



Hong Kong Land Title

Dubious Land Title

(Land Access & Property Rights)

In 1979 I purchased a block of land in Hong Kong. I still have the title (*see facing page*), headed “Document of Land Ownership”, and it certifies quite clearly that “Ron Manners, the above named honourable person, is a purchaser of a square centimetre of land in the British Colony of Hong Kong entitled under this document.”

It was purchased from China Square Inch Land Ltd.

Now let me compare that with an application in Western Australia for an Exploration Licence, Prospecting Licence or a Mining Lease.

Neither these applications nor the China Land Title give me useful access or rights.

The essential difference is that when I purchased the square centimetre of Hong Kong land I knew it was a joke, simply a clever tourist gimmick and I never had any expectations of claiming the rights to my so called ‘title’, for which I paid very little.

However, with the Mineral Tenement Application, that was different. I paid good money with the expectation I could proceed to explore and produce.

The scandal which confronts us now is that any of us applying for a mineral tenement would be lucky to live long enough to go through the various procedures that will give us the access, when in the past we could simply “get on with our job”.

I despair at the outcome (or lack of any outcome) of what is mistakenly called Native Title.

Australian Aborigines do not have any title as a result of this and, simultaneously, the system of mining titles that previously gave good title is now severely diminished.

The Act was not well thought through and is poorly drafted. With all due respect to our High Court and Parliamentary scribes, I'm amazed how they can have had so much knowledge, but so little wisdom.

Since the High Court judgements, property rights have not only been reallocated without compensation for people's losses but, worse from an economic perspective, they have been stripped of any useful function —destroyed!

What is called Native Title is inalienable, and therefore cannot be sold or mortgaged.

Native Title is unclear as to ...

- ownership
- geographic extent
- rights that it confers

It is of almost no use to Aborigines and an absolute nightmare to investors who must steer clear of uncertainty.

It has cost our nation around \$60 billion⁽¹⁾ in lost production, lost opportunities and lost employment and gives Aborigines no rights whatsoever other than to hold projects up.

Let's think for a while just what momentum and excitement Australia's mining industry could develop under the rule of law and some form of property rights, where we could quickly drill a few holes on exploration tenements.

No-one wants to talk about the land access problems that plague Australia and have caused so many Australians to seek employment overseas. These are people whom we desperately need to tempt back home.

I raised the question of the badly drafted Native Title Act with our Deputy Prime Minister at a public meeting in October, 2001 and, as someone said later, "I didn't realise that politicians could run so fast!"

ENDNOTES:

1. Native Title "lost opportunity" cost between \$60 - \$90 billion.

A figure of \$30 billion was the estimated opportunity cost of the Native Title legislation in its reduction in the value of mining projects, quoted in a paper delivered to the Securities Institute

Seminar on Native Title in Perth on June 4, 1996 by, Coopers & Lybrand Partner, Wayne Lonergan (now at Lonergan Edwards & Associates).

In delivering the paper Mr Lonergan said, “this is not a comment about the underlying social policy—it is a comment on a tragic and unnecessary waste of money.”

Only a fraction of this lost value will flow to successful Native Title Claimants. Most of the lost value simply disappears because of the statutory time delays and the increase in risk created by the Native Title Act.

I have extrapolated his 1996 figure of \$30 billion through to 2004 as “between \$60 - \$90 billion” for the following reasons:

Although my extensive files (see photo below) trace the development of Native Title since July 1977, the effects of the Native Title Act were only starting to make themselves felt in 1996 and opportunity costs have compounded since then.

No other detailed study of this nature has been conducted since 1996, to my knowledge, simply because it would not be regarded as politically correct to identify such lost opportunity costs to our nation. (Perhaps we need a study to identify the opportunity costs of “political correctness”.)



Files on the Native Title Fiasco