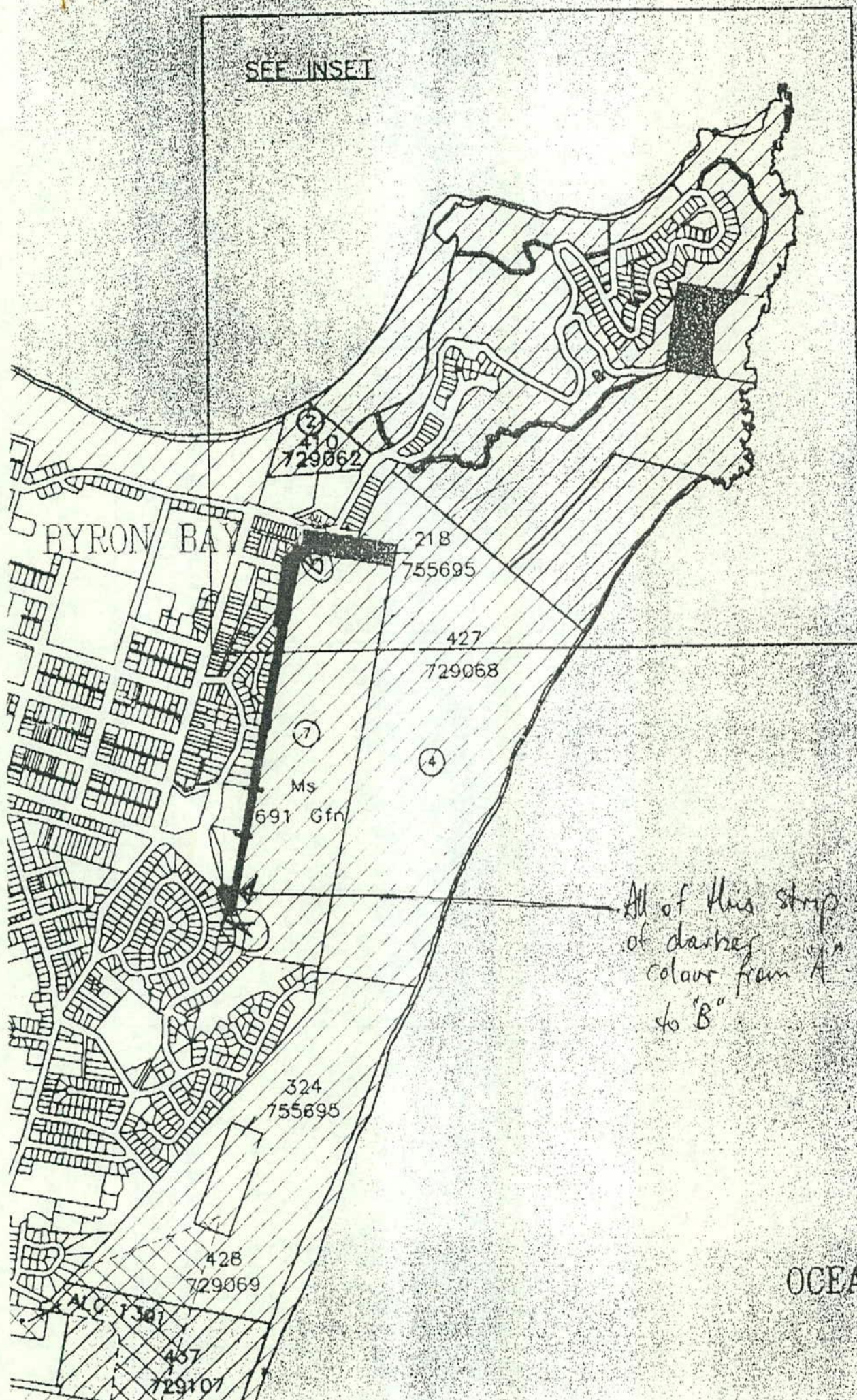


SOUTH

SEE INSET

Cape
Byron

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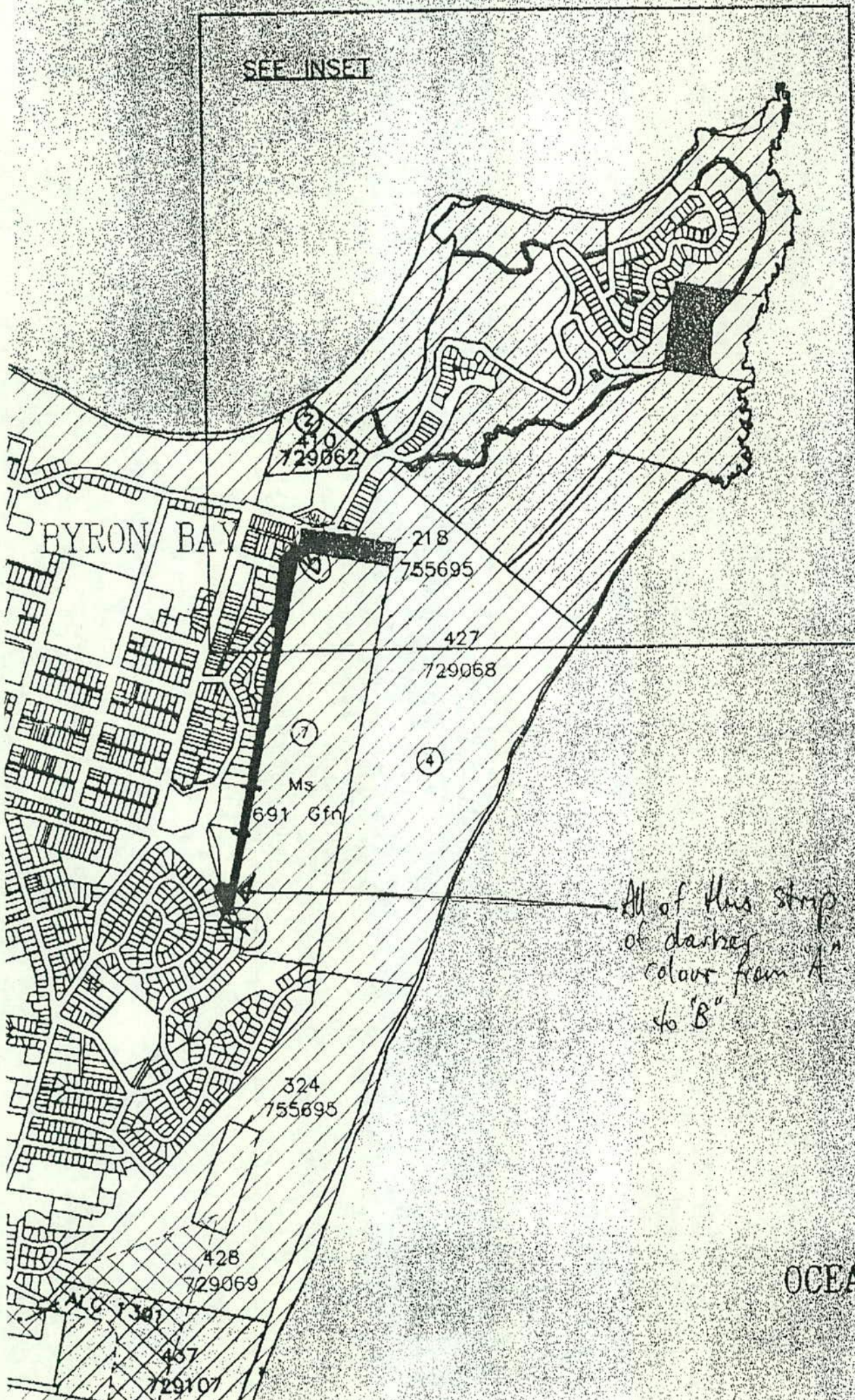
NTT - NC96/23 - Arakwal People #2
Attachment "A" is a map of the application area showing the application in red
attached 26/7/96
Page 1 of 1

SOUTH

Cape
Byron

SEE INSET

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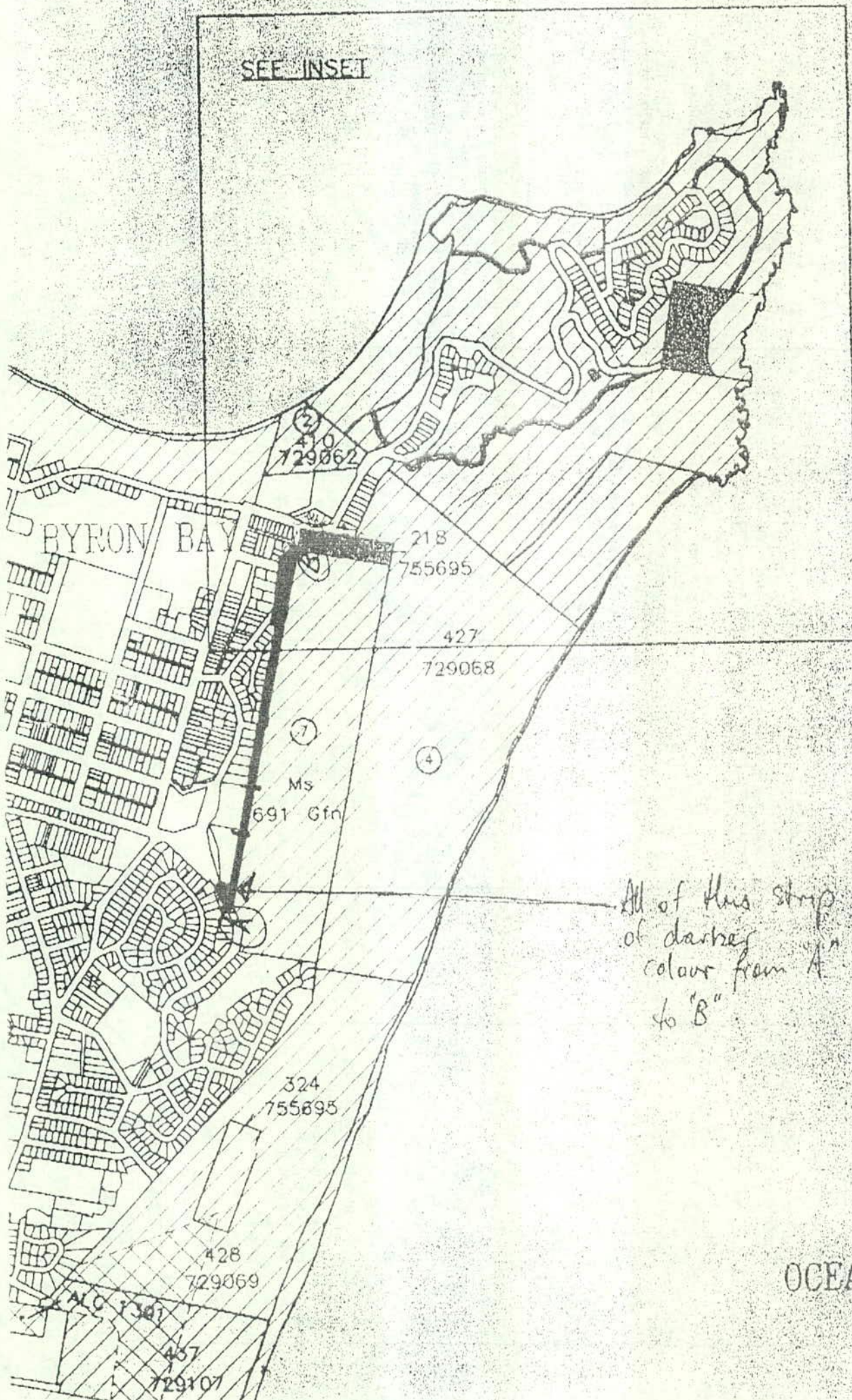
NNTT - NC96/23 - Arakwal People #2
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attached 26/7/96
Page 1 of 1

SOUTH

Cape
Byron

SEE INSET

PACIF



NNTF - NC96/23 - Arakwal People #2
Attachment "A" is a map of the application area showing the application in red
attached 26/7/96
Page 1 of 1

SOUTH

Cape
Byron

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PACIF

BYRON BAY

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NYTT - NC96/23 - Arakwal People #2

Attachment "A" is a map of the application area showing the application in red
attached 26/7/96

Page 1 of 1

Register of Native Title Claims

Registration Number: C00368

Body Application Lodged With: National Native Title Tribunal Ref.No.: NC96/23

Date Lodged: 1 July 1996

Date Accepted: 23 July 1996

Date Registered: 1 July 1996

Status: Notification Period Ends 27 October 1996

Registered Native Title Claimant: Lorna Kelly, Linda Vidler and Yvonne Graham

Address for Service: C/- Mr Adam McLean
NSW Aboriginal Legal Service
PO Box 695
STRAWBERRY HILLS NSW 2012
Tel.No.: 02 6999277/015788424 Fax.No.: 02 699 3454

Description of Persons Claimed to Hold Native Title:
The Arakwal People

Area Covered

State/s: New South Wales

ATSIC Region/s or TSRA: North-Eastern Indigenous Regional Council

Local Government Area/s: Byron Shire Council

Location: A Crown road reserve within the township of Byron Bay situated on the NSW Far North Coast.

Description: Part of DP 42428 - Parish: Byron, County: Rous being all of the road reserve on the western boundary of the crown land identified as MS691 GFN, including but not limited to Crown public road east of Lot 173 DP 755695 and being the road adjoining a property owned by Detala Pty Ltd at Byron Bay. Described as papers GF96 H 206. Shown in red on attachment "A"

Size:

Land and/or Waters: Land

Native Title Rights and Interest Claimed:

Details of the Native Title rights and interests possessed under traditional laws and customs observed by the applicant and other person with whom the applicant claims to hold Native Title, including information about any connection that exists or did exist between:

- (a) the applicant and the persons with whom the applicant claims to hold title, or the ancestors of the applicant and such persons; and
- (b) the area covered by the application

The Native Title rights and interests possessed under traditional laws and customs include, but are not limited to, the following:

1. the right to live on the land and travel over the land,
2. the right to hunt and fish on or from the land and waters, and to collect food from the land and waters,
3. the right to take items from the land, and waters such as timber, stones,

resin, and shells and to make such things as shelter, tools and hunting implements,

4. the right to conduct ceremonies on the land and waters,

5. the right to prevent other people from entering the land, and waters, and from removing any item these areas,

6. the above rights are subject to any rights or interests created by the State of New South Wales and/or the Commonwealth of Australia not inconsistent with the Native Title Act (1993) or the Racial Discrimination Act (1975).

The applicants are Arakwal elders of the area and were born in the area as were their ancestors since time immemorial. the applicants are traditionally connected to the area

The applicant claims Native title with the Arakwal people of Byron Bay.

Draft Determination Sought:

"Lorna Kelly, Linda Vidler and Yvonne Graham Hold on behalf of the Arakwal people of Byron Bay native title to the lands described in the application.

Attachments:

Attachment "A" is a map of the application area showing the application in red attached 26/7/96

Attachment "B" is a locality map

(If not attached these are available at NNTT Registries in each Capital City or by phoning 1800 640 501)

End of Entry for NC96/23

State puts freeze on lease land

By JEFF SOMMERFELD

LAND management over three-quarters of Queensland was thrown into chaos yesterday after the State Government outlined the toughest response yet to the High Court's Wik decision.

Natural Resources Minister Howard Hobbs said the State Government had stopped issuing permits and licences on leasehold land on advice from Crown Law and called on the Federal Government to resolve the "native title paralysis".

Mr Hobbs said leaseholders should not proceed with new dams, stockyards, fencing, residences, land clearing or similar improvements without the consent of traditional owners.

Leases covered 73 percent of the state, he said.

"This affects everyone from the Southport Spit on the Gold Coast through to Cape York," Mr Hobbs said.

"It is now in the federal political arena to resolve.

"All I am doing is stating the position from my department and to advise Queenslanders of the position.

"We cannot have Queensland in a state of paralysis for a long time — we can't have the uncertainty."

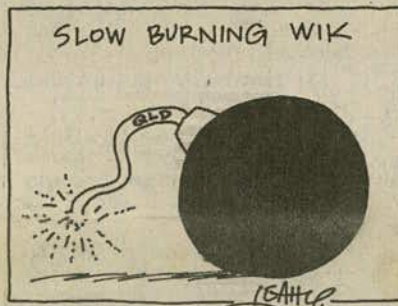
The High Court last month ruled four to three that pastoral leases do not automatically extinguish native title, a judgement that has thrown many pastoralists and mining companies into confusion.

Queensland's largest law firm, Clayton Utz, said last night that although cases should be examined individually, right-to-negotiate procedures of the Native Title Act would need to be followed "as a matter of risk management".

Mr Hobbs said quarry permits and water licences were not being issues.

The development of public infrastructure and all water conservation was in question, he said.

Acting Prime Minister and National Party leader Tim Fischer yesterday said the Federal Government was considering alternatives to legislation to override native title on pastoral leases.



Mr Fischer refused to specify what options were being considered.

Mr Hobbs said the Queensland Government would look at whatever solution the Federal Government proposed, but he favoured legislation.

Cape York Land Council co-ordinator David Byrne said Mr Hobbs should take advice from Crown Law with a grain of salt and sit down and talk to Aboriginal people.

"Though they don't want to sit down and talk with Aboriginal people who the courts have discovered have legal rights," Mr Byrne said.

"It appears that Aboriginal people have some rights and this appears to be very inconvenient, so some people are saying, 'let's just abolish these rights'."

"You can always solve problems by abolishing rights."

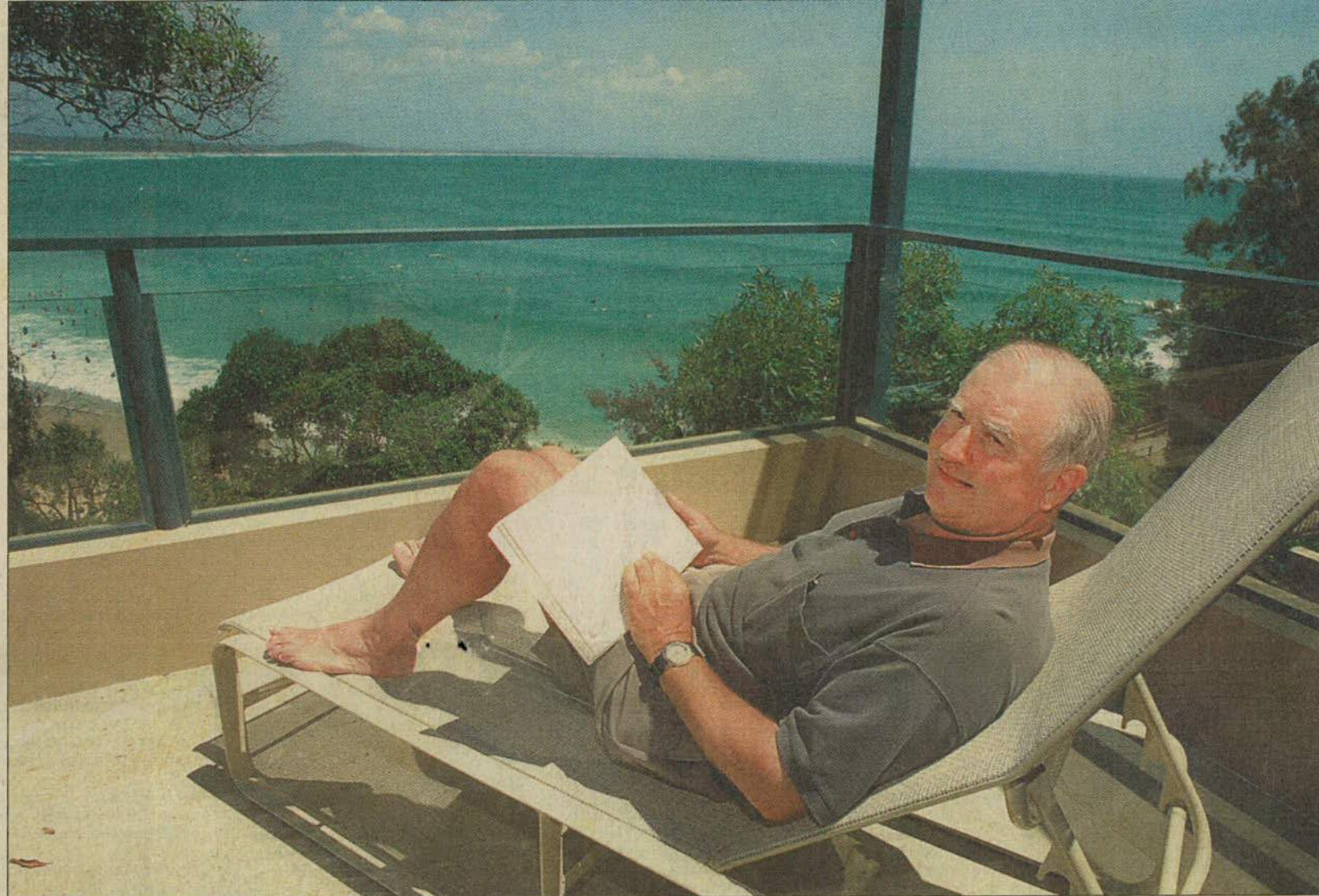
Mr Byrne said he wanted to remind Mr Hobbs that previous advice from Crown Law and "so-called" departmental experts had been wrong in both the Mabo and Wik cases.

"The approach of Aboriginal people is we do not want to see pastoral lease holders rights disappear," he said.

"We are prepared to sit down in a way which takes into account each other's interests."

Cattlemens Union of Australia president John Purcell yesterday reiterated his organisation's call for cool heads and a commonsense approach and said Mr Hobbs seemed to have over-reacted.

Continued Page 2
Editorial, Page 16



A VIEW to the future . . . BHP chief John Prescott relaxing on his Noosa balcony yesterday.

Picture: GRAEME PARKES

Barefoot boss stays in step with business

By GLENIS GREEN

A BAREFOOT John Prescott did not look like Australia's top businessman as he relaxed on the balcony of his ritzy Noosa holiday unit yesterday.

But the BHP chief executive was more than willing to share his views on the direction his company and the nation should take in 1997.

Mr Prescott invited The Courier-Mail into his \$1.65 million beach-side unit to discuss the performance of the Howard Government and the big issues confronting Australians in the New Year.

While he escapes to the unit overlooking the Noosa beach several times a year, Mr Prescott said he could never put work completely on one side and any breaks usually combined business with pleasure.

But he has managed to unwind with a good book, Peter Robb's *Midnight in Sicily*, and plans a few rounds of golf with his wife, Jennifer, and friends.

The Prescotts bought their multi-level holiday unit 18 months ago. For a short time they had controversial computer betting kingpin Roger Matson as their neighbour. Matson paid a Noosa record price of \$2.8 million for a similarly plush pad next door to the Prescotts but it was sold again late last year.

As early converts to the Noosa lifestyle, the Prescotts rub shoulders with a host of other national and international high-flyers — tennis ace Thomas Muster, former premier Wayne Goss, transport guru Bob Ansett, playwright David Williamson, actor Roger Moore to name a few.

On the big issues, Mr Prescott said the Federal Government needed to move faster in tackling the economy's major problems.

He said the Government had tackled the Budget deficit with "some gusto" and seemed to be fronting up to industrial relations issues.

But it needed to move more

quickly although "we've had more progress in the last 12 months than we've had in a little while".

The balance of payments would be the biggest issue this year, determining the economy's growth rate, employment prospects and Australia's overall position on the world scene, Mr Prescott said.

"We won't have to put the brakes on growth like we have in the past. We can sustain higher growth and improve production. But I'm not optimistic it will happen quickly," he said.

"It's clearly in the Government's focus but it will require additional planning and a more co-ordinated effort. They have been concentrating on other things, but they need to concentrate on the balance of payments."

Mr Prescott said while Australia was still in difficult times — last year had not been a good one for BHP with a 20 percent slump in operating profit — there were good indicators for improvement.

Poor performances from the steel and petroleum division led to BHP's profit hitting a four-year low of \$1.05 billion.

Mr Prescott said his goal for the New Year was to achieve a better return on company capital, with the emphasis on short-term performance and long-term growth.

"I don't think this will happen without working for it more effectively than in 1996 — getting better at what we're doing and thinking things through," he said.

Greater emphasis would be placed on the quality of BHP's people through a management training college.

BHP had many new investments in the development stage for the year including a platinum mine and refinery in Zimbabwe, steel works in the United States, Malaysia and Thailand, a diamond project in Canada, continuing involvement in copper, as well as iron projects in Queensland and Western Australia.

speaking after Mr Arafat had met US envoy Dennis Ross in Gaza city on Monday night for talks that Mr Kanafani described as "extremely tense".

Mr Arafat has said there would be no Hebron deal unless Israel commits to a speedy withdrawal from rural areas of the West Bank.

The latest setback means Israeli withdrawal from 80 percent of Hebron will be delayed again despite heavy pressure from Washington.

After the five-hour meeting, Mr Ross said only that "we have not been able to resolve the differences yet".

Earlier, Mr Netanyahu told Mr Ross in a post-midnight meeting that the last of three planned West Bank troop pull-backs should be linked to the conclusion of negotiations on so-called "final status" issues, an Israeli official said. Those talks are to conclude in 1999.

Mr Arafat has insisted on sticking to the timetable laid down in the Israel-PLO accords for a full withdrawal from rural areas of the West Bank by September 1997.

The Palestinian leader also demanded a US guarantee that Israel would fulfill it, Palestinian negotiator Nabil Shaath was quoted as saying.

Mr Ross, according to the Israeli daily Haaretz, was trying to work out a compromise date backed by strong US guarantees that the timetable would be met.

US officials said he was making a daily assessment about whether to continue his efforts.

Mr Netanyahu said yesterday that the sides are "in fact in the final steps of negotiations, but I won't tell you when we will conclude an agreement."

The showdown over timing reflects manoeuvring by both sides in advance of negotiations on final status issues such as the future of Jerusalem, Jewish settlements, Palestinian refugees and borders. Those talks began last May and are expected to resume soon after the Hebron redeployment.

Palestinians want to have most of the West Bank under their autonomy government before the final status talks resume, believing this will assure the creation of a Palestinian state in those areas.

Israel's government, however, wants to keep a large part of the West Bank under its control to have a strong bargaining chip in the negotiations on a final agreement. An Israeli official said it was "out of the question" that Israel would agree to meet the original deadline of September 1997 for completing withdrawal.

Encroachment onto Crown Land, 7(a) Coastal Habitat - Recreational Ground, Byron Bay known as the "Sandhills Estate."

SUGGESTED ITEM FOR CONSIDERATION
IN ADDRESSING THE ENCROACHMENT

1. Formally acknowledge the encroachment.
2. Erect a fence on the northern boundary of the property as per survey plan.
3. Council to remove all fill and undertake a wetland regeneration programme including a monitoring and maintenance programme for a stipulated period of years or while there is evidence of weed infestation.
4. Propose a boundary adjustment in respect to some or all of the encroachment.

Such land adjustment could reasonably be on the basis of say 3:1 in favour of the Native Title Land Claimants as defacto compensation.

5. Offer an apology to the Native Title Land Claimants together with an invitation to work together to arrive at a restoration agreement.

Encroachment onto Crown Land, 7(a) Coastal Habitat - Recreational Ground, Byron Bay known as the "Sandhills Estate."

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Such land adjustment could reasonably be on the basis of say 3:1 in favour of the Native Title Land Claimants as de facto compensation.

5. Offer an apology to the Native Title Land Claimants and together with an invitation to work together to arrive at a restoration agreement.

W/Adam to reject
this as per the order

DOCUMENT FROM PETER HAMILTON

150 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Adam McLean

FAX No:

DATE: 22-10-96

Number of pages (including this sheet): 2

SUBJECT: Discharge of polluted stormwater onto Main Beach

COMMENTS: and the Cibus Margil Wetland, Byron Bay.

Following our discussion on 20th last in regard to the above this is to confirm:-

1. That you will write to Council advising that your clients seek that no polluted stormwater be discharged onto Main Beach.

(Please see your file re Northern Star article re results of water sample test of this stormwater. I forwarded this to April at her request.)

I suggest a copy of your letter be sent to:-

- (a) relevant Byron Councillors
- (b) Minister Yeaton (DHAWC)
- (c) Minister Allen (Environment)

The present polluted discharge onto Main Beach and into the Cibum Mangil Swamp is a breach of the "Clean Waters Act". This Act is administered by the EPA which is under Minister Alles' portfolio.

Should you seek confirmation or further details of this I have found Steve Small (726 134) in the EPA office at Monwellumbah to be very helpful and informative in this regard.

He frequently appears for the EPA in Court actions involving breaches of the Clean Waters Act.

2. Steve views as I do, that the present discharge into the Cibum Mangil Wetland is a breach of the Clean Waters Act and is what is defined in the legislation as being a "continuing offence". As such if proven can attract a penalty of one million dollars!

Further to our conversation would you please seek instructions from your clients as to commencing an action(s) under the Clean Water Act in respect to the Cibum Mangil Swamp and/or Main Beach sites?

Regards

Peter

The Byron Shire Council is seeking to have land at the Belongil, Byron Bay "excised" from a Native Title claim to allow much-needed sports fields to be built.

The claim, which is being considered by the Native Title Tribunal, has been made over a large tract of Byron Bay coastal land, including the site of the planned fields.

Bid to 'excise' land from Native Title claim

Byron mayor, Cr Ian Kingston, last week said the council was hopeful that the claimants would agree to the request.

The council has come under heavy criticism from Byron Bay sporting groups and the Byron Bay

Chamber of Commerce for not providing additional sporting fields for the town.

While agreeing that the issue was a long running one, Cr Kingston said the council could not be blamed for the hold up.

He said the council could not get approval to build sporting fields at the Byron Bay High School and plans for the Belongil Fields have been held up by environmental concerns and now the site had been caught up in a Native Title claim.

Cr Kingston said the council had \$350,000 set aside for sporting fields.

Byron News 23.10.96

Confidential

- 2 -

Thay Page
Re. CIBUM MARGIL
Compulsory Acquisition

You state that, with the concurrence of the Aragual people, the necessary arrangements can be put in place within a few months. I am not aware of the views of the Aragual people and would have difficulty in finding a convincing argument, from the Government's point of view, that such an acquisition should attract the expedited procedure. Whilst the soil erosion may be serious, it would be difficult to establish that it is deteriorating so quickly that rehabilitation is essential now rather than at another future time.

In these circumstances, it is my view that the acquisition process would not be completed in the time expected by you.

In any event, the Minister, under the provisions of the Crown Lands Act, can only acquire land for public purposes. Although the Minister has a broad discretion in this area, it is considered that the discretion should not extend to the Minister declaring a purely private purpose to be a public purpose.

There is precedent where the provisions of Section 24 of the Soil Conservation Act 1938 have been used (usually with the landholders consent) to acquire land for soil conservation purposes. In this regard I have sought advice from the Deputy Commissioner of Soil Conservation who advises that:-

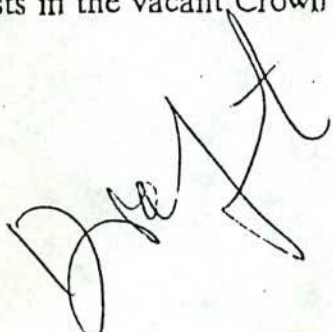
"In the interests of the Department and the public at large, in terms of land management, remedial works are warranted to prevent further gully erosion and reduce transport of sediment into Cibus Margil Swamp."

However, he further advises that "in terms of gully erosion on a statewide basis, this particular gully would probably rate as a relatively minor gully erosion. As such compulsory acquisition of the land in accordance with Section 24 of the Soil Conservation Act 1938 is not warranted."

Also, when the Native Title (NSW) Bill was introduced into Parliament, it contained a provision to permit the Minister to compulsorily acquire native title rights and interests in Crown land for the purpose of dealing with the land by way of sale, lease, licence, easement etc.). This part of the Bill was strongly opposed and Parliament removed the provision before it passed the legislation. I do not wish to recommend that the Minister seek to circumvent the intention of Parliament in this matter.

In the above circumstances I do not support your proposal for acquisition of native title rights and interests in the vacant Crown land.

Yours sincerely



Susan Cleary
Deputy Director
State Lands Services

0276993454

Confidential

- 2 -

CASE HISTORY 1

It is reported that the Land and Environment Court has recently upheld its previous decision to give Detala Pty Limited development consent for a community subdivision on the land shown by blue edge on diagram "A".

The developers would like to discharge stormwater onto the adjoining Crown land which consists of an unformed Crown road (native title has been extinguished) and vacant Crown land containing Cibus Margil Swamp. The swamp is an environmentally sensitive area which is partly affected by severe gully erosion.

As part of their proposal, the developers are prepared to rehabilitate the eroded gully, construct a wetland filter to deal with stormwater and lay sewer pipes.

It appears that the sewer pipes may be able to be contained within the boundaries of the unformed Crown road which is not included in the native title claim. Native Title has been extinguished over the land in the road so it would appear that the sewer pipe proposal can proceed.

The proposal within the vacant Crown land is explained in more detail in the attached draft reply to the lawyers acting for the applicant.

In brief, acquisition under the Soil Conservation Act is not supported (see memo herein from the Regional Director to Deputy Commissioner of Soil Conservation). Acquisition under the Crown Lands Act should not be supported as it is not a "public" purpose and such acquisitions are against the intention of Parliament.

CASE HISTORY 2

The proposal is for the extension of the "Feros Village" nursing home onto adjoining Crown land shown by red edge, diagram "B".

A private treaty sale has been suggested but such could not proceed without compulsory acquisition of the native title rights and interests.

There is some considerable doubt if the acquisition would be regarded by Parliament and the Courts as being for a public purpose. In any event, it is considered that such an acquisition be to "confer rights or interests in relation to the land or waters concerned on persons other than the Government Party" (Section 26 CNTA) so the negotiation process would apply. Treasury approval would be required before instigating the acquisition and it may be anticipated that the negotiation process would take many months.

It is understood that "Feros Village" has a time limit in which to commence construction because of its funding arrangements.

An alternate method of proceeding would be for Byron Council to acquire the land. It is reported that Council is prepared to proceed with compulsory acquisition and it is suggested that the Department concur in such action.

Confidential

- 3 -

It is SUBMITTED that:

- a) Smits Newton & Partners, lawyers be informed in terms of draft letter herein.
- b) A copy of this submission be forwarded to the Regional Manager State Lands Services, Northern.

Contact Officer:
Phone:


Michael Johnson
228 6192

Manager
Administration Branch

Susan Cleary
Deputy Director
State Lands Services

Massive native title claims spark fears

NS. 22-8-96

Richmond River Shire Council is worried that a Native Title Claim covering about one-third of the council area could stall development in the shire.

Significant portions of neighbouring Kyogle Council also are effected by two separate Native Title claims, the effects of which are currently being investigated.

However, the National Native Title Tribunal has moved to reassure the councils, saying the claims would not affect planned developments or existing legal rights on land subject to a

Native Title application.

Two of the claims have been lodged by the Bundjalung people, while the Gidjhabul Nation has lodged the third.

The claim affecting Richmond River Shire Council (RRSC) covers developed and undeveloped Crown land and Crown land reserves stretching from north of Broadwater, south almost to Iluka, west to Bora Ridge, and 5km out to sea.

It includes national parks, State forests, the Evans Head Reserve, including the Silver Sands Caravan Park, the site of the proposed K-12

school, and the whole of the Evans River.

The first of the two claims affecting Kyogle Council covers Crown land, Crown land reserves and travelling stock reserves in the Mallanganee and Tabulam areas including the Sugarloaf and Richmond Range State Forests and the Timbarra and Clarence rivers.

The other claim is part of a wider claim that stretches from northern NSW into southern Queensland.

RRSC mayor Col Sullivan fears the spectre of a Native Title Claim over

so much of the council area could delay proposed developments and turn away would-be developers.

He also is concerned that it could delay or halt council's own development plans for areas such as the Evans Head reserve.

Both councils are concerned at the high costs borne by local government in investigating and being represented in the claims process.

A spokesperson for the Tribunal in Sydney said yesterday mechanisms existed within the legislation to allow Government and local governments

to develop land subject to Native Title claim.

"And lodging a claim can have no affect on existing legal rights to the subject land," she said.

"The Tribunal is about mediation and discussion. All parties affected by a claim are brought together for mediation and discussion to bring about an agreement that is suitable to all concerned, including the Native Title aspirants. No agreements are imposed on anyone."

● Native title claim for Ballina Crown land, Page 4.

NS 22-8-96 Hill

Kooris, golf club after Crown land

By PETER ELLEM

The Jali Local Aboriginal Land Council and the Ballina Golf Club are keenly interested in community consultations over 57 hectares of Crown land at East Ballina.

The Jali several years ago lodged a Native Title claim over 'the fatal ridges' towards Black Head, where in the early 1850s Native Mounted Police from Queensland massacred at least 40 local Aborigines.

In *Rivers Of Blood*, then *Northern Star* journalist Rory Medcalf revealed that Bundjalung oral tradition and Ballina pioneer James Ainsworth's account pinpointed the massacre in an overgrown area bounded by the golf course, the old Southern Cross School, Ballina-Lennox Head Coast Road and housing estates.

Ballina Golf Club wants to resurrect its original nine-hole golf course on sandhills now treed with mature radiata pines and some paperbarks.

The NSW Department of Land

and Water Conservation has employed a team of consultants to assess future management options for the land over the next six months.

Byron Bay-based project consultants Brian J Mackney & Associates are inviting nominations for two workshops in Ballina on September 7-8. Each workshop is limited to 15 group representatives or individuals.

However, some Hill Street area residents fear the workshops are window-dressing as consultants push ahead with a hidden agenda for a large subdivision, including low-cost housing.

Golf club secretary manager Lindsay Lewis said the club needed a total of 27 holes because its 18-hole course was swamped by 1600 members and social visitors who played 66,000 rounds of golf last year.

"We own seven hectares of land abutting the Crown land but it was designated as wetland and we cannot do anything with it or be compensated," he said.

"After 35 years of play on the former course, the club relinquished a Crown lease in the mid-1980s because it became too costly to maintain and an extension of the lease was refused.

"Since 1988, we've been trying unsuccessfully to renegotiate a lease, with the department telling us the land is for low cost housing-education purposes. We're more than willing to consult with the Jalis about protection of Aboriginal sites as we did with a midden on our 18-hole course."

Jali Local Aboriginal Land Council chairperson David Ka-pen confirmed a Native Title claim was still pending on the land.

"Jali people camped and lived all over Ballina and East Ballina, and we reckon there may be some significant sites on either side of the Coast Road," he said.

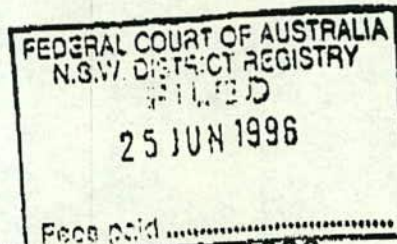
"We're not trying to stop development for the sake of it. All we ask is that we be fully consulted before developers rush into our traditional lands."

Tim R.

28/5/96

LAWC legal advice is
that Crown Rd Reserve
extinguishes claim rights.

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY
GENERAL DIVISION



No. NG 8000 of 1996

BETWEEN:

Byron Environment Centre
Incorporated
Applicant

AND:

The Arakwal People
First Respondent

Byron Shire Council
Second Respondent

Cape Byron Headland Reserve
Trust
Third Respondent

Detala Pty Ltd
Fourth Respondent

Feros Village Board of
Management
Fifth Respondent

A S Malin (A Male)
Sixth Respondent

New South Wales Aboriginal
Land Council
Seventh Respondent

New South Wales Minister for
Land and Water Conservation
Eighth Respondent

The Australian Orthodox Home
for the Aged Association Inc.
Ninth Respondent

Andrew Chalk Associates
Solicitors
Level 9, Currency House
23 Hunter Street
Sydney 2000

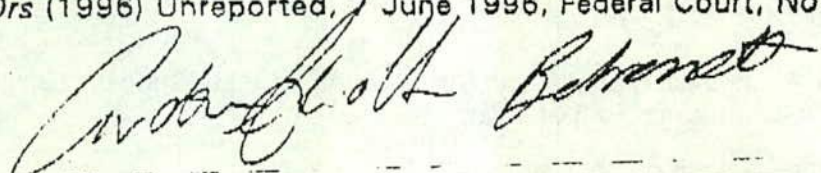
DX 455 Sydney
Tel: 231 4544
Fax: 231 4244
Ref: AJC:135

A handwritten signature in black ink, appearing to read "Andrew Chalk". Below the signature, the name "Behrendt" is written in a cursive script.

AFFIDAVIT

On Tuesday, 25 June 1996, I, Andrew John Chalk of Level 9, 23 Hunter Street, Sydney, Solicitor, say on oath:

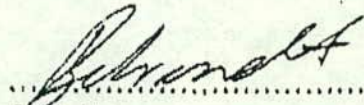
1. I am the solicitor for the New South Wales Aboriginal Land Council ('NSWALC') which is the Seventh Respondent in this matter.
2. NSWALC is a body corporate constituted under s.22 of the *Aboriginal Land Rights Act 1983* (NSW). NSWALC is the representative body for New South Wales under section 202 of the *Native Title Act 1993* (Cth).
3. This matter is an appeal from a decision by a Deputy President of the National Native Title Tribunal refusing Byron Environment Centre status as a party to a mediation under the *Native Title Act 1993* (Cth).
4. NSWALC opposes the appeal.
5. The current proceedings directly raise the issue of who is entitled to be a party to a mediation conducted under the *Native Title Act 1993* (Cth).
6. The question raised in this matter is of significant public importance both in New South Wales and nationally.
7. Annexed to this affidavit and marked "A" is a copy of the National Native Title Tribunal, Timeline, as at 19 June 1996. This document details the applications lodged with the National Native Title Tribunal.
8. As at 19 June 1996, there were approximately 296 applications for a determination that native title exists lodged with the National Native Title Tribunal. Of these, 197 had been accepted and 99 were awaiting acceptance. Only 6 claims have been rejected. Approximately 38 claims have been lodged in New South Wales.
9. The issue of standing in native title claims has been the subject of a determination of the Federal Court constituted by Justice Olney. Annexed to this affidavit and marked "B" is a copy of the decision of Justice Olney in *Members of the Yorta Yorta Aboriginal Community and Ors v The State of Victoria and Ors* (1995), Unreported, 13 October 1995, Federal Court, No: VG 6001/95, Olney J.
10. Justice Olney has applied his decision in a subsequent decision. Annexed to this affidavit and marked "C" is a copy of the decision of Justice Olney in *Members of the Yorta Yorta Aboriginal Community & Ors v The State of Victoria & Ors* (1996) Unreported, 7 June 1996, Federal Court, No: VG

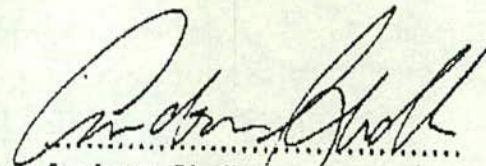


6001/95, Judgment No 453/96, Olney J.

11. The approach to standing in native title claims adopted by Justice Olney in his decisions is not consistent with the approach adopted in the native title claim the subject of these proceedings by the Deputy President of the National Native Title Tribunal. Under section 110 of the *Native Title Act* 1993 (Cth), a presidential member of the Tribunal is required to be a Federal Court Judge or a former judge in order to hold office.
12. The correctness of Justice Olney's reasoning in the Yorta Yorta cases will be directly in issue in the current proceedings.

SWORN at Sydney
before me:


.....
Solicitor

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)
)
)

.....
Andrew Chalk

Our Ref: W:A:B:95746

May 30, 1996

The Secretary
Byron Environment Centre Incorporated
Byron Street
BYRON BAY 2481

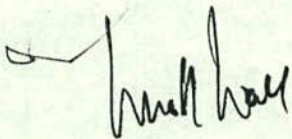
ATTENTION: JILL KEOGH

Dear Madam

RE: APPEAL IN FEDERAL COURT

I enclose herewith copy of letter from Andrew Chalk and Associates.
Would you please telephone me to discuss this matter.

Yours faithfully



Wroth Wall

Enc:

FAX 02-223 2177

24/8/95 Meeting at Jells - Sister, Adam McLean, Terry Page
self.

○ Ron Pearson requested by Adam for Progress Report.
Heritage reg' rect's for last work & Adam has requested
there. Jalanda has not & presumably work not
commenced, work, until this is to hand.

○ NB The Sandhills is the drainage (wetland) for
Pat St etc. & any erosion of this area may
affect the whole system to cope!

Jali have ^{state} land claim over same land in Tallow &
area around Ironbark Cms.

Kibb White (an early occupier of land in Ironbark Cms)
claims he has a lease over this land - bought for
battle of rum!!

Re the land claim, considered most likely contentious
issue is ^(a) "Does the link with the land
prevail & has it been unbroken?"

(a) "Has the right to claim been extinguished?"



Important Notice for Aboriginal and Torres Strait Islander Services Organisations

APPLICATIONS FOR FUNDING 1996-97 (Close 1 December 1995)

NORTH EASTERN INDIGENOUS REGIONAL COUNCIL PROGRAM

The North Eastern Indigenous Regional Council will consider applications aiming to improve the economic, social and cultural status of Aboriginal and Torres Strait Islander people living in the North Eastern region. Intending applicants should contact the Lismore Regional Office which will provide greater detail about the nature and extent of funding available.

ATSIC provides grant funding to Aboriginal and/or Torres Strait Islander corporations, or other bodies and State and Local Government agencies which provide services to Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander individuals may also submit applications, but special conditions apply. These can be obtained from Regional and State Offices.

The North Eastern Indigenous Regional Council advises that applications for funding for the 1996-97 financial year close on 1 December 1995. It should be noted that:

- Applications that have previously been submitted for 1995-96 will not be considered. New applications will be necessary for 1996-97.
- All applications will be acknowledged by ATSIC Lismore Regional Office.
- All applications must be fully justified.
- Grant levels are dependent upon available funds which are **strictly limited for new initiatives**.
- Grants will be allocated or endorsed in accordance with the broad direction of the regional plan.
- The assessment process including consideration by North Eastern Indigenous Regional Council will take up to 4 months from the closing date. Formal advice of the outcome of each application however, must await the end of the Federal Budget process in July 1996.
- Details of grants made, including the name of the organisation, purposes of the grant and the amount approved are required to be published in the Annual Report for the North Eastern Indigenous Regional Council.
- Please note, there are some exclusions which are listed.

Applications will be considered under the following categories:

- Regional Council Programs
- Multi-regional and State Grants
- National Programs comprising:

1. National Aboriginal Health Strategy
Community Housing and infrastructure
2. Language Maintenance

3. Broadcasting Remote Aboriginal
Communities Scheme (BRACS) Revitalisation
4. Arts and Culture

EXCLUSIONS

Applications are NOT sought in this process for the following activities

ECONOMIC

Applications for new or expansion of ongoing (existing) CDEP projects are not required by the due date of 1 December 1995. Nor are applications for the Business Funding Scheme, Community Economic Initiative Scheme and Land Management Programs **which are all accepted throughout the year**. Organisations or individuals proposing to lodge applications under these programs should contact the Lismore Regional Office. **Funds for these programs are also strictly limited.**

NATIVE TITLE

Funding for native title purposes will be channelled through representative bodies determined under the *Native Title Act 1993*. Representative Bodies will be advised separately of funding arrangements for 1996-97 and need not submit applications in response to this advertisement. Claimants seeking native title assistance should approach the relevant Representative Body for their area. A list of Representative Bodies is available from ATSIC Offices.

HEALTH

Enquiries regarding funding of health and substance abuse projects should be directed to the Commonwealth Department of Human Services and Health (HSH).

APPLICATION FORMS

Applications forms and information leaflets are available from the ATSIC Lismore Regional Office. Applications must reach the Lismore ATSIC Regional Office by close of business 1 December 1995.

56
24.10.95
NB

Archaeologist
to be special
historical
society guest

One of Australia's best-known archaeologists will be guest speaker at the Richmond River Historical Society's annual meeting on Sunday in the Lismore Municipal Building.

Professor Isabel McBryde, who retired in 1994 as Professor of Archeology at the Australian National University, Canberra, will speak on Mary Bundock, of Wiangarie, a pioneer recorder of Aboriginal culture.

Prof McBryde has written many articles and books and is an honorary visiting fellow at the Australian Institute of Aboriginal and Torres Strait Island Studies.

Jill



Native title hearing in July

Two members of the National Native Title Tribunal are to come to Byron Bay in early July to begin mediation on the Aboriginal land title claim made for just about all of the crown land on the coast between Belongil and Broken Head.

The claim by the Arakwal clan also includes a considerable amount of sea bed including Julian Rocks.

The two tribunal members who are due at the Byron Bay Surf

Club on Monday July 8th are Kim Wilson and Sue Ellis. Mediation will have to take place between representatives for the Arakwal Clan, probably represented by the Aboriginal Legal Service, various government departments, the Byron Shire Council, Cape Byron Headland Trust and other organisations that have use of or an interest in the crown lands being claimed.

Most of the mediation will be done behind closed doors.

52.5.96