



PRIME MINISTER

JOINT PRESS RELEASE BY THE PRIME MINISTER AND THE CHIEF MINISTER OF THE NORTHERN TERRITORY

The Prime Minister and the Chief Minister of the Northern Territory announced today that they have signed an historic Memorandum of Agreement concerning the provision of Aboriginal living areas in the Northern Territory.

This Agreement is the culmination of efforts over the past few months by the Prime Minister, the Chief Minister and the Commonwealth Minister for Aboriginal Affairs to resolve definitively this longstanding, complex and difficult issue. The Agreement was finalised in intensive negotiations in Canberra on 6 and 7 September 1989.

The Agreement is attached. It sets out in detail a package of actions to be taken by the Commonwealth Government and the Northern Territory Government which, taken together, provide a firm basis for rapid action to provide land to relevant groups of Aboriginal people. In essence the Commonwealth will provide under the Land Rights Act land on portions of stock routes and stock reserves while the Northern Territory will provide living areas through excisions from pastoral leases. Detailed agreement has been reached on the criteria for eligibility, the processes to be followed and the necessary legislative actions by both Governments.

Reflecting their joint intention to move ahead as quickly as possible both Governments have agreed to seek passage in October of the necessary legislation. Consideration of applications and the provision of title to land will then be able to proceed at an accelerated pace.

The Agreement has been reached through a process of negotiation in which each side has recognised the integrity of the other in its desire to provide land in appropriate cases as a vital step towards improving the living conditions of Aboriginal people who have for too long been the most disadvantaged members of Australian society. The negotiation has involved give and take on the part of both Governments in a joint effort to arrive at an overall solution which is practical and acceptable.

The Prime Minister and the Chief Minister are determined that the implementation of their Agreement will proceed in the same co-operative spirit and in a co-ordinated fashion. A Joint Review Group will be established to monitor implementation.

Mr Perron said he was delighted that four years of difficult and complex negotiations had concluded with the result that Aboriginal Territorians in need would have access to living areas.

"The Northern Territory is proud of its achievements in recognising Aboriginal needs, and this Agreement consolidates our progressive record in this area", Mr Perron said.

"Aboriginal people are an important and integral part of our community in the Territory, and addressing the problems they face will continue to receive high priority on the Territory Government's agenda".

Mr Hawke said that the Agreement accorded an appropriate role to the Government of the Northern Territory while fully recognising the strongly felt Commonwealth responsibilities in relation to Aboriginal people. He said that it was a matter of immense satisfaction to him that a breakthrough had been achieved after so many years and described the Agreement as a genuinely historic one for all Australians.

**MEMORANDUM OF AGREEMENT BETWEEN THE COMMONWEALTH AND THE
NORTHERN TERRITORY ON THE GRANTING OF COMMUNITY LIVING
AREAS IN NORTHERN TERRITORY PASTORAL DISTRICTS**

Discussions were held between the Prime Minister and the Chief Minister of the Northern Territory on 6/7 September in relation to the question of Aboriginal living areas and Aboriginal land claims to stock routes and stock reserves in the Northern Territory.

They agreed that action will be taken as a matter of urgency to give effect to the provisions of this Memorandum which constitute a package to be implemented in a cooperative and coordinated manner.

For the Commonwealth's part action will be taken to provide land on portions of stock routes and stock reserves. For the Northern Territory's part action will be taken to provide living areas through excisions from pastoral leases.

Stock Routes and Stock Reserves

The Commonwealth will amend the Aboriginal Land Rights (Northern Territory) Act 1976, as a matter of priority, to provide for the grant, by way of inclusion in a Schedule to the Act, of certain parts of existing stock routes and reserve claims.

The selection of the areas to be included within the Schedule to the Act will be determined after consultation between the two Governments.

The Commonwealth undertook that, in providing Aboriginals with living areas on stock routes and stock reserves, the following principles will apply:

- . it will schedule only a small proportion of the land subject to existing claims;
- . scheduling will not take place where agreement has been reached that the Aboriginals' needs can be satisfactorily met by a pastoral excision, or a combination of part of the stock route claim with an adjacent excision; and
- . there will be no scheduling in relation to those parts of claims which might unreasonably interfere with a pastoralist's interests, for example, by dividing a property, or encroaching on the homestead.

Upon enactment of the scheduling legislation the Commonwealth will then proclaim the June 1987 amendments to the Land Rights Act, which will mean that the stock route claims not scheduled will lapse. The Commonwealth also agreed that the regulation-making power providing for a stock reserve to be deemed to be available for land claim will be removed.

Pastoral Lease Excisions

Excisions will be granted under a special freehold title to be provided under Northern Territory legislation, the details of which are indicated at Attachment A. Such title will ensure that:

- . there is statutory protection against alienation or encumbrance of the land;
- . the Minister may not compulsorily acquire any such land except for a purpose agreed at the time of the grant, or the provision of certain essential services to, or across, the land;
- . the power to compulsorily acquire shall not extend to acquisition of a fee-simple interest;
- . actual living areas with a substantial buffer zone are to be reserved from mineral exploration and mining, with provision for compensation for disturbance; and
- . there is a statutory right of access to the land.

The eligibility criteria for applications for pastoral lease excisions are to be:

1. Any group with the consent of the pastoral lessee.
2. Any group with a demonstrated need which was ordinarily resident on the pastoral lease at any time since 1968.
3. Any other group with an historical residential association with a lease that can demonstrate that it has a present need for a community living area.

In determining need, the Minister and the Tribunal referred to below will have regard to whether the applicants already have adequate housing circumstances or land upon which this might be provided.

The primary intention is to provide secure tenure for those Aboriginal groups in need, particularly for those Aboriginal groups presently or recently resident on pastoral leases. There is no intention to allow for a flood of claims which may be seen as providing for a land rights approach to alienated land.

The process for dealing with applications is outlined in the flowchart at Attachment B.

In essence, the parties will initially seek to reach agreement on the application. Failing agreement, application may be made to the Minister for determination. If the Minister does not accept the application, he will seek advice of a special Tribunal, which will comprise a legal practitioner of 10 years standing appointed by the Chief Justice of the Northern Territory Supreme Court, a Land Council representative and a representative of the pastoral industry. If the Minister rejects a recommendation of the Tribunal, he must state his reasons and there will be provision for appeal to the Northern Territory Supreme Court.

Role of the Land Councils

The Northern Territory's legislation will specify that, when requested to do so, a Land Council may act on behalf of an applicant. In accordance with Section 23(2) of the Land Rights Act, the Commonwealth Minister for Aboriginal Affairs will approve the Land Councils performing this function.

Timing

Reflecting their joint intention to give effect to their agreement as a matter of urgency, the two Governments intend that passage of legislation will be sought in the Commonwealth Parliament and the Northern Territory Legislative Assembly in October 1989. This will provide the necessary legislative base for early progress on the granting of living areas.

Joint Review Group

Recognising the importance of the issue and of the action to flow from this Memorandum, the Prime Minister and the Chief Minister have agreed to establish a Joint Review Group to monitor implementation. The Review Group will report to the Prime Minister, the Minister for Aboriginal Affairs and the Chief Minister on a regular basis.

R.J.L. Hawke
Prime Minister

Marshall Perron
Chief Minister of the
Northern Territory

PROPOSED NORTHERN TERRITORY STATUTE LAW REVISION BILL

- COMMUNITY LIVING AREAS

1. Crown Lands Act

- provide for voluntary surrender of part of a pastoral lease expressly for the purpose of a living area;
- admit the eligibility criteria and procedural guidelines as a schedule to the Act;
- note that recently enacted amendments to the Associations Incorporation Act and the Real Property Act address the question of alienability.

2. Lands Acquisition Act

- provide for the compulsory acquisition of part of a pastoral lease for the purpose of a living area;
- provide a process for handling applications for excisions as outlined in the flow chart at Attachment B;
- provide that the Minister may not compulsorily acquire land comprising a pastoral lease excision or an interest in such land except
 - . where the prescribed land was granted subject to the reservation that the Territory can acquire the part or interest for the purpose for which it is proposed to be acquired; or
 - . for the purpose of the provision of essential power, water, sewerage, road or communication services to or across the prescribed land;

Any dispute will be determined in accordance with the procedures at Attachment B.

- provide that power to compulsory acquire shall not extend to acquisition of a fee-simple interest.

3. Mining Act

- provide that a mineral lease cannot be granted in respect of living area within a specified (greater than the currently prescribed 50m or 200m) distance of the principal location of the community;
- (N.B. the provisions of the Mining Act section 73 and Petroleum Act section 81 provide for compensation to be payable to owners or occupiers);

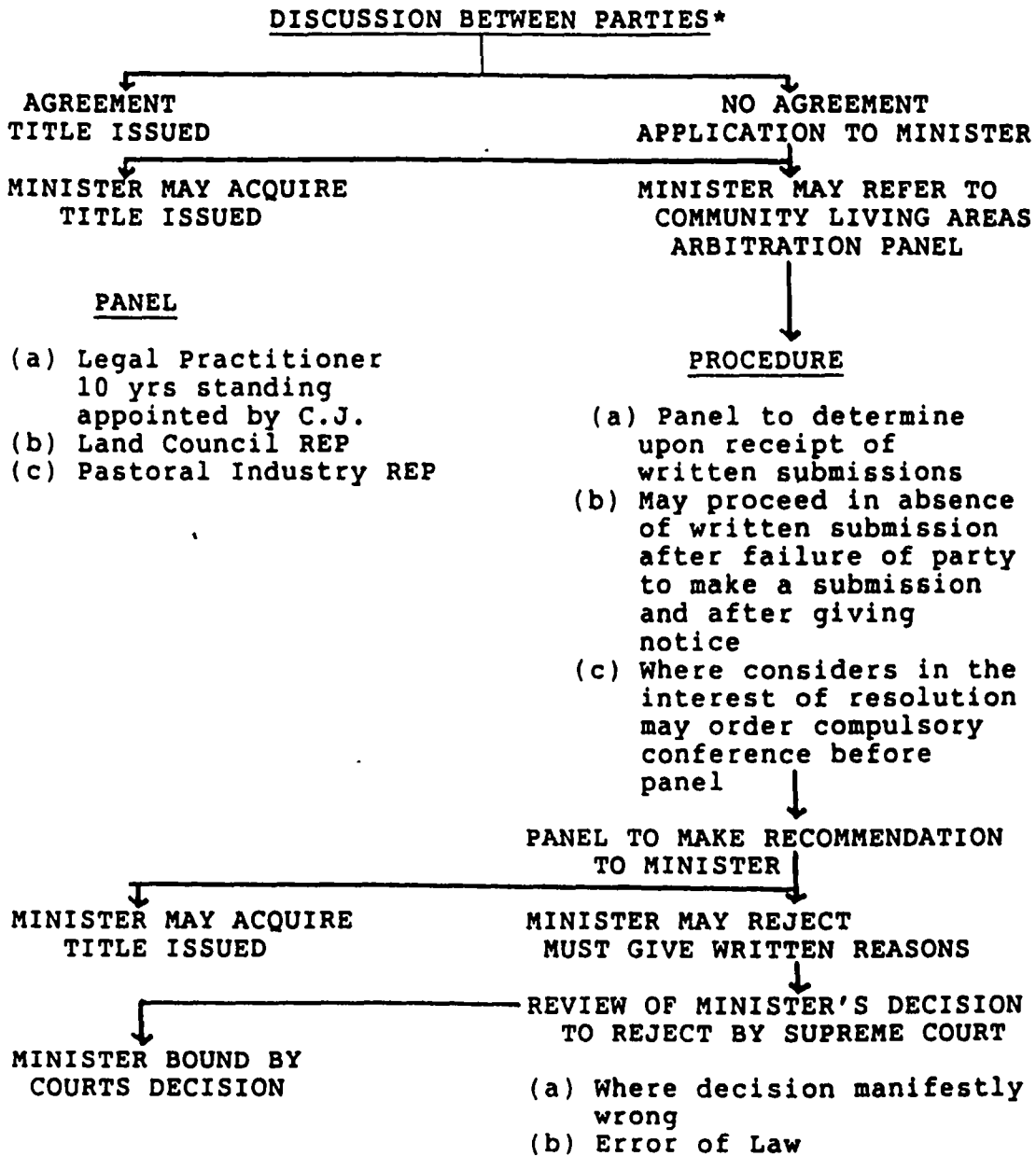
4. General

- provide that the grounds for acquisition for essential public purposes could be identified at the time of a grant and be registered as a memorial on the title under the Real Property Act;
- those protections and restrictions would apply to the current living areas held under Crown Lease (term) when leases surrendered in exchange for a freehold title;
- where living areas are already held under freehold title, titles may be surrendered in exchange for a new freehold title in order to be subject to the same protections and restrictions.

FLOW CHART

PROCESS FOR ISSUE OF PROPOSED COMMUNITY LIVING AREAS

UNDER NORTHERN TERRITORY LEGISLATION



* The Parties will generally be permitted up to 6 months before application may be made to the Minister but the Minister will have discretion to increase or decrease that period if he considers this to be appropriate in the circumstances of a particular case or cases.