



MEDIA RELEASE

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Absolute need to fight to assert our Sovereignty

Ghillar, Michael Anderson, Convenor of the Sovereign Union, last surviving member of the founding four of the Aboriginal Embassy and Head of State of the Euahlayi Peoples Republic said from Parliament Square, Westminster, London today:

I address this paper to the Gomeroi:

Personally, I appeal to the Gomeroi Nation to authorise a Unilateral Declaration of Independence (UDI) and fight the governments, State and Federal, on the basis that they, in right of the Crown of England, are occupiers of our Sovereign Lands and Territories, stealing our wealth and killing our people through sheer force and the attrition of tyranny and oppression. If the Gomeroi people are going to continue to die, then let it not be by their own hands, or through depression and despair. We must die standing and fighting and not lay down and let these bastards have their own way.

I am a very proud Gomeroi man through my father and my matriarchal grandmother's grandfather, who was tagged by the local British establishment as King Tinker, King of the Mercadool Tribe, and on my father's side, his great grandfather was King Brandy of the Dungleer Tribe. My three generations grandfather King Tinker and King Brandy were recognised as such because of the Orders-in-Council of Queen Victoria, which were incorporated in the *Pacific Islanders Protection Act 1875*:

7. Nothing herein or in any such Order in Council contained shall extend or be construed to extend to invest Her Majesty, her heirs and successors, with any claim or title whatsoever to dominion or sovereignty over any such islands or places as aforesaid, **or to derogate from the rights of the tribes, or people inhabiting such islands or places, or of chiefs or rulers thereof, to such sovereignty or dominion**, and a copy of every such Order in Council shall be laid before each House of Parliament within thirty days after the issue thereof, unless Parliament shall not be in session, in which case a copy shall be laid before each House of Parliament within thirty days after the commencement of the next ensuing session. [emphasis added]

These vestiges were only to show who the people of the clans recognised as the leaders, under Gomeroi Law and custom and, as we know, the British during the Victorian era were so desperate to have someone to talk to, because they were caught out murdering and slaughtering people. When it came to the orders for Treaties and land negotiations the colonialist establishment in Australia ignored everything they were required to do under British law and international law at the time. The British Parliament, however, did recognise our right to land as 'sovereigns of the soil'. This is confirmed in the findings and recommendations of the 1836/37 British Parliamentary

Gomeroi Native Title Application

The Native Title Services Corporation of NSW convened a public meeting in Tamworth with a view of making a Gomeroi Native Title Application. At the meeting the decision was 'yes', the Gomeroi will make a Native Title Application as a Nation. At this meeting an Applicant group was selected and elected to represent the nineteen apical ancestors.

It was the Elders present at the meeting who spoke about and demanded the recognition of Gomeroi sovereignty, that we were never conquered, nor had we ceded our sovereignty to the Crown of Great Britain. Consequently a resolution was passed at the very first Tamworth Native Title meeting. The resolution read with words to the effect:

The Gomeroi Nation is a Sovereign Nation, and this sovereignty was never ceded and we were never conquered in war.

This motion was moved and passed by our Elders, including the late Mrs Ellen Draper, Mr Joe Trindall and other Elders who were there and the vote was unanimous. It was only *after* this vote that the meeting proceeded to talk about an election of Applicants and ways forward for the Native Title claim.

There was a caveat that was imposed by resolution and that was: No Native Title agreements were to be signed off without the matter being brought back to a gathering of the whole Nation, where those Nation members as a collective could consider the merits of such an agreement and either reject or approve the agreement being concluded. There was one oversight with this proposal, however, which creates a major dilemma for our Nation and Peoples, that is, the minimum price for a Nation meeting is in excess of \$400 000, if more than 500 claimants seek to come, which is their democratic right.

As an Applicant, who was voted in, I have always been torn between right and wrong. I now realise there is no wrong and we can only follow what is right. Let me explain it in this manner. After the Tamworth meeting, the Native Title Services Corp (NTSCorp) lodged the Gomeroi Nation Native Title Application in the Federal Court. I admit that when we signed the Application as the Applicants we did not expect that NTSCorp would ignore not only the sovereignty claim, but also the Gomeroi to the natural resources, waters and biodiversity. In fact, I do not recall having any meetings with NTSCorp to finalise what was being claimed for and on behalf of the Gomeroi Nation. In hindsight it was absolutely incorrect to place our trust in NTSCorp.

We learnt later, that NTSCorp was advised by Sandra Phillips, the NTSCorp barrister on a retainer, that if NTSCorp insisted on including the resolution on continuing sovereignty of the Gomeroi Nation, the registration of the Application would not be accepted by the Federal Court. So without our knowledge or consent the sovereignty never ceded resolution of our Elders was omitted. Furthermore, NTSCorp did not include any claim to ownership of the minerals, native fauna and flora biodiversity and water in the actual Native Title application.

This meant that any arguments before the court on our Native Title rights in respect of these and other issues, could not be considered by the Court, because these are not claimed in the NTSCorp's final application. Consequently, the Native Title determination will be restricted to a bundle of rights as is described in the Native Title Act. Nothing more and nothing less. This means that under the current Native Title application, there is not much to be considered, except

for maybe a few vacant blocks of Crown land or, maybe, some stock routes or old town commons.

Walking Country

I must recall that prior to the Native Title Applicants being elected, the Narrabri Land Council negotiated a deal with the Boggabri Coal company of Whitehaven and they have been receiving approx \$75000/yr for at least the last 5 years. Not many of the Gomeri people are asking them about who are the beneficiaries of those funds, since they are coming from Gomeri land.

It should also be mentioned that when Whitehaven first started, prior to the Native Title Applicant group being elected, there was a lot of people as Registered Aboriginal Parties (RAPs) who were 'walking Country' identifying Gomeri material culture and signing off, to permit this material culture to be removed by Whitehaven and packaged up into boxes and delivered to a place they chose. For 'walking Country' and signing off the Registered Aboriginal Parties (RAPs) received between \$600 and \$800 per person per day. Nothing was said when this was being done, and no-one objected, because it was restricted to the people of Gunnedah and surrounds – no-one else knew about it, let alone be included.

Water rights

The question of water rights is a separate issue, which requires a separate court case. At present, we are flat out getting Native Title to a bore drain.

At present a Gomeri water man, Brad Mogridge in the NSW department of water, is planning the NSW State water regime within the Murray-Darling Basin and the rest of NSW, in respect to a State water regime without any Native Title considerations – a matter that we as Applicants have not gone anywhere near, as yet. In the meantime, the NSW government is giving farmers and irrigators the rights to set up pumps all along the river systems in the Gomeri Nation, without any discussions with the Applicant group. Clearly, Brad Mogridge and his State Government counterparts are totally ignoring any Native Title rights in water.

Extraction of water by mining companies is exempted from any State Water planning into the future. The use of water, being surface water or groundwater, does not trigger a Section 29 notice under the Native Title Act, that is – the Right To Negotiate (RTN). Mining companies' use of water is not regulated, nor monitored, despite having known quantities allocated. Also mining water usage monitoring is exempt at the national level from any water plan in Australia and the water is free. The national Native Title Act is completely silent on this matter.

We must understand at this point there has never been any extinguishment of Native Title over water, albeit surface or ground water.

What can we expect to gain from this Gomeri Native Title Application?

Now let's turn our attention to what we might expect from the Gomeri Native Title Application. NTSCorp has never truly shown us, nor publicised, what is actually claimed in the Native Title Application, which has been registered in the Federal Court. The Gomeri Nation and Peoples need and must understand that our Native Title rights in the future are limited to what is in that application that was filed by NTSCorp. We cannot expect to get any more than what has been asked for in that Application, in which key Gomeri Nation resolutions were omitted as mentioned above.

Despite our insistence in the past to see the Application, it has never been presented at any meeting. NTSCorp will no doubt argue that they were never asked and our difficulty is that NTSCorp never ever maintained minutes of any meetings that we had with them. They did, however, take lawyer notes and notes on what we asked them to follow up, but nothing else was ever recorded.

As Applicants we had a fight with the NTSCorp lawyers at the Keepit Dam meeting, when we learnt that the resolution on sovereignty was left out. We were also advised by NTSCorp that they made an executive decision by themselves without any discussion with the Applicants to leave the question of sovereignty out of the claim, based on Sandra Phillips' advice, who allegedly argued that the Federal Court would not register such a Native Title claim. Furthermore, Sandra Phillips gave the same advice in respect of claims to minerals and other resources, including water. It is frustrating to admit that the retraction of these matters from the original Application was done without our approval and knowledge. So I put it to the Gomeroi Nation: What then have we got to gain from a Native Title Application?

If it is a legal fact that the Commonwealth Native Title Act 1993 as amended in 1998 prevents the registration of an Application that includes a declaration of continuing Sovereignty and/or claims to natural resources, we now need to ask ourselves the question I posed earlier: What can we expect to gain from this Native Title Application?

Right To Negotiate (RTN)

Even on the issue of the Right To Negotiate (RTN) our hands are tied. Under the current law of the Commonwealth we have been put into a heavy weight boxing title fight stripped bare of any defences and with our hands tied behind our backs. That is to say, there are no rights to veto, nor any right to say no. We are, by the Commonwealth Native Title Act, forced to negotiate in 'good faith'. If the mining company considers that we are not negotiating and acting in 'good faith' they have a right to go the National Native Title Tribunal (NNTT) to seek mediation. As mediators the National Native Title Tribunal cannot order compensation, but request that the proponent company make an offer that it is prepared to conclude in good faith.

An example of this in the Gomeroi Native Title claim is the fact that Whitehaven (Maules Creek tenement and mine) were preparing to seek mediation on the basis that NTSCorp and their economic and legal advisors were not being realistic in their demands (which we as an Applicant group supported). But, in reality, Whitehaven had us over a barrel, because of the Native Title Act, in that they were only prepared to give \$75000 per year for about 40 hectares of the land, which was the only so-called Crown land in the mining tenement area of Maules Creek. This was the *only* area of land we had the Right To Negotiate over. The rest of the mining tenement area, including Leard State Forest, were all lands that the State government classified as already having extinguished Native Title and there was no Right To Negotiate on these other areas, only the 75 acres which was adjacent to an existing strip mined area. Whitehaven was clever in deciding to use this land for dumping their over burden (waste rock). Whitehaven chose not to mine this area because they would have had to pay serious compensation.

The best the Applicants could do at this time was to accept the mediation process, or go with our demands for a \$250 000 for the 75 acre block, plus ten percent of the workforce within the mine itself to be Gomeroi, or, in the scheme of things, just simply walk away from the negotiations. To walk away would have enabled Whitehaven to go to the National Native Title Tribunal and force us into mediation and we would not have received anything, other than what Whitehaven was prepared to offer as something in good faith.

The thought to walk away was there when Whitehaven representatives said: We are not going to spend over \$300 000 to pull your people together to get them to approve this deal. What we were

confronted with was the Commonwealth government 'in the National Interest' approving the go ahead of the mine expansion without us giving any consent. Whitehaven would have been forgiven because they would have made a good faith arrangement to pay the least they could under the circumstances approximately \$75000/yr. There was no Indigenous Land Use Agreement.

When we, as the Applicants, confronted Paul Flynn, the Whitehaven CEO, about convening a further Nation meeting for our Peoples, his response was: I gave \$5 million to NTSCorp for these negotiations from the outset. NTSCorp never informed us as Applicants that this was the case. NTSCorp has never accounted to the Gomeri for how the \$5 million was spent.

I might add that a Section 29 Notice under the Native Title Act can be likened to a declaration of war, that is, negotiate or shove off, and if you negotiate then you will take what we agree to. If you don't like it, the government's agenda is – we only have to offer you what is consider a reasonable good faith deal.

Unilateral Declaration of Independence (UDI)

In reality, if we want to change this, then, as a Nation, we must reconsider our strategy. It is by way of political action, getting on the streets and getting in their faces, that these fraudulent crimes must be tackled. We won Land Rights by getting in their faces and walking the talk. If we want to improve the Gomeri expectations this is one way we can do it.

The other option, or both working together, is to challenge the validity of the Commonwealth Native Title Act, because it is a blatant violation of our fundamental freedoms and Human Rights, and is racially discriminating.

Personally, I appeal to the Gomeri Nation to authorise a Unilateral Declaration of Independence (UDI) and to fight the governments, State and Federal, on the basis that they, in right of the Crown of England, are occupiers of our Sovereign Lands and Territories, stealing our wealth and killing our people through sheer force and the attrition of tyranny and oppression.

If the Gomeri people are going to continue to die, then let it not be by their own hands, or through depression, despair. We must die standing and fighting and not lay down and let these bastards have their own way.

'The struggle is my life'

If the Nation seeks to elect others with magic wands and who think they might be able to do better under the current regime and are willing to stand and fight as Sovereign people, then you will have my resignation, without the need for abuse and bloodletting. The government and their illegal regimes are the enemies and they work arm in arm looking after the interests of the transnational corporations, We are of no consequence and as we all know the Native Title Act has been cleverly designed in such a fashion that we have witnessed right across this country, family against family, friend against friend. We must ask: Who are the winners in all of this? Not you or me. It is the governments and the mining companies who are the beneficiaries of our own internal wars against each other. This is how they have been successful all these years and we are our own worst enemy, because we are prepared to fight each other, rather than fighting a losing battle against the governments and the mining companies. They have created a regime, in which we are the losers. We even loose when we get a successful Native Title determination because the land has no commercial economic value and in most cases, these lands will not be in our name exclusively and as most courts have been saying to date: the land in the settlement is not in exclusive possession to the nation and are, in fact, public. They would never do this to a white man.

If it is a front-on political fight that we need on the streets then put me on as someone who will walk at the front. As Nelson Mandela said: 'The struggle is my life' and I can assure you that I have lost a lot in my years of being in the front of our Peoples' fights.

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