

Media Release

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High Court points to unworkability of native title **Statement by ATSIC Chairman Geoff Clark**

The High Court decision today on the Miriuwung-Gajerrong native title claim points to the unworkability of the native title regime.

It also points to the clear need for a new way to determine native title on pastoral leases.

Lengthy and costly litigation has failed to deliver the certainty we were promised in 1998.

On behalf of the ATSIC Board I wish to extend to Ben Ward and the other claimants our shared sense of deep disappointment and frustration with today's result.

While it is too early to comment on specific aspects of a very complex decision, the High Court has today confirmed the principles established in the 1996 *Wik* decision.

However, the time and cost of trying to get a result from the post-*Wik* process shows the system is not sustainable.

Litigation does not guarantee results on forms of land tenure such as pastoral and mining leases.

Meanwhile, the outcome in New South Wales in *Wilson vs Anderson* is devastating for native title holders in the west of the state.

It appears that the High Court found that native title had been extinguished because of the Government's Ten Point Plan legislation.

The ATSIC Board shares the deep disappointment of the applicants who sought to confirm their rights to coexist on land that has been part of their cultures for tens of thousands of years.

What today's decisions point to is the high degree of uncertainty and inconsistency that still exists in determining land use and ownership in this country.

Today's result will sharpen our determination to find another, more certain process for determining relationships between Indigenous and non-Indigenous people — a process that may well lead to negotiation of a Treaty.

Geoff Clark
Chairman

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