

Native Title Background Document

AMEC The Miner's Pick

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Time for a Reality Check

The mining industry has spent seven years trying to make commercial sense of native title.

In 1992, at the time of the High Court decision in the Mabo No. 2 case, the left-wing of the Federal Labor Party hailed the decision as the ultimate expression of political and social justice for indigenous Australians.

The euphoria was short-lived, as the business world grappled with the flawed Act, which did not even adequately define what it was purporting to deal with and manage. The concept did not fit into Australia's commercial system or the community's way of dealing with land issues.

The method of defining and dealing with native title proved to be cumbersome. The whole system broke down very early in the piece. The mining industry was faced with problems both in terms of land access, time frames and compliance costs. The timelines proved impossible for some projects and some companies decided that it was simpler to move out of Australia than to put up with a commercially unworkable process.

The claims and counter claims between ideologically opposite groups, including political parties continued, until the current Federal Coalition sought to break the deadlock and to provide a catalyst in the form of the Wik Amendments and the 10 point plan.

A brave new world beckoned and after Senator Harradine's change of heart the legislation was put in place. Everyone breathed a sigh of relief and hoped to get on with their legitimate business.

Politics, which have doomed native title from the outset again raised its ugly head, with the Federal Labor Party unable to accept the umpire's decisions. They grasped any straw to prove that they weren't really beaten.

They managed to find a way of continuing to "spoil" irrespective of the industry's interest's. They began to use, in the Parliament, the power provided in the Native Title Act under the Wik Amendments, to review State legislation.

This devolution process allows the States and Territories to manage native title and the other regulatory systems under State legislation in a simultaneous way, free of the Commonwealth system.

The catch - State legislation has to comply with the Federal legislation and the Attorney-General has to sign off in that regard prior to submitting State legislation to the Federal Parliament. A fail-safe mechanism you might say. Not so. The Federal Labor Party could not care less what the Attorney-General finds, they just see the political power available to them in the Senate as a means of frustrating the process.

The outcome so far - failed Northern Territory legislation, thrown out because of political reasons, the Queensland legislation was of course approved but it was gutted and has merely provided an unworkable State system - real progress!! The Western Australian legislation which the Attorney-General has approved as complying with the Federal Act will meanwhile go to the Parliament. The Labor Party has prejudged that legislation and have promised to throw it out at some future time.

Even blind Freddy can see the problem thread running through native title. It is not about equity for indigenous Australians. It is not about a fair go. It is not about reconciliation. It is about political advantage. It is very clear that the Federal Labor Party has convinced itself there is an electoral advantage in spoiling. Irrespective of the rights and wrongs they will use whatever political tools available to them to stop progress on the integration of native title with commerce and the community. After all why would they give up such a marvelous political football.

It is about time that the industry let Mr Beazley and his Federal cohorts know that their actions are unacceptable, that they should face reality and that their actions are not in the national interest. Ideology goes just so far, after that it becomes nothing more than a sad travesty of what might have been.