it, even if the last water is on the men's side. They

have to wait for a man to go and get them a drink of water. It is the same if the water is on the women's side. We cannot go there. They have to get us water. So we cannot just have a drink. We have those sorts of things.

I have been talking to people. We are trying to get this thing straight. I have been working on this side in my own way when I get spare time. That is what we try to do at Kings Canyon. We get together. We might get a better chance with the land council. We need to take it bit by bit and not set it too high. We work little bit by little bit. As long as we have our own, we will get there. We have to teach the family first. They have to learn, and we have to show them. The kids have been going to a white school. They have a long way to jump back. We have to put them into school too. They have to learn. At the moment, I am a bit lucky because I have fellows who are working for us.

**CHAIR**—You mentioned Kings Canyon. What is the problem? Is that one of the sites?

**Mr Stuart**—There is no problem at Kings Canyon. There is only fire work with the tours. I was talking about the big things, such as the objects and things, you know.

**Mr Lightbody**—There are some difficulties at Kings Canyon; I will talk about those a little later and give some of the history of that. I will give some examples in answer to the questions you were asking. I can think of a couple of examples where pastoralists and leaseholders are involved in tourism. I am not exactly sure whether they are calling it farm stay tourism or what the arrangements are. In some cases, they may have special changes made to their lease. The territory government has given them permission to carry out other activities.

One example—this can still cut across the interests of Aboriginal people—relates to Curtin Springs, which is a station quite close to Uluru-Kata Tjuta National Park. A pastoralist here has several significant sites on the station. Tourists from Yulara regularly go on guided tours there. He has an arrangement with tour operators in Yulara to take tourists to one of the sites on the pastoral lease. I do not know much more than that. I presume that he gets some sort of benefit from it. It was done without any kind of consultation with the traditional owners of that country and without giving them any opportunity to have a say about the protection of that site or how it should be managed.

**Mr Athenasiou**—I will try to tie that in with something Max said. For many of these areas of significance, there are all forms of cultural restriction, including gender restrictions. It can cause considerable concern and disquiet amongst indigenous people if, for instance, you have one of these areas being visited through farm stay tourism or you have a waterhole being swum in. These areas are effectively being accessed by people of the wrong gender. These are the sorts of things which will continually occur when indigenous people are left out of the equation. Their concerns and rights are not going to come into the process.

At the moment, under the native title legislation, that can actually occur. I am not saying that it is happening in practice because the legislation itself has taken a while to become established and entrenched. However, that was certainly the direction in which things were going. The Wik decision is a final acknowledgment beyond doubt of this co-existing relationship. It was from there that indigenous people wished to move forward. Job opportunities and economic opportunities can also be tied into those things and be brought together. The government's response has been just to remove that and deal with it in a crude way by saying, 'Well, at the end of the day, if you can prove your native title, go and pick up some compensation.'

**Mr Lightbody**—I can give one or two other examples. Again, I do not know too many details, but there is a tourism operation on Andado station. It is the nearest thing to farm stay with which I am familiar. There is a small accommodation facility there. That is probably a more limited definition of a farm stay. Again, people are invited to go there, stay on the station and presumably partake in pastoral activities, such as mustering, and pretty much go wherever the pastoralists think it is fair to go.

North-east of here, some of the stations have fossicking leases. They are probably a bit separate again. I do not think the pastoralists in those situations are gaining any benefit from it. It is an area where pastoral leases are being used for other sorts of activities. The traditional owners are pretty much left out of consultations or any of the benefits that come from that.

**Senator HOGG**—Of those properties you have just mentioned, are there traditional owners living on them as such?

**Mr Lightbody**—Some of them are living quite close. I do not think any are living on Curtin Springs or Andado. The traditional owners of that country would be the Mutijulu or Amata. They are on this station or on a small community here. As Chris mentioned before, most of the traditional owners have moved on to small communities as near as they possibly can to their traditional country.

**Dr Sackett**—In the north-east, there are a number of communities where people live close to their traditional countries but not necessarily on them.

**Mr Athenasiou**—I think that is farm stay tourism reasonably well covered.

**Mr Lightbody**—We have to talk about sacred objects and national parks.

**Senator HOGG**—Before you do, what is the solution? You put you the problem up. What is the solution, in your eyes?

**Mr Athenasiou**—Everybody is aware of the decline of the pastoral industry and the general rural decline. There is a desire on the part of indigenous people to participate

at two levels. First, they want to live on and close to their land. With that comes a responsibility for site protection and ensuring that their sites are not desecrated. Second, at the other level, there is a desire on their part to get off the welfare drip feed and to participate in economic activity. Farm stay and cultural tourism could present a very viable small-scale economy in lots of rural areas.

They want to negotiate with the pastoralists and say, 'Okay, we understand that you have your rights. You want to participate in farm stay tourism. We have our rights and we want to do so too. We also want to make sure that farm stay tourism is regulated in such a way that it does not desecrate our sites or cause us cultural harm.' It is pointing to an on-the-ground agreements process, where you are getting the participation and the continued co-existence of all players. They are not saying no per se to farm stay tourism; they are saying, 'Why count us out of the equation? Why leave us over there in the fringe camp watching the pastoralists make more money out of our areas of significance?'

The government has acknowledged in the amendments that it is quite an unreasonable proposition to put up. There is an exception in the amendments to not permitting farm stay tourism where it is viewing cultural activity or cultural objects. That is a very limited way to look at culture and country and perceptions of country. They are effectively saying that the pastoralists cannot make money out of getting people to pay to view a corroboree or to go and see paintings on rocks. It just misses the whole point of the overall significance of various areas. So there is this small exclusion, which basically includes tokenistic scraps thrown to indigenous people for some level of protection.

**Senator COONAN**—Do you have a copy of the 10-point plan?

**Mr Athenasiou**—I do not have an actual copy with me. I have a copy of the draft legislation, which I have just secured.

**Senator COONAN**—I have read the first few pages. It is very dense. I want to know what part 4.2 says.

**Mr Athenasiou**—It is quite broad. In general, it removes the application of the future act's processes from primary production. 'Primary production' is defined within the terms of definition in the taxation act. They were obviously unsure as to whether the tax act covered farm stay tourism. They have expressly stated that primary production includes farm stay tourism with the exception I just mentioned. That has gone into the actual draft bill. I have done a brief paper on it. I can refer you to the relevant provisions. It may be best if I provide you with a page of the relevant provisions in the legislation and a brief description of it.

**CHAIR**—That would be helpful. Thank you.

**Senator COONAN**—Apart from farm stay, are there other items in the definition

of primary production that concern you? You have concentrated on farm stay. I am trying to understand the gamut of your objections.

**Mr Athenasiou**—I am using that as one area, because it is obviously an area of focus for this inquiry. I hoped to open with the rider that in no way should anything concentrate on farm stay tourism within the definition of primary production except the broader definition itself. The broader definition would enable large-scale land clearing and all sorts of related activities on pastoral leases. Again, it removes native titleholders from the equation. That is not acceptable. It is an enhancement of rights to the detriment of native titleholders. It is pushing them to the periphery and telling them to go and raise $1 million or run a compensation claim. It is a ludicrous situation. I imagine that most of the compensation claims will end up costing more than the compensation, if you want my opinion.

**Senator COONAN**—Once again, it is a legal aid problem. It is fairly circuitous.

**Mr Athenasiou**—I am a lawyer. I prefer as much as possible that we remove lawyers and the legalistic outlook from this process. I am doing myself out of a job, I suppose.

**Mr Lightbody**—I will give a quick run-down on the situation in our region with regard to national parks. There are several parks on this map, mostly marked in green, in the area. Uluru-Kata Tjuta National Park is marked in yellow because it is Aboriginal owned. There is only one other park in our region that is Aboriginal owned, and that is Gosses Bluff. It is west of Alice Springs and was formerly a scientific reserve. The Northern Territory government handed it back several years ago to the traditional owners of the country as Northern Territory freehold land. So it is not under the Land Rights Act. It is somewhat similar to the Uluru arrangement, where it was leased back to the territory government as a conservation reserve. There is a structure there for traditional owners to be involved in the ongoing management of it.

Have you been to Uluru-Kata Tjuta yet? I will give you a brief run-down on perhaps what the land council considers is the best model in our region so far. It is Aboriginal land leased back to the Commonwealth for use as a national park. There is an entry fee payable by tourists entering the park. The money raised is split 25 per cent to 75 per cent. Twenty-five per cent pays the traditional owners for the use of the national park. The rest of it goes towards assisting with the management of the park.

The other national parks in our region are run by the Parks and Wildlife Commission of the Northern Territory. In general, they are owned by what is called the Conservation Land Corporation, which is the territory government's land holding body. When the Land Rights Act came in in 1976, the territory government was worried that it would apply to national parks. As a way of putting it out of the reach of the Land Rights Act, they converted most of their parks to crown leases owned by the Conservation Land

Corporation.

**CHAIR**—Has that put them out of the reach of the federal legislation?

**Mr Lightbody**—That was our understanding. Only a month ago prior to the sunset clause coming in, most of those parks had claims put on them. I am not sure of the chances of it succeeding. It was certainly done for that reason. Our advice for many years was that it had very little chance of success. They were, in fact, alienated, and the Land Rights Act does not allow for claims over alienated land.

The land council is very unhappy with the degree of Aboriginal involvement in these parks and the continuing process the territory government uses in acquiring new parks. Over recent years, several new parks have been established and excised from pastoral leases. Most of that has occurred without any adequate consultation with traditional owners. Certainly there has not been adequate recognition of native titleholders' rights. So the country is being alienated from pastoral leases to become national parks.

I believe that it is the territory government's policy—if you talk to territory government people, you could ask them for further details—to not charge entry fees to national parks, unlike the Commonwealth, which charges an entry fee for Uluru and Kakadu. I am not sure what the reasons for that are. The territory government does charge for some of the facilities they provide in their parks, such as camping areas, showers, or whatever. Whether a fee is applicable depends on the level of facilities they provide. There is not an entry fee as such.

It is the land council's objective to try to get a much stronger role for Aboriginal people in the management of those parks. We see from our experience at Uluru and with some of the territory government models for what they call joint management that the best forms of Aboriginal involvement in parks and joint management are based on Aboriginal ownership of the land. Giving Aboriginal people ownership of the land tends to bring about a degree of equity in the relationship between government and their park agencies and traditional owners which is otherwise not possible to get.

Watarrka is an example. Many years ago, the territory government invited traditional owners of this national park to come on to what they called a local management committee with advisory powers only. So it was painted as something akin to the board of management of Uluru but with advisory powers only. Several of the traditional owners partook in that committee system for nearly five years. It has only recently started up again. Max is one person involved in it. Two or three years ago, it collapsed because the traditional owners became increasingly frustrated with the lack of recognition of their rights and desires to be involved in the management of that park.

The term 'local management committee' was quite correct. The committee tended to discuss only issues of extreme local importance. They dealt with day-to-day

management issues, such as fire management, whether or not a fence should be put around a certain area and whether some sort of safety mechanism should be installed at a particular place on the climb or whatever. Traditional owners had their own aspirations for that area. Some of them involved in tourism found themselves continually frustrated by the lack of desire and ability of the Parks and Wildlife Commission to address some of their interests in the management of that area in the face of increasing tourism.

Several years ago, they refused to continue their involvement in the local management committee, much to the detriment, in effect, of the park management overall. It is just recently starting to come back. The traditional owners of this country are related to many of the traditional owners at Uluru. They continually ask us why it cannot be the same and why they cannot have ownership, ask for entry fees and get some benefits from the national park. Obviously, opportunities for benefits of that kind are not going to be as great. Kings Canyon National Park has nowhere near the visitation that Uluru has. But the principles are there. People recognise that there are ways of getting benefits, being involved in park and tourism affairs and protecting Aboriginal cultural property in a way that is much more satisfactory than is the case here.

Kings Canyon was an exception within the range of other parks that the Parks and Wildlife Commission manages. Many other parks, marked by these little green areas here, have no such Aboriginal involvement and there is no local management committee. The parks are usually run by a non-Aboriginal ranger. There are some Aboriginal staff within the commission who assist them with Aboriginal aspects of management, but it is not the same as having the traditional owners of that country involved. The staff might be from central Australia, but they are not the traditional owners for particular areas of country.

**Senator HOGG**—Does that of itself set up conflicts?

**Mr Lightbody**—It can, yes.

**Senator HOGG**—Where the resident tribe or group is not participating in the site?

**Mr Lightbody**—Yes. The Parks and Wildlife Commission would like to get Aboriginal people more involved, but very much on their terms. In many cases, there may be traditional owner disputes. They do not have the expertise and they do not particularly want to get involved in those things. The land council has been saying, 'As a principle, give back the land to the traditional owners, even if it is then leased back to the parks service, or we will work out some other arrangements for co-management.' It tends to bring a degree of equity into the arrangement that is not otherwise possible. Historically, people working in these areas have not had very much experience in dealing with white people on an equal basis. That difficulty has to be overcome.

**Senator HOGG**—So that is where the Central Land Council has a real role in its own right.

**Mr Lightbody**—We certainly try to act as a watchdog to ensure that the involvement of Aboriginal people is at a decent level and not an exploitative one.

**Senator COONAN**—Can I clarify one thing, and I ask this genuinely. By what criteria do you evaluate the success of a place like Uluru as opposed to Kings Canyon National Park? Does it relate to equity or is there some financial measure? I am interested to know on what basis you make that statement.

**Mr Lightbody**—My own feelings probably come from the number of complaints I get from traditional owners. The complaints from traditional owners at Uluru are of quite a different nature and a different level to those of traditional owners of national parks elsewhere. For instance, with the Dulcie Ranges east of Alice Springs, the Aboriginal people are quite outraged at the way in which the park was acquired from the pastoral lease without any discussion or consultation with them about what it might mean for them. There was certainly no invitation for them to sit down and discuss it together. A deal was made between the pastoralist and the Northern Territory government. Lines were drawn on a map and then Aboriginal people and the land council were left pushing for their rights in arrears.

**Senator COONAN**—So it is not alleviated by having a say in management or an advisory role. It must be an ownership platform.

**Mr Lightbody**—That is our experience. An advisory role is one thing. It certainly can help to overcome day-to-day issues if, for instance, there is a walking track to go in a particular area and the park managers need to know whether that is likely to impinge upon a sacred site. It is convenient for them to ask some of the traditional owners where this path should go. The traditional owners can come and do that. They are then asked the next time they are doing something in the park. It is a very unequal relationship. The people in Kings Canyon continually said that they were being asked to give their advice for the management of the park white fella way, but their interests in tourism or the protection of sites or hunting rights were not being adequately addressed.

**Dr Sackett**—If it is Aboriginal land, Aboriginal people have the say finally. If parks wanted to put a trail through a certain area and people said, 'No, you cannot go there,' they would have to find a different area. That is not the case where they are advising on non-Aboriginal land. Their advice may be listened to but not acted on.

**Senator COONAN**—It can be overridden, in other words.

**Dr Sackett**—That is right.

**Mr Lightbody**—I would like to briefly discuss the proposed Davenport Merchison national park. It has been the source of a fair amount of conflict between land council traditional owners and the Northern Territory government.

**Mr Athanasiou**—Effectively the proposed park was excised from the Kurundi pastoral lease in 1993. It was at a time when the traditional owners themselves were desperately seeking to purchase the pastoral lease because, again, they were trying to get back on to the country. It is an area which is very much alive with culture. The traditional owners were effectively gazumped by the Northern Territory government which provided the funds for the Conservation Land Corporation to purchase the land.

There have been considerable complaints about the process which led to the excising of the area. The then pastoralist, Mr Saint, was given the contract to effectively create the boundaries. He did that with a bulldozer. He did it by damaging one site and desecrating another, despite the pleas of the traditional owners—acknowledging that they were not going to be able to influence the process—to at least walk in front of the bulldozer and clear the way so that sites were not desecrated. It is certainly hotly disputed by Mr Saint. The version that the relevant CLC officer and the traditional owners have continuously asserted is that, despite their constant pleas, Mr Saint ignored them, went ahead and caused that damage. That was a very bad start to the creation of a national park.

In response to the activities of the Northern Territory government, a human rights complaint is being lodged stating the levels of racial discrimination and that the rights and interests of Aboriginal people were treated as second class rights and interests. A broader complaint was made which was based on the flagrant disregard of their religious and cultural human rights. That led to the lodgement of a native title determination by which, by this stage, the claimants were seeking to become integrally involved in the creation and management of the park.

Instead, the government has chosen to ignore the claim and has effectively embarked upon a similar process for obtaining cultural information and clearance information from particular traditional owners who find it very hard to say no to an offer of $150 a day to go out and provide this information. They then realise when they return to their community off the land and their effectively welfare state that the extent of their involvement in the process has come to an end. Requests for a joint management process which, again, would provide joint opportunities for employment and culturally appropriate development of the area seem to be falling upon deaf ears. That claim is continuing and, hopefully, it will lead to a solution which we would hope is mutually beneficial to all, although the activity to date does not augur well for that outcome.

**Mr Lightbody**—That approach by the Northern Territory to its acquisition for parks in that particular instance is very questionable on environmental grounds as well. You can see that the northern boundary of the park goes up and down all over the place. That is the boundary that Mr Saint had permission to create himself. It follows around the range of hills. He has basically cut out all of the good cattle country for himself and has left the national park and the ranges. The parks service seems to be fairly happy with that, although several of their staff would regard it as a less than perfect situation for the

protection of conservation values to decide a boundary on the basis of whether it is good cattle country or whether it is useless cattle country.

**Mr Athanasiou**—There are literally areas where sacred objects are still out in the open. It is a very rugged part of the country. If, as is proposed, it is opened up to four-wheel drive tourism, in particular, I can see the potential for considerable cultural harm and the scope for the desecration of sites.

**CHAIR**—Thank you. That has given us a good understanding. Dr Sackett, would you like to comment on anything in particular?

**Dr Sackett**—I want to say a few words about sacred objects. Max mentioned earlier a recent trip to Melbourne. I was with him at the time. We looked at some sacred objects held in a museum. For well over 100 years sacred objects have been removed. Many objects dating back over 100 years have been taken away and placed in museums both in Australia and overseas. They have also gone to private collections. For many years access to these objects was denied by dint of circumstances. People were here, poverty stricken, and the objects were overseas or in Adelaide, Melbourne and so forth.

In many instances, until recently these objects were displayed in a manner which was extremely offensive to traditional owners. They were publicly displayed where women and children could see them. In recent years the museums have awoken to the concerns of Aboriginal people. They have taken them from display and have put them in strong rooms and so forth. They have also provided access to the traditional owners who make their way south to see them. It is a problem because people cannot easily get to the capital cities. Even if they do, they normally have to be accompanied by somebody who can provide the actual access to the museums.

The CLC holds that access in that guise is culturally meaningless in that people have to visit the objects. They can just look at them. They cannot really employ the objects as they are meant to be used. They are down there rather than up here. Max has spoken about these objects as needing to come home. Their home is their part of the country. At present, thousands of them are removed from the country. Basically we hold that access is meaningless without repatriation of the objects.

The museums in recent years have begun exploring the idea of repatriation. Some museums have even said that they are keen to repatriate the objects, but they cite lack of funds, for instance. Unfortunately there was no lack of funds when the objects were taken away over the years, but there seems to be a dearth of funds now to return them. Also there is a concern on the part of museums to ensure that the right people are in receipt of these objects when they are returned. Again, there was not much concern with how they were taken away or where they were taken from in years gone by. There is, on the one hand, an expression of participation in the repatriation process but, on the other hand, there are excuses often presented as to why repatriation cannot proceed.

The end result has been that very few objects have been returned. As I say, thousands were taken. It is estimated that, of these sacred objects held in Australian museums, up to 80 per cent are from Central Australia. The few that have been returned—and they number in their hundreds—have been returned largely at the expense of Aboriginal people and organisations. For instance, with the Strehlow collection which achieved headlines a couple of years ago, ATSIC funded the purchase of that collection. The Central Land Council paid for their to Central Australia and we are paying for the return of these objects to the traditional owners. It is a fairly lengthy and expensive process to find out who should get what and where they should go.

In a sense what I am talking about is something of a flip. You are exploring access to heritage and I am raising the concerns of the traditional owners of the country having access to things that were taken away. Max is particularly concerned about this. As he was saying earlier today on TV, he has been battling for 10 years or more to get objects back.

**Senator COONAN**—Do you have a catalogue of where objects of significance are, what institutions they are in and where they belong? Do you have any plan as to what would happen to them if they were repatriated? Presumably if an object is significant, is it intrinsically significant or is it only significant if it is returned to the place where it was held? They are the sorts of issues that I would like explained.

**Dr Sackett**—I will start with your last question first. The value of the objects have, in recent years, gained significant economic currency. Mrs Strehlow received a tidy sum for the sale of her deceased husband's estate. They are valuable in that economic sense, but from our point of view they are valueless economically and they are valuable culturally and religiously. Certainly from the point of view of traditional owners that is where the value lies. What they do, what they stand for, what they mean, what they can be used for to pass on cultural information.

As to our knowledge about the existence or the whereabouts of objects and so forth, at the moment work is being done on a national database. It may include some overseas sources but it is primarily national. It is being funded in part by Museums Australia. The work is being done at the South Australian Museum. They, incidentally, have one of the largest collections from Central Australia—over 3,000 objects. Those are sacred objects, not boomerangs and spears and so forth. So there is work being done in that regard.

A lot of objects were not provinced when they were removed. They were taken from storage houses by police officers, scientists and so forth. In many cases we do not know exactly where they came from and who they belong to. Quite often people like Max can identify the area, right down to the place at times. In a sense we are operating on two levels. There are people working in museums putting together what material there is in the way of information on the objects and building up a database that will be able to be sourced by people up here eventually. Then there are people like Max and others in the

community who have knowledge here. We need to get those two together and fund the extra process of the return. The freight alone is hellishly expensive.

**Senator GIBBS**—Do you have to buy them back?

**Dr Sackett**—With the museums, no. Both the South Australian Museum and the Museum of Victoria have been involved in some returns, but they come back free. In some instances we have purchased collections, the Strehlow collection being the most famous. There have been some other collections that we have purchased. We are placed in a difficult position, because as a land council we object to the sale of these items. But at the same time, if we want them back, in some instances we are forced to seek funding to purchase them or else they will go elsewhere.

**Senator COONAN**—It happens with white heritage too, with moveable objects.

**Senator HOGG**—How large are these objects?

**Dr Sackett**—We should not really talk about that. They are so secret that you really cannot talk much about them publicly. They range in size.

**Senator HOGG**—If they are secret, there must be offence taken at their public display.

**Dr Sackett**—They are not displayed to my knowledge in museums. They are displayed in some private collections. They are not displayed publicly in Australian museums these days—at least not in the larger reputable museums. There are instances of them being displayed overseas in museums. I think France has one and Germany has one as well. In recent years the curators have wised up.

**Senator COONAN**—They are more sensitive.

**Dr Sackett**—Yes, more sensitive to other people's culture.

**Senator COONAN**—Assuming you could repatriate sacred objects, are they able to be held by somebody like Mr Stuart or do they have to go back to where they were used traditionally and have some significance on the land? I am just trying to see what the connection is.

**Dr Sackett**—The idea would be for them to go to the descendants. The best practice is to go back to the descendants of the Aboriginal owners. Sometimes that is difficult.

**Senator COONAN**—Even if they are displaced.

**Dr Sackett**—There have been displacements so other people would perhaps take over.

**Senator COONAN**—It must be devilishly difficult to try to sort that process out.

**Dr Sackett**—It is and it is not. It is difficult in that the museums perhaps want more than is necessary in the way of who gets what. People sort it out fairly quickly. As Max said on TV this morning, people can sort these things out. There are enough older people around who know about the objects who can sort it out.

**Senator COONAN**—Has any curatorial work of any significance been done on the collections?

**Dr Sackett**—Right after the rape and pillage began, well over 100 years ago, Stirling, who was the leader of the Horn expedition into Central Australia, upon returning to Adelaide and speaking at a public display of the objects, said that he knew they were valuable to science but he could not tell you much about them. He had little or no knowledge. To this day the knowledge that science has cannot be dealt with publicly because they are sacred objects. Then they would have exposed it had they the ability. Now scientists or anthropologists would not talk about it publicly.

**Senator COONAN**—Given that there is no money changing hands to have objects returned, what is the problem? Is it just the money involved in transporting them?

**Dr Sackett**—There is that, but there is also the problem from the museum's point of view of making certain the right people receive the objects. They want to have some guarantee either by an independent researcher or somebody working for a museum. That involves somebody working as a consultant, going around the communities talking to people, et cetera. We do not think that level of input is necessary. We think the objects could come back and that people can work it out.

**CHAIR**—So the land council could be the body to do that.

**Dr Sackett**—We are already doing that with the Strehlow objects.

**Mr Athanasiou**—It is quite resource intensive.

**Dr Sackett**—It is. We do not have a permanent person doing that. It falls on me basically, as the land council employee, to do it and Max and others assist. It is not a full-time, dedicated position.

**Senator HOGG**—Is there a danger that, as time goes on, there will be fewer and fewer people who know the significance of these objects and therefore their heritage value may be lost? Is that possible?

**Dr Sackett**—I am not sure the heritage value from the point of view of people of 100 years ago.

**Senator HOGG**—Because Max's grandchildren might not be able to recognise the significance, or has this been passed on to them?

**Mr Stuart**—We can show them the heritage. We can show them song by song and tell them how far they have to go with that song. You do not go back. The songs do not go backwards like a broken record. We do not have paper. We have stories. There might be another one in Darwin or there might be one in New Zealand which is exactly the same as the one back at home. They are the things that I teach my grandchildren to memorise. You put those songs in a tape up here, in that little brain box. Then every so often we ask them, 'What did I tell you before?' The grandfather would ask them.

It is the same as horses when you break them in; you have to mount them. Later when they get to 16 or 17, you let them go. When they are over 21, just like you mob, they can go over that big fence and have their own corroboree. You cannot go back, you always go forward. You cannot reverse it like a tape recorder. It all goes forward. I cannot tell my mother's side, only my father's side. I am the custodian here. I have a bit of say. I am the caretaker.

I am hoping to get some objects back with us soon. One hundred years before I was born these objects were removed. The native folks had no clothes on when they were having a corroboree. In the picture of them it all comes back. All the songs come back too. I am still working on it. I know the songs for Alice Springs. I know it more or less back to front now because I have been taught by Arrarnte people from here.

I am learning songs from both my mother's side and my father's side. I want to teach them to my grandchildren and a couple of my sons. I want them to register it up here. If they are no good, put it down for a month. Then I will bring it back and teach them. We will sit down like you and I are, and I will tell them about it.

In the camp site we tell them stories. Later on we sing the songs one by one. When they get better, we put them through the initiation. That is when they learn the big one. You put them through the initiation. I would not be showing them. There will be some other family member showing them. It would not be me. I would be sitting there having a coffee. We have a very hard law. That is the reason I am thinking about trying to get things back. I want to drag my young fellas in, like horses, and show them where they stand.

You have to learn your culture properly. White fella school is easy. The main thing is that the old tribal elder is the one you have to have respect for. That is what I learnt. Later on when they get better they will show their kids. That is what happened to me. My ancestors showed me, especially my grandmother. I learned to know when to initiate. It

was a bit harder then, when my grandmother was telling me. They would not give me a glass of water for three days as punishment. When you are hungry, you are hungry. You cannot walk away from the single quarter. That is why I am not real good at talking, because the lady folks would talk to gentlemen and we are scared in case some other fellow like me might be listening around the corner. I cannot even go and tell my girlfriend in town or wherever you find one. I might wake up dead the next morning.

**Dr Sackett**—That is the worst way to wake up.

**Mr Stuart**—That is right.

**CHAIR**—Thank you very much. I would like to ask what role the Aboriginal people have in the desert park. I understand some of it is under claim. Is all of it under native title claim?

**Mr Athenasiou**—It is all under claim. It again stems from a grant to the Conservation Land Corporation prior to the proclamation of the Native Title Act. In bringing the claim, what the claimants for Alice Springs are and were seeking was, again, a more active involvement in the day to day running of the park. Certainly, the park was designed by the Northern Territory government specifically to increase the number of days which tourists will stop over in Alice Springs.

So you have the creation, you could say, of a public asset, from the point of view of the Northern Territory, which was, in the main, going to promote tourism and promote the tourist operators, the owners of motels, hotels, souvenir shops, et cetera, throughout Alice Springs.

Regrettably, the government again, despite the native title claims, basically said, 'Well, we'll see how it is ultimately resolved in the court hearing.' But they were not particularly enamoured with any form of joint management or any major involvement of the native title claimants, even though the land was subject to claim and, as we must say arguably, has native title.

There has been a move, I would imagine, stemming from the pressure placed upon the Parks and Wildlife Commission, to employ a number of Aboriginal staff. That has been done. I think there are two trainees that the park took on at its outset. The matters of payment for entry, the matters of commercial operations carried on within the park itself were effectively put out to the general economy, an area in which it is abundantly apparent that the native title claims have neither the resources nor the current expertise to compete in.

My personal opinion—and it is a personal opinion—is that, if there ever were an opportunity for the government to embark upon a new and mutually beneficial relationship between the local Arrernte people, who are the native titleholders for this land, and the

government, it could have manifested itself in that wildlife park. The government has chosen certainly, again, to go through the site clearance for the placement of buildings. It had to abide by its own legislation for sacred sites. It went through that process, and it has offered, I think, two junior traineeships to indigenous people. Despite the fact that both the land, the subject of claim, and the park in a number of ways draw upon local cultural knowledge and heritage, that seems to be the only real involvement or input for claimants, many of whom with their children face a very low likelihood of ever moving out of the current welfare system.

**Senator COONAN**—When was it actually acquired by the Northern Territory corporation—I think that is what you said it was—under the system of acquiring crown land?

**Mr Athenasiou**—It was acquired prior to the proclamation—I am not sure of the exact date—of the Native Title Act. Therefore, it qualifies as a past act. I must say that the wildlife park itself only makes up a very small portion of the area that was acquired for the purpose of the park. So there is considerable concern as to why the government would want such a large area of land. But it is a past act, and valid.

The only native title question to be asked is: is it the type of grant that still remains consistent with native title? If it remains consistent with native title, there is obvious scope for a co-existing relationship to be established. That was put forward on a number of occasions to the government. The government chose that the relationship would be on its terms only.

**Senator COONAN**—So is the claim still pending?

**Mr Athenasiou**—The claim is, as I said—

**Senator COONAN**—It is one of the several relating to this sort of whole thing.

**Mr Athenasiou**—It is one of the several, and it is actually being heard at this very point in time. There is a month of hearing, which started on Tuesday and will go until, I think, 25 July. That is stage 1 of an extremely lengthy, complex and, I must say, costly piece of litigation—and it is divisive and, I would strenuously argue, for the good of nobody in the long term.

**Senator COONAN**—No doubt attempts would have been made to mediate and find other pathways through it.

**Mr Athenasiou**—Yes. The mediation attempts occurred for somewhere in the region of 12 to 14 months. We desperately tried to resolve all native title issues in this township in a comprehensive agreement with the Northern Territory government. I must say that at that stage we were given no support from the Commonwealth, which was seen

as being an integral player in any sort of comprehensive agreement. The Northern Territory government chose the option, 'Well, we'll turn this into a test case, we'll fight every issue to the wire and we'll see how little, effectively, can be extracted for indigenous people from native title.

My only response to that is that, if the native title claimants win their claim, the government then will have to sit down and negotiate with them. If the native title claimants lose their claim, you are still faced with the problem of people who the government acknowledges are connected to this country—whether legally through a native title framework of laws, or not—and who are, in the main, fringe dwellers in their own country. The government still has a duty to deal with that situation. In my opinion, native title represents a means of moving away from the welfare based way of dealing with native title to a rights based negotiation and co-existence process.

**Senator COONAN**—Would you see the Uluru model as being an appropriate one for the park?

**Mr Athenasiou**—There is significant scope for joint management of resources in and around Alice Springs. There are the reserves. There are the rivers themselves; these are causing continuous problems to the local government and the government because there is the problem of river campers—people coming into town and getting caught in the grog cycle or just getting caught here. That is of great concern to the local Arrernte owners who, themselves, see the desecration of their sites occurring in the rivers and the degradation of those rivers through that problem.

As I have said and will say again: the problems exist and must be dealt with, irrespective of native title. Native title is really a concept and a catalyst for resolving these problems on what we would call fair terms. That opportunity seems to have been totally overlooked in the current political debate.

**Senator HOGG**—Why has it been overlooked? Is it because people are remote?

**Mr Athenasiou**—No. It has been overlooked because I think the policies driving current governments have been that they would prefer to deal with indigenous issues on the old terms; that is, that they would deal with indigenous issues as much as possible through a welfare system. They choose not to deal with those issues through any form of recognition of status or any rights based processes—and I must admit that they are processes which will enhance the ability of indigenous people to provide outcomes for themselves. You can look around the country at the role which has been taken by all the governments in the native title processes; that effectively has been to say, 'Look, this isn't going to work, it's all too hard. We don't like it, it's going to cost too much, so let's get rid of it as much as we can.'

**Senator COONAN**—I get the impression that, with a lot of the sorts of disputes

and arguments going on about native title, one of the most significant problems—and I am not attributing blame anywhere—is the fact that it just seems to take an inordinately long amount of time within people's time frames to achieve things. That may be a totally unfair assessment. But it seems that that may be driving a lot of the need to get resolution quickly.

**Mr Athenasiou**—Sure. We are learning the same lessons that occurred in Canada, which was 20 years of continual disputation until both sides said, 'We've had enough of this. Let's sit down and negotiate. Let's resolve these issues.'

The Native Title Act itself was devised to resolve matters through mediation and agreement; it was big on those two avenues. What was left out of the equation was that all of the processes are effectively dependent upon the governments—state and territory—which have responsibility for the administration of the land. So they saw it as federal legislation that they were effectively going to stymie and not allow to work, because they did not necessarily agree with the outcomes it could produce. They did not want negotiated processes with other stakeholders involved; they looked too difficult.

I must say that the processes—and the government has recognised this—could have been streamlined and kept under far more manageable proportions, if the paranoia about large land councils, which has now dissipated, had not existed in 1993. In 1993 it was decided that, effectively, it would go to an individually based system; they would ignore the concept of group title, which is a fundamental for native title. The last thing they wanted was large land councils involved in the process.

What they have had is in the Northern Territory, I think, eight claims lodged in the last 3½ years in an exceedingly orderly process, I would say. In areas where there was no provision for large representative bodies effectively to be the engine room or the lubricant that was actually going to make these things happen, you have multiple claims, competing claims, overlapping claims. You have all those sorts of problems, which the government now acknowledges can only really be dealt with equitably and effectively through properly resourced representative bodies.

**Senator COONAN**—What is your view of the position with native title claims and waterways and rivers in this area?

**Mr Athenasiou**—It is certainly a very sensitive point from the Northern Territory's point of view. The statement of facts and contentions for the Alice Springs claim included a reference to underground water which sent the Northern Territory government into a spin.

**Senator COONAN**—I am not surprised.

**Mr Athenasiou**—But you have to look at it in the context in which it was made.

The context was that there is a water act, which precedes the act, which is a validated past act, which gives unrestricted access, control, management and maintenance of that water to the government.

The only point that went into the pleadings is, again, a standard thing that is done in litigation; that is, you plead the full extent of a possible claim, and you allow the judge to decide whether the whole thing goes or whether there is a part that will remain. It was just a fairly standard pleading procedure which the Northern Territory government has, I must admit, utilised very well politically, despite our protestations that there is absolutely no impact that the claim can have on the provision of water to the town of Alice Springs.

**CHAIR**—As there are no further questions, we thank you very much for your time. If other issues arise as we talk to other people while we are here, we may need to get back in touch with you.

**Dr Sackett**—We will try to provide you with a map also.

**CHAIR**—Thank you.

**Committee adjourned at 3.15 p.m.**