



WIK vs QUEENSLAND

THE DAY WIK WON THE BATTLE BUT LOST THE WAR

SCREEN AUSTRALIA, SCREEN QUEENSLAND AND NATIONAL INDIGENOUS TELEVISION PRESENT A

BACON FACTORY FILMS, BENT3LAND AND FRESHWATER PICTURES PRODUCTION

WRITTEN & DIRECTED BY DEAN GIBSON PRODUCED BY HELEN MORRISON EXECUTIVE PRODUCER TRISH LAKE

DIRECTOR OF PHOTOGRAPHY MARK BROADBENT MUSIC BY TANE MATHESON & JEFF MOULTON EDITED BY LINDI HARRISON ASE

Photo by Ricky Maynard, Gladys, Wik Elder, from Returning To Places That Name Us (2000) © Ricky Maynard/Copyright Agency



BENT3LAND
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PICTURES



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Screen
Australia

WIK vs QUEENSLAND

PRESS KIT

WRITER & DIRECTOR - DEAN GIBSON
PRODUCER - HELEN MORRISON
EXECUTIVE PRODUCER – TRISH LAKE

SCREEN AUSTRALIA, SCREEN QUEENSLAND AND NATIONAL INDIGENOUS TELEVISION PRESENTS
A BACON FACTORY FILMS, BENT3LAND, AND FRESHWATER PICTURES PRODUCTION
DEVELOPED AND PRODUCED WITH THE ASSISTANCE OF SCREEN QUEENSLAND AND NATIONAL
INDIGENOUS TELEVISION
PRINCIPAL FUNDING FROM SCREEN AUSTRALIA

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TECHNICAL

Country of Production	AUSTRALIA
Year of Production	2018
Running Time	01:23:56 (approx. 84 mins)
Ratio	16:9
Language	ENGLISH
Release date	July 2018
Genre	Documentary



WIK vs QUEENSLAND

THE STORY

TAGLINE

The day Wik won the battle but lost the war.

SHORT SYNOPSIS

A powerful insight into the High Court's decision to grant native title to the Wik people in 1996, and the dramatic political and cultural fallout that followed.

SYNOPSIS

This landmark feature documentary surrounds the historical court decision in 1996 by the High Court of Australia, granting native title to the Wik Peoples of Cape York, and the demonisation that followed at the hands of politicians and media.

With unique access to the key players of that moment in history, and featuring never-before seen footage of the (then) young Noel Pearson and Marcia Langton, *Wik vs Queensland* tells a very personal story from the Wik Peoples' perspective, set against the backdrop of a tumultuous time in Queensland's history.



*Wik claimant Gladys Tybingoompa speaks to media after the High Court decision in 1996.
Photo: The Lew Griffiths Minamothu Library.*



*Noel Pearson leaves the High Court in 1996.
Photo: The Lew Griffiths Minamothu Library.*

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THE STORY

EXTENDED SYNOPSIS

On December 23, 1996, the High Court of Australia granted native title to the Wik People in the landmark case *Wik Peoples vs The State of Queensland*. This nationally significant decision caused rumbles through the country, shaking up politics, dividing Aboriginal leaders and causing a national media frenzy.

Behind the case, a young Noel Pearson worked closely with the elders and custodians of the Wik Nations of Cape York, far north Queensland to lay legal claim over native title access for the group of first nations located in the Cape York Peninsula. Their case was built around the wonderfully rich and insightful document known as the AAK, containing Wik lores, their sites, history, land, waters and their intimate and intrinsic connection to country.

Post Mabo, the result in favour of the Wik claim by the High Court led to one of the biggest debates in Australian history as conservative commentators raised fears about perceived threats to 'suburban backyards' from native title claims. But no-one asked the Wik people what they felt, until now.

Looking back on this crucial moment in history, much can be learned from the Wik decision and the way that Australia chose to acknowledge, understand and respect Aboriginal people. Even today, at the heart of the issue, is the continued systematic failure of successive Governments to deliver to Aboriginal Australia.

December 23, 1996, should have been a time for celebration for the Wik people, Noel Pearson and many of the other key players in this victory. Instead, they were branded greedy and treated as the enemy. Nearly a quarter of a century on; *Wik vs Queensland* takes us inside the High Court's decision and subsequent events through the eyes of Wik Traditional Owners, our nation's political, judicial and Aboriginal leaders. With unique access to never before seen archive footage we will transport the audience back to this momentous period of our nation's history and the currency it still holds today.



*A meeting of elders in Aurukun c.1996.
Photo: The Lew Griffiths Minamothu Library.*



*Noel Pearson addresses media outside the High Court
1996.
Photo: The Lew Griffiths Minamothu Library.*

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KEY CREW

WRITER & DIRECTOR | DEAN GIBSON



Dean Gibson is an Aboriginal filmmaker with more than 10 years' experience in creating, writing, directing, editing and producing. His work has screened on ABC1, ABC3, SBS and NITV and includes children's television, documentary and drama. He established Bacon Factory Films in 2013.

Much of Dean's broadcast highlights in the children's television space include directing two Sesame Street films - *Five Kangaroos*, featuring Jessica Mauboy, and *The Recyclables* - which have both screened to audiences all over the world. He also created and co-directed the children's TV series *Handball Heroes*, which screened on ABC3.

In the documentary space, Dean co-directed the 50-minute feature documentary *A War of Hope*, which screened on NITV on ANZAC Day 2017. He also created and directed the 30-minute ABC documentary, *From the Ashes*, following the Australian Indigenous cricket team as they toured the UK and discovered the history of Aboriginal cricket in Australia. Dean also co-created and ran a program for emerging Indigenous filmmakers in 2014, called *The Production Line*, as part of his passion for helping others to have opportunities in the industry. He is a creative, passionate and experienced filmmaker, who believes in the power of stories waiting to be told.

baconfactoryfilms.com



Director Dean Gibson and DOP Mark Broadbent on location with traditional owner Marie Kalkeyotta.



Director Dean Gibson (centre) with traditional owners Maree (L) and Lennie (R) Koowarta.

WIK vs QUEENSLAND

DIRECTOR'S STATEMENT

Wik vs Queensland is a film about power. It represents a snapshot into a heightened moment in Australian modern history that continued the ongoing arm wrestle between black and white Australia, and between Canberra and Aboriginal Communities. It exposes the power shifts, the politics of land, the tactics, the strategies and the power of press, told from the Aboriginal perspective. Power is placed across the entire narrative and plays strongly towards the style and tone of the film.

This film plays out like a political thriller; white vs. black, conservative vs. progressive and the Aboriginal voice in this landmark moment in Australian political and Aboriginal rights history. The Wik Case is the 'Mabo Moment' for Aboriginal Australia - acknowledged for the first time legally under western law, this was the Aboriginal time to shine.

However, many of our nations so-called "leaders" chose to demonise Aboriginal people and blame them for laying claim over what the High Court considered just as equally theirs. These Aboriginal people didn't have a voice then, but they do now.

Their voice is the narrative for this film. For the first time ever, we reflect on this checkered moment in history through Aboriginal eyes. We look at what all the significant players and stakeholders said; how they responded, what their motives were and how we can look back now 20 years on and begin to get a perspective of the ongoing relationship between black and white Australia. This film is an opportunity to hold people accountable for racist actions, language and motives in what was a turbulent period for Aboriginal peoples.

Wik vs Queensland is a retrospective documentary film. It takes viewers back in time to get a sense of what Australia was like and how the attitudes towards Aboriginal people were perceived back then. Strong research and 1990s period news archives help set the scene of the case and decision. Behind the scenes, we have managed to gain access to the never-seen-before archives of a young Noel Pearson moving around the Cape, meeting with the Wik people, dealing with the courts and of course, engaging in the top end of town with the Australian Government Politicians in Canberra.

The archival material is pieced together by stylishly shot, solid interviews with many of the stakeholders from the period. They reflect on the times through their memories, but also consider looking carefully at the period through Aboriginal eyes. I want people to see politicians consider their actions of the day as far-reaching, not just for the Wik people but for the entire Aboriginal population.

This was a turbulent time in Australia's recent past, which cast a long shadow over the treatment by white Australia to Aboriginal Australia, from which much can now be learnt. Through this documentary, the Wik people will have a voice as we face a potential referendum on the place of Indigenous people in our nation. It will aim to bring a greater depth of understanding and guide us towards a better future for both black and white Australia.

- Dean Gibson, March 2018

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KEY CREW

PRODUCER | HELEN MORRISON



Helen Morrison, Producer at Bent3Land Productions, was born in the UK but raised in Queensland.

In the last 12 years, Helen has produced or production managed over 60 hours of broadcast television including content for broadcast on ABC1, ABC2, ABC3, NITV and even Sesame Street's *The Recyclables*.

She has also produced two short documentaries for the International *Jamie's* (Oliver) *Ministry of Food* in Cherbourg and Mossman Gorge Queensland, for The Good Foundation.

In 2014 Helen co-created The Production Line with Dean Gibson a mentoring and filmmaking program for emerging Aboriginal and Torres Strait Islander screen storytellers. Screen Queensland and Screen Australia funded the Initiative as part of their Early Career Screen Program.

Helen has a slate of projects in development, from feature films, documentaries to television series.

bent3land.com

PRODUCER'S STATEMENT

This landmark feature documentary surrounds the historical court decision by the High Court of Australia granting native title to the Wik People of Cape York in 1996 . *Wik vs Queensland* is an important retrospective, forensically tracking the inception of the Cape Land Council, the High Court case and the ensuing national legislative controversy. This story has never been told in such depth with unique access to the key players of that moment in history maintaining a strong Wik voice of passed Elders and their descendants. This film will include never-before seen footage captured by the late Lew Griffiths who followed Wik Traditional Owners, Gladys Tymbingoompa and Stanley Ngukyunkwokka, to name a few, along with Noel Pearson, Peter Sutton, Marcia Langton and many more key figures through this historic period and the fall-out from this landmark decision and beyond.

The narrative is driven by the Wik voice, what it meant personally, and their authentic perspective of the event. The film will draw on the extensive archive, hard hitting interviews and time on country in Cape York. We provide a Shakespearean type narrative that weaves the voices, reflecting the moment in history with archive material.

With an exciting line up of talent including Phyllis Yunkaporta, Maree Kalkeeyorta, Fiona Wirrer-George, Kerri Tamwoy, Janine Chevathun, Noel Pearson, Marcia Langton, Peter Yu, Frankie Deemal, Senator Pat Dodson, Peter Sutton, Kerry O'Brien, Todd Condie, Philip Hunter, Adrian Duffy QC and Walter Sofranoff QC, we hope to generate a national conversation around examining who we are as a Nation, and how we can begin to understand the unbroken connection of Aboriginal and Torres Strait Islanders to the land.

- Helen Morrison, March 2018

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KEY CREW

EXECUTIVE PRODUCER | TRISH LAKE



Independent Producer and former ABC Television journalist Trish Lake is Managing Director of Freshwater Pictures.

Her credits include the feature documentaries currently in production, *The Eulogy* and *Love Opera ; Early Winter* - a narrative feature and winner of the prestigious “Venice Days Award” at the 2015 Venice Film Festival; *Frackman* – currently in international release and part of the Good Pitch Australia initiative; *Show Me The Magic* which screened both theatrically and on ABC TV and Foxtel Arts; *My America*, selected for competition at Sydney Film Festival; *The Burning Season*, selected for competition at Tribeca Film Festival, and winner of Best Documentary at the Australian IF Awards; *Rare Chicken Rescue* winner of Best Documentary at Sydney Film Festival, and the feature film *Subdivision*, distributed by Walt Disney Studios.

While her films have had numerous nominations and awards, Trish herself won the prestigious SPA Feature Film Producer of the Year Award, for her award - winning first feature, *Gettin’ Square*. Trish is also an Adjunct Fellow at Griffith University in Brisbane where she leads a mentor program for emerging producers at Griffith Film School, and where she is also doing post-graduate research.

freshwaterpictures.com.au

CINEMATOGRAPHER | MARK BROADBENT



Mark Broadbent is a freelance cinematographer and photographer based in Brisbane. Recent projects Mark has been involved in have been wide ranging and include shooting director Kriv Stenders’ (*Red Dog, Australia Day*) passion project - *The Go-Betweens: Right Here* - feature documentary. Mark was one of two cinematographers on the History Channel series *Uncharted - In the Wake of Captain Cook* with Sam Neill, and *Sally and Possum* children’s TV series for ABC.

Along with traditional cinematography work Mark also specialises in both timelapse photography and underwater/surf cinematography.

His credits vary from small, low-budget projects through to feature films, both drama and documentary and the projects he has worked on have taken him all over Australia as well as international shoots in the UK, Ireland, USA, Samoa, South Korea, Malaysia, Thailand, PNG, Solomon Islands, Fiji and Antarctica.

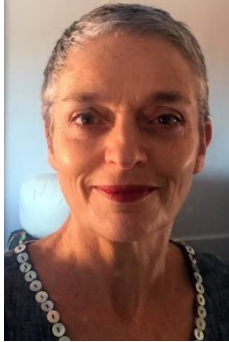
Mark’s personable manner, down-to-earth approach and can-do attitude have enamoured him with cast and crew alike.

markbroadbent.com

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KEY CREW

EDITOR | LINDI HARRISON ASE



Lindi is a highly acclaimed editor of award-winning documentary, drama and arts programmes for local and international broadcast, and cinema release.

She has edited a range of feature length documentaries including: *4*, which won the Gold Plaque Arts & Humanities Documentary HUGO Awards, Chicago; *The Snowman*, selected for Competition at IDFA & nominated for Inside Film & AFI Awards for Best Feature Length Documentary; *On Borrowed Time*, with Oscar winning director, David Bradbury; *Virtuosi*, which has been screened in 35 cities and festivals around the world, and won the Outstanding Achievement for *Dance on Film*, Australian Dance Award. She edited the feature documentary *I Am A Girl* which was listed in the Guardian's 10 Best Australian Films of 2013 & has been nominated for several AACTA Awards including Best Editing in a Documentary. Lindi also edited *Embrace* which had its world premiere at the 2016 Sydney Film Festival, where it made it into the Festival Directors' Top 5 picks, and was nominated for the Documentary Australia Foundation Award for Best Documentary.

She has edited a range of programs for television broadcast including several 1 hour documentaries *Call Me Dad*, *Blank Canvas*, *The Healing of Bali*, *Eyes of the Tiger*, and episodes of Series including *On the Trail of Ghengis Khan* which received the Peoples Choice Award at BANFF 2011, *Tribal Life* for Discovery, *Creative Minds* Episodes featuring Geoffrey Rush and Robyn Archer and 2 x 1 hour episodes of *Art+Soul2* about contemporary Indigenous artists in Australia.

The documentary *SALT* about Australian photographer Murray Fredericks' time on Lake Eyre received 16 national and international awards.

In her non-broadcast work, Lindi has edited large scale video installations for museums and art gallery exhibition such as the Venice Biennale and *In Memory of Nature* by Janet Laurence. She has also vision switched live for the Dalai Lama.

PRODUCTION MANAGER | TARA WARDROP



Tara Wardrop is a Queensland based Production Manager and Post-Production Supervisor specialising in feature documentary and Television.

She has worked on the Feature Documentaries: *The Burning Season*, *Show me The Magic*, *Rise of The Eco Warrior* and most recently *Wik vs Queensland*.

Her most recent projects include Season 4 of *Colour Theory* for NITV, Jill Bilcock: *The Art of Film Editing*, a half hour for ABC, the award winning short film *Welcome to Country* and an 8min art installation piece with renowned artist Alison Page. In 2017 Tara completed a Post-Production Supervisor mentorship with *Grace Beside Me* – a 13 part TV series for NITV, ABC and Disney. Tara is currently working with Magpie Pictures and Bent3land Productions on a number of exciting projects in development.

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INTERVIEWEES | CAPE YORK LAND COUNCIL

NOEL PEARSON



Noel Pearson is an Indigenous Australian lawyer, land rights activist and Director of the Cape York Institute for Policy and Leadership, an organisation promoting the economic and social development of Cape York in far north Queensland.

He has a degree in History and Law from Sydney University. His History thesis, based on his home community Hope Vale, has been published in "Maps Dreams History", by the History Department of the University of Sydney.

Noel has been strongly involved in campaigning for the rights of Cape York Aboriginal people and played a pivotal role in the establishment of the Cape York Land Council in 1990. He also worked on both Native title cases including the historic WIK decision. The resulting High Court decision is recognised as one of the most important Native Title cases in Australian History.

Pearson was elected Chairman of the Cape York Land Council from 1996-1997 before resigning. He still acts for the Land Council in an advisory capacity from time to time. Today, he works in a voluntary capacity as a Team Leader with Cape York Partnerships a project negotiated between the Queensland government and Aboriginal Leaders of Cape York to plan and implement projects centred on a reform agenda for Cape communities.

Source: The Griffith Review

FRANKIE DEEMAL



Frankie Deemal is a Traditional Owner and Elder from Hope Vale, an Aboriginal community on the East coast of Cape York Peninsula. He is of the Dhiidharr clan, of the wider Guugu - Yimidhirr Nation.

He has worked actively in advancing and protecting Aboriginal rights and was mentored by some of the Movements great fighters including Mick Miller, Clarrie Grogan, Joe McGuinness, Joe Morgan and the O'Shanes. He is the co-founder of the Cape York Land Council and a founding member of many key organisations including Balkanu - Cape York Development Corporation. He loves Languages and Philosophy.

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INTERVIEWEES | CAPE YORK LAND COUNCIL Cont.

PROFESSOR MARCIA LANGTON AM



Professor Marcia Langton AM is an anthropologist and geographer, and since 2000 has held the Foundation Chair of Australian Indigenous Studies at the University of Melbourne. She has produced a large body of knowledge in the areas of political and legal anthropology, Indigenous agreements and engagement with the minerals industry, and Indigenous culture and art.

Her role in the Empowered Communities project under contract to the Department of Prime Minister and Cabinet and as a member of the Expert Panel on Constitutional Recognition of Indigenous Australians are evidence of Professor Langton's academic reputation, policy commitment and impact, alongside her role as a prominent public intellectual.

Her 2012 Boyer lecture titled: *The Quiet Revolution: Indigenous People and the Resources Boom* is one of her recent contributions to public debate, and added to her influence and reputation in government and private sector circles. In 1993 she was made a Member of the Order of Australia in recognition of her work in anthropology and the advocacy of Aboriginal rights.

Professor Langton is a Fellow of the Academy of Social Sciences in Australia, a Fellow of Trinity College, Melbourne and an Honorary Fellow of Emmanuel College at The University of Queensland. In 2016 she was honoured as a University of Melbourne Redmond Barry Distinguished Professor, and in 2017 was appointed as the first Associate Provost at the University of Melbourne.

Source: University of Melbourne



*Wik High Court 1996 – Noel Pearson & Jean George
Photo: The Lew Griffiths Minamothu Library.*



*Wik High Court 1996 - Gladys Tybingoompa
Photo: The Lew Griffiths Minamothu Library.*

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INTERVIEWEES | LEGALS

WALTER SOFRONOFF QC



Justice Sofronoff is a graduate of the University of Queensland. He holds Bachelor of Arts and Bachelor of Laws (Honours) degrees.

He was admitted as a barrister of the Supreme Court of Queensland in 1977 and was appointed Queen's Counsel in 1988. Before being appointed as a Judge of the Supreme Court of Queensland, Justice Sofronoff served as a member, vice-president and president of the Bar Association of Queensland Committee (1994-1996). His Honour was a member of the Queensland Incorporated Council of Law Reporting (1999-2004), president of the Queensland Anti-Discrimination Tribunal (2001-2005), member of the Royal Australian Navy Reserve (2003-2014) and a member of the University of Queensland Law School Advisory Board (2014-). He was also an adjunct professor of law at the University of Queensland and is a fellow of the Australian Academy of Law and Institute of Arbitrators and Mediators Australia.

From 2005 to 2014 Justice Sofronoff served as the Solicitor-General of Queensland and in 2015 was appointed Commissioner of the Grantham Floods Commission of Inquiry. In 2016 he led a review of the parole system in Queensland.

Justice Sofronoff was appointed President of the Court of Appeal on 3 April 2017.

PHILIP HUNTER



Philip Hunter has assisted and advised on native title and cultural heritage law and has been involved in many high profile native title cases. He has assisted in the negotiation of numerous consent determinations of native title and indigenous land use agreements, native title agreements and cultural heritage management plans for major resource and infrastructure projects.

Philip Hunter was a member of the Commonwealth Attorney-General's and the Minister for Indigenous Affairs' Native Title Payments Working Group whose report to government on leading policy and practice to optimise financial and non-financial benefits from native title resource agreements resulted in the release of a discussion paper by the Australian Government entitled "Optimising Benefits from Native Title Agreements".

He has been recognised as a leading lawyer in Native Title Law by Chambers Global (2017) and was named as the 'Market Leader' and 'Pre-Eminent' in Native Title Law by Doyle's Guide (2016 and 2017 respectively). In addition, Philip has been named in The Australian Financial Review's *Best Lawyers*® as one of Australia's best lawyers in Trade Law, Transportation Law and Native Title Law (2013-2017).

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INTERVIEWEES | LEGALS Cont.

ADRIAN DUFFY QC



Adrian Duffy QC was admitted to the Bar in 1997, having practised for some 14 years as a solicitor, most of which time he was a partner in one of the prominent firms in Brisbane.

His practice extends to a broad range of commercial litigation, arbitration and mediation, including admiralty, maritime and aviation law, industrial and employment law, commercial and professional indemnity insurance, engineering and construction, mining and resources, native title, trade practices and commercial contracts.

He has served on and chaired many professional committees and delivered a number of papers on a variety of areas of law. He is presently a member of the Professional Conduct Committee of the Queensland Bar and Editor of Hearsay, the Journal of the Bar Association.

He is listed in the 2016 edition of Doyle's Guide as one of the Leading Transport Barristers in Australia and as one of the Leading Employment and WHS Barristers in Queensland. He is listed in the 2017 edition as one of the recommended Senior Counsels in Native Title.

JAMES FITZGERALD



James Fitzgerald has been a lawyer, negotiator and strategist for more than 25 years. James was the Principal Lawyer at Cape York Land Council with responsibility for the Wik Peoples litigation and negotiations between 1994 and 1997.

James has acted as adviser and negotiator on some of the largest long-term, multi-party native title/mining land use agreements in Australia. He has been closely involved in the development of native title law and competing land use policy, having worked with Indigenous peoples and organisations, governments, and industry peak bodies in state and Commonwealth land use policy and legislation negotiations as well as in advisory and working groups.

James now consults on land access and community relations for major projects in Africa, Asia and the United States, and contributed as expert reviewer to Rio Tinto Ltd's recently-published international guide to community relations and social performance, *Why Agreements Matter*.

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INTERVIEWEES | TRADITIONAL OWNERS



FIONA WIRRER-GEORGE OOOCHUNYUNG

Granddaughter of Wik claimant Jean George
Former Deputy Mayor Napranum



PHYLLIS YUNKAPORTA

Former Deputy Mayor of Aurukun



KERI TAMWOY

Daughter of Wik claimant Alison Woolla
Business woman



JANINE CHEVATHUN

Daughter of Wik claimant Norma Chevathun
Police Citizens Youth Club Officer



MAREE KALKEEYORTA

Sister of Wik claimant Gladys Tybingooompa
Community Police Officer, Aurukun

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INTERVIEWEES | MEDIA

TODD CONDIE



Originally from far north Queensland, Todd Condie is a Traditional Owner of the Wadjanburra Clan of the Yidinji Language Group of the Atherton Tablelands, near Cairns, in Far North Queensland.

Todd moved to Melbourne in 2009, after a five-year stint in the Northern Territory working with the Northern Land Council as a media advisor, and worked for a year in East Melbourne as Aboriginal Affairs Coordinator with the Metropolitan Fire Brigade in the CBD. He is currently the City of Port Phillip's Indigenous Policy Officer, based in St Kilda, Melbourne.

With an extensive background and widespread experience in Aboriginal Affairs, particularly in the Indigenous media sector, Todd has worked in various roles including editor, sub-editor, reporter, and photographer at the national Indigenous newspaper, the Koori Mail. He was also the paper's first Aboriginal editor.

He then worked for five years as media advisor at the Northern Land Council in Darwin in the Northern Territory, working closely with the Top End's Traditional Owners, which included editing the long-running Land Rights News.

Todd has travelled to and worked with over 100 Aboriginal and Torres Strait Islander communities in every State and Territory of Australia, and has represented Indigenous people internationally when chairman of the National Indigenous Media Association of Australia at a United Nations conference in New York in 2000.

KERRY O'BRIEN



Kerry O'Brien is a prominent Australian journalist and author whose long career includes 28 years as a national current affairs television presenter and interviewer. He has specialised in politics, but has also built a strong base in economics and business journalism, as well as investigative reporting. He has interviewed presidents and prime ministers across the world.

Kerry has worked for every free to air television network, but has spent more than 30 years in public broadcasting. He cut his teeth on trail-blazing ABC current affairs programs like *This Day Tonight*, and *Four Corners*, and was the first presenter of the ground-breaking late night news analysis program, *Lateline*. He was also Editor and Presenter of the National *7.30 Report* for 15 years.

Over decades he has also built a strong body of conference work as a speaker, moderator and interviewer.

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INTERVIEWEES | LEADERS

PETER YU



Mr Peter Yu is a Yawuru Man from Broome in the Kimberley region in North West Australia with over 35 years experience in Indigenous development and advocacy in the Kimberley and at the state, national and international level.

He has been an advocate for the social, cultural and economic advancement and wellbeing of Kimberley and other Aboriginal communities for his entire career. Over this period, he has been instrumental in the development of many community based regional organisations.

He was Executive Director of the Kimberley Land Council during the 1990s and had a national leadership role negotiating the nation's response to the High Court's 1992 Mabo decision.

Peter was a key negotiator on behalf of the Yawuru Native Title Holders with the Western Australian State Government and Shire of Broome over the landmark 2010 Yawuru native title agreement and is the current Chief Executive Officer of the Yawuru Corporate Group.

Peter is a Board Member of the North Australian Indigenous Land and Sea Managers Alliance Ltd (NAILSMA Ltd), deputy Chair of the AFL Aboriginal Advisory Committee, Deputy Chair of Broome Future Ltd, and a Trustee of the Princes Charities Australia (PCA).

SENATOR PATRICK LIONEL DJARGUN DODSON



Patrick Dodson is a Yawuru man from Broome in Western Australia. He has dedicated his life work to being an advocate for constructive relationships between Indigenous and non-Indigenous peoples based on mutual respect, understanding and dialogue. He is a recipient of the Sydney International Peace prize.

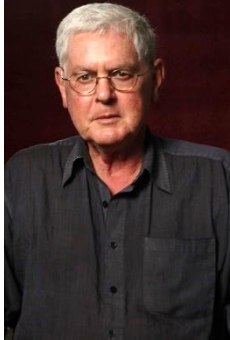
Patrick has extensive experience in Aboriginal Affairs, previously as Director of the Central and Kimberley Land Councils and as a Commissioner in the Royal Commission into Aboriginal Deaths in Custody. He also served as inaugural Chair of the Council for Aboriginal Reconciliation and as Co-Chair of the Expert Panel for Constitutional Recognition of Indigenous Australians.

Prior to his endorsement by the Australian Labor Party as a Western Australian Senator in March 2016, Patrick was a member of the ANU Council, Adjunct Professor at the University of Notre Dame (Broome) and Co-Chair of the National Referendum Council.

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INTERVIEWEES | ANTHROPOLOGIST

PETER SUTTON



Peter Sutton is an anthropologist and linguist who has worked with Aboriginal people since 1969.

He speaks three Cape York languages, and as an expert on Aboriginal land ownership he has assisted with fifty land rights cases.

He has authored or edited twelve books, including *Native Title in Australia: an Ethnographic Perspective* which is regarded as the most authoritative work in its field.

He is an Australian Research Council Professorial Fellow at the University of Adelaide and the South Australian Museum, and a Fellow of the Academy of the Social Sciences in Australia.



QLD Premier Wayne Goss makes a visit to Aurukun
Photo: The Lew Griffiths Minamothu Library.



Inside the High Court - 1996
Photo: The Lew Griffiths Minamothu Library.

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THE WIK PEOPLES

The Wik peoples are not a single tribe, but rather a group of tribes, with the Wik prefix distinguishing a people whose combined areas extend north from the Holroyd River to the Watson on the central west of Cape York peninsula. The combined areas of the Wik peoples reach from the shores of the Gulf of Carpentaria inland to the central highlands, for a distance of 130 km. The Wikmunkan of the interior is the dominant tribe. West of the Wikmunkan is a line of four smaller tribal groups, the Wikianji, Mimungkum, Wikmean and Wikampama. Six more small groups are based around the coastal swamps, river estuaries and mangrove-lined tidal lowlands extending from the southmost tidal channels of the Holroyd River to Archer Bay, and the south side of the coastal reaches of the Archer River. Their names are the Wiknantjara, Wiknatanja, Wik-kalkan, Wikepa, Wikatinda (reportedly extinct) and, finally, the Wikapatja, who inhabit the shores on the south side of Archer Bay and the nearby marshy islands.

The Wik were the first Indigenous Australians with whom the Europeans made contact. In 1606 Dutch sailors from Willem Jansz's Duyfken clashed with them at Cape Keerweer, midway between the Holroyd and Archer Rivers. Several Dutch sailors were killed, and the incident led to the aborting of the Dutch voyage. The oral traditions of the Wik still tell of their repelling of the invaders.

Although the Wik were remote from the main thrust of nineteenth-century colonial expansion, their twentieth-century relationship with the State government and mining companies has not been a happy one. With the end of frontier anarchy and violence, the Queensland Government created reserves and the Presbyterian Church established mission stations at Weipa, Mapoon, and Aurukun between 1891 and 1904.

Decades later, Wik peoples in all three locales had their lives adversely affected because of their proximity to the largest bauxite field in the world. In 1957 the Comalco Act (Qld) gave that company leases over virtually all of the Weipa reserve for 110 years. In return for leases over 600,000 hectares on central western Cape York containing up to three billion tonnes of bauxite ore, the traditional owners were given a small living area and Comalco provided money for housing which the state government later rented back to the community. Comalco saw this as "full discharge of the company's obligation to the Weipa people". In 1959, with the publication of a notice in the Queensland Government Gazette, the Weipa reserve was unilaterally reduced to 124 hectares.

At Mapoon, at the northern end of the Comalco lease, the state government tried to disperse the Aboriginal community at the site of the old mission station. Although some wished to stay, in November 1963 they were removed by police and the settlement was burnt to the ground. The community was relocated to Bamaga, several hundred kilometres to the north. In 1965, under the Alcan Act, Alcan was given a 105 year lease over 1373 square kilometres of the Mapoon reserve. No negotiations were held with, and no compensation was offered to, the traditional owners of the land at Mapoon.

At the Aurukun reserve in late 1975, a consortium named Aurukun Associates was given a mining lease over 2000 square kilometres of the reserve until 2038. There were no appropriate consultations with the Aboriginal community, who opposed the development. Small royalty payments were to be made to the Director of Aboriginal Affairs and used as revenue for Aborigines across the state, but the Aurukun people themselves did not receive anything, although under the surface of their traditional lands were mineral reserves then estimated at \$14 billion.

Source – The Wik Decision and After – Brian Stevenson - Queensland Parliamentary Library

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THE WIK CASE

On 30 June 1993 the Wik peoples made a claim in the Federal Court of Australia for native title to land on Cape York Peninsula in Queensland. The land claimed by the Wik people (and the Thayorre people, who claimed native title rights to an area partly overlapping the Wik claim) included land where two pastoral leases had been issued by the Queensland government.

One lease, Holroyd, was originally granted in 1945 and continues to be a pastoral lease. Surrendered in 1973, a new lease was issued on 27 March 1975 for a term of 30 years commencing on 1 January 1974 under the Land Act 1962 (Qld). In 1945 the land was described as rough and capable of carrying one head of cattle per 60 hectares. When the lease was renewed, specific conditions were included. The applicants were required to build fences, an airstrip, dams, yards and a house and to sow 40 hectares with seed. But many of these conditions were not met and in 1988 an inspection report found only 100 unbranded feral cattle on the property, and a handful of human occupants. No manager's residence or workers' quarters had been constructed.

The other pastoral lease, Mitchellton, was first granted in 1915, forfeited and replaced by another pastoral lease in 1919 and forfeited again in 1920. It was never occupied as a pastoral lease, and Aboriginal people have been in continuous occupation of the area, with 300 recorded as being present in 1919. In 1922 the area became an Aboriginal reserve which it remains today. None of the leases contained express reservations in favour of the Aboriginal people. Both leases were granted with the stipulation "for pastoral purposes only", although the Land Act 1910 (Qld) under which the earlier lease was granted also included provision for the issue of licences to persons to enter any pastoral holding to cut, get and remove timber, stone, gravel, clay, guano, or other material. That lease was granted subject to reservations for access for searching for gold and minerals and the right of any person to go upon the land for survey.

The Wik and Thayorre peoples argued that native title and pastoral leases coexisted on Holroyd from 1945 and on Mitchellton for almost all of the time between 1915 and 1920. Therefore, a precedent had been set that it was possible for the two types of land rights to apply to the one piece of land.

The Wik tried to prove through historical documents that there was a limit to Queensland's powers to legislate on land matters because the British government in the nineteenth century had explicitly instructed Australian colonial governments to allow the Aborigines access to pastoral land. Therefore, if pastoral leases granted by the Queensland government did not contain a preservation of those rights of access, then the leases were invalid because they had exceeded the powers of the state.

In March 1994 Judge Drummond adjourned the case to enable the Wik to apply for a determination to the National Native Title Tribunal. The matter was returned to the Federal Court in May 1994 to obtain a ruling on the following four questions:

1. Was the power of the Queensland Parliament, at the time of its establishment and thereafter, subject to a limitation that prevented it from enacting laws providing for the grant of pastoral leases that do not preserve native title rights?
2. Does the grant (in Queensland) of a pastoral lease that does not contain a term preserving native title rights, and which confers exclusive possession on the lessee, necessarily extinguish native title?

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3. Has the passage since 1909 by the Queensland Parliament of certain legislation concerning minerals and petroleum extinguished any native title rights the applicants may have had in minerals and petroleum?
4. Can the applicants claim damages and other relief against the State of Queensland and Comalco Aluminium Ltd (Comalco), if the grant to that company by the State of rights in land, including mining rights, extinguished the native title rights the applicants may have had in that land?

In his judgement on 29 January 1996, His Honour Judge Drummond rejected the argument that the leases were invalid. In effect, Drummond ruled that the Wik people's native title was extinguished by pastoral leases over their land. As well as this, any native title rights the Wik had to minerals or petroleum in their country had been extinguished by state legislation which transferred ownership of those resources to the Crown. Drummond rejected the arguments advanced by the Wik that they were entitled to compensation for the extinguishing of the native title because of the state's fiduciary obligation to protect their rights and interests.

He held that each of the leases in question conferred on the lessee "rights to exclusive possession" of the land and that therefore the grant of each lease "necessarily extinguish[ed] all incidents of Aboriginal title ... in respect of the land demised under the pastoral lease." However, he did not decide whether the appellants were the holders of native title rights in respect of the leased land.

On 22 March 1996 appellants were granted leave to appeal to the Full Court of the Federal Court against the judgement of Drummond. This was deemed necessary because his Honour's judgement was held to be interlocutory and to not have disposed finally of the proceedings. Notices of motion were filed in the Federal Court seeking removal of both matters to the High Court, and an order to that effect was made on 15 April 1996.

The High Court hearings began on 11 June 1996. During the hearings the Commonwealth Solicitor-General, Gavan Griffith QC said that if the High Court ruled that native title could survive the grant of a pastoral lease, it would "fracture the skeleton" that gives land law its shape in Australia. But counsel for the Wik people Walter Sofronoff QC said in his final address that the Court could uphold the Wik argument without the court "fracturing the skeleton" of Australian land law.

One reason for this was that pastoral leases were novel statutory creatures and did not give the exclusive possession conferred by common law leases. Of the 70 varieties of landholding created by statute, only one, freehold, would necessarily extinguish native title. All others would have to be examined to see if they conferred rights inconsistent with native title rights.

On 23 December 1996 a majority in the High Court held that the issuing of two Queensland pastoral leases under consideration in the Wik case did not necessarily extinguish native title. In each case where native title was claimed on land covered by a pastoral lease the rights conferred by the lease and the nature and content of the native title rights and interests would have to be assessed and considered.

The Wik judgment is of vast significance as about 42 per cent of the Australian land mass is under pastoral lease. The judgement resulted in widespread and diverse reactions, with serious concerns about the future of the native title process and the viability of many pastoral holdings.

Source – The Wik Decision and After – Brian Stevenson - Queensland Parliamentary Library

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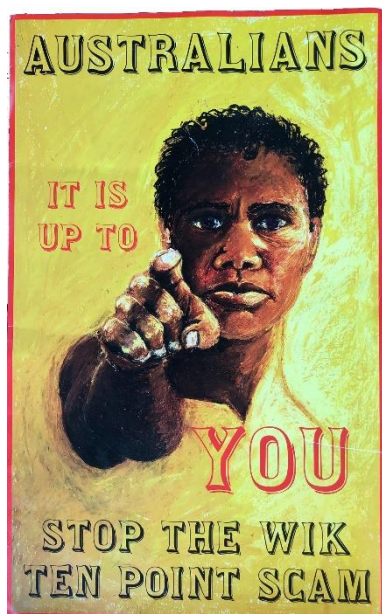
HOWARD'S TEN POINT PLAN

In response to the WIK case, in April 1997 Prime Minister John Howard announced a proposed ten point plan aimed at reconciling the National Party and the farmers, and the Aboriginal negotiators. The current version of the plan, as released on 8 May 1997, is as follows:

1. Validation of acts/grants between 1/1/94 and 23/12/96 Legislative action will be taken to ensure that the validity of any acts or grants made in relation to non-vacant crown land in the period between passage of the Native Title Act and the Wik decision is put beyond doubt.
2. Confirmation of extinguishment of native title on 'exclusive' tenures States and Territories would be able to confirm that 'exclusive' tenures such as freehold, residential, commercial and public works in existence on or before 1 January 1994 extinguish native title. Agricultural leases would also be covered to the extent that it can reasonably be said that by reason of the grant or the nature of the permitted use of the land, exclusive possession must have been intended. Any current or former pastoral lease conferring exclusive possession would also be included.
3. Provision of government services Impediments to the provision of government services in relation to land on which native title may exist would be removed.
4. Native title and pastoral leases. As provided in the Wik decision, native title rights over current or former pastoral leases and any agricultural leases not covered under 2 above would be permanently extinguished to the extent that those rights are inconsistent with those of the pastoralist. All activities pursuant to, or incidental to, 'primary production' would be allowed on pastoral leases including farmstay tourism, even if native title exists, provided the dominant purpose of the use of the land is primary production. However, future government action such as the upgrading of title to perpetual or 'exclusive' leases or freehold, would necessitate the acquisition of any native title rights proven to exist and the application of the regime described in 7 below (except where this is unnecessary because the pastoralist has an existing legally enforceable right to upgrade).
5. Statutory access rights Where registered claimants can demonstrate that they currently have physical access to pastoral lease land, their continued access will be legislatively confirmed until the native title claim is determined. This would not affect existing access rights established by state or territory legislation.
6. Future mining activity
 - a. For mining on vacant crown land there would be a higher registration test for claimants seeking the right to negotiate, no negotiations on exploration, and only one right to negotiate per project. As currently provided in the NTA, states and territories would be able to put in place alternative regimes with similar right to negotiate provisions.
 - b. For mining on other 'non-exclusive' tenures such as current or former pastoral leasehold land and national parks, the right to negotiate would continue to apply in a state or territory unless and until that state or territory provided a statutory regime acceptable to the Commonwealth which included procedural rights at least equivalent to other parties with an interest in the land (e.g. the holder of the pastoral lease) and compensation which can take account of the nature of coexisting native title rights (where they are proven to exist).

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7. Future government and commercial development.
 - a. On vacant crown land outside towns and cities there would be a higher registration test to access the right to negotiate, but the right to negotiate would be removed in relation to the acquisition of native title rights for third parties for the purpose of government-type infrastructure. As currently provided in the NTA, states and territories would be able to put in place alternative regimes with similar right to negotiate provisions.
 - b. For compulsory acquisition of native title rights on other 'non-exclusive' tenures such as current or former pastoral leasehold land and national parks, the right to negotiate would continue to apply in a state or territory unless and until that state or territory provided a statutory regime acceptable to the Commonwealth which included procedural rights at least equivalent to other parties with an interest in the land (e.g. the holder of the pastoral lease) and compensation which can take account of the nature of co-existing native title rights (where they are proven to exist). Page 18 The Wik Decision and After.
 - c. The right to negotiate would be removed in relation to the acquisition of land for third parties in towns and cities, although native title holders would gain the same procedural and compensation rights as other landholders.
 - d. Future actions for the management of any existing national park or forest reserve would be allowed.
 - e. A regime to authorise activities such as the taking of timber or gravel on pastoral leases, would be provided.
8. Management of water resources and airspace. The ability of governments to regulate and manage surface and subsurface water, off-shore resources and airspace, and the rights of those with interests under any such regulatory or management regime would be put beyond doubt.
9. Management of claims.
 - a. In relation to new and existing native title claims, there would be a higher registration test to access the right to negotiate, amendments to speed up handling of claims, and measures to encourage the States to manage claims within their own systems.
 - b. A sunset clause within which new claims would have to be made would be introduced.
10. Agreements Measures would be introduced to facilitate the negotiation of voluntary but binding agreements as an alternative to more formal native title machinery.



Source – *The Wik Decision and After* – Brian Stevenson - Queensland Parliamentary Library.

Ten Point Scam image courtesy of the artist – Karen Calley.

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BEHIND THE STORY



Wik vs Queensland has been many years in the making. The spark was lit by Louise Griffiths, a woman who lives in the country outside of Canberra. Louise's late husband, Lew, was a cameraman who dedicated a lot of his time to the people of Cape York Peninsula. Over 20 years, he visited the Wik people of Aurukun, capturing their stories with his camera. He was one of the early trailblazers of media and content creation in remote and regional Australia, accumulating over 2,700 hours of archive film and gaining a unique insight into one of our nation's most unique periods of Aboriginal political history.

Through Aboriginal leader Noel Pearson, Louise offered up full access to her late husband's archive to Aboriginal filmmaker Dean Gibson. This was the catalyst to unlocking the vault of archive material and revisiting this significant piece of Australian legal, political and - most importantly - Wik history.

Over a period of 18 months, development took the team to Aurukun for dozens of conversations with community elders and family members over cups of tea and scotch finger biscuits. Unfortunately, the years that had passed meant that many of the Wik people in the archive film had passed away, so the team spent extended periods of time talking, yarning, sharing, interviewing and meeting with their families. Dean Gibson had previously filmed in Aurukun, and had earned a high level of respect and trust from within the community. The road from Weipa to Aurukun became well worn by the team.

As the story developed, one point became very clear: this was a very complex and emotionally-charged story. The production team knew that this story needed to be more than just another legal and political drama that would get bogged down in the details. It was important to have the key players as part of the film to reflect from a national and personal perspective.

Production took the team right around Australia – from long periods in Aurukun, to Broome, Adelaide, Melbourne, Brisbane and the Sunshine Coast. Our priority was to be efficient and un-intimidating, so by keeping the crew and infrastructure levels down, the team was able to keep the interviewees feeling comfortable and safely navigate the memories of reflecting on people passed.

Wik vs Queensland was a special film to be part of for the entire team, mostly for the reason that behind the public outcry for the case was a group of people who just wanted the best for their future. They wanted the ability to access their country and secure it for future generations. The production team knew that guiding the Wik people back in time into past memories could have been a highly traumatic and challenging experience. But it wasn't. People generously gave their time and shared. It empowered the Wik people to look within and find their voice around this moment in history.

In telling this story truthfully and respectfully, it was imperative that we give people closest to the issue a voice, the Wik Traditional Owners. This has been their opportunity to tell the story from the Cape, so trust and relationships were built, and cultural respect observed.

It wasn't always easy, but it was important, and that what's matters the most.

Photo – Gladys Tybingoompa with Lew Griffiths, courtesy of The Lew Griffiths Minamothu Library.

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Director Of Photography	MARK BROADBENT
Editor	LINDI HARRISON ASE
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Production Manager	TARA WARDROP
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Impact Producer	KYLIE PASCOE
Production Designer	RHIANNA MALEZER
Assistant Editor	TANE MATHESON
Specialist Camera	NIK LACHAJCZAK
Sound Recordists	ALICIA EAMES NICK ROWAN
Sound Designers	TANE MATHESON JEFF MOULTON
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Post Production Assistant	STEPHANIE GURDON
Archivist, Minamothu Library	PAUL CHURCHER
Researcher And Archivist	EVELYN SAUNDERS
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Director Of Photography Consultant	MURRAY LUI
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Business Development	ELLE CROXFORD
Features & Television Producer	SALLY WORTLEY
Features & Television Coordinator	AINSLEY PETTITT
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Colourist	JUSTIN MCDONALD
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Junior Online Editor	PATRICK BUCKLEY
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Accountant Assistant	CAMERON CLIFF
Chartered Accountants	CHRISTOPHER COOTE & CO
Production Lawyer	PETER BOLAM
	BROADLEY REES HOGAN LAWYERS
Production Insurance	CHRIS MILNE
	SPOKE INSURE
Collections Agency	SCREENRIGHTS

The filmmakers respectfully acknowledge the Wik Elders who have passed and the special contribution to the film of the following Wik Traditional Owners.

Stanley Ngakyunkwokka	Robert Holroyd Banninh Yeium
Gladys Tybingoompa	Alison Woolla
Jean George Awumpun	Benny Yunkaporta
Jacob Wolmby	Paul Peemuggina
Angus Namponan	Geraldine Kawangka
Jack Spear	Frances Yunkaporta
Annie Kalkeeyorta	Neeyum Yunkaporta
Eric Koo Oila	Lou Yunkaporta
Norma Chevathun	Gideon Chevathun
Archiewald Kummokin Otomorathin	

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INTERVIEWEES

In order of appearance

FIONA WIRRER-GEORGE OCHUNYUNG

NOEL PEARSON

PHYLLIS YUNKAPORTA

KERRY O'BRIEN

MARCIA LANGTON AM

SENATOR PATRICK DODSON

JAMES FITZGERALD

PETER YU

KERI TAMWOY

WALTER SOFRANOFF QC

FRANKIE DEEMAL

ADRIAN DUFFY QC

PHILIP HUNTER

PETER SUTTON

JANINE CHEVATHUN

MAREE KALKEEYORTA

TODD CONDIE

SPECIAL THANKS

Jonathan Korkaktain	Bridgette Bandicootcha
Stanley Kalkeeyotta	Yolande Bandicootcha
Barbara Bandicootcha	Tayehun Clermont
Lenny Koowarta	Jonyele Bandicootcha
Martha Koowarta	Kaschea Motton Adidi
Georgina Blanco	Ejay Motton
Sylvester Blanco	Mayella Motton
Maureen Karyuka	Deborah Holroyd
Lynette Adidi	Dawn Koondumbin
Peter Tybingoompa	Roy Landis
Rebecca Wolmby	Silas Wolmby
Stuart Korkaktain	Leith Kawangka
Ron Yunkaporta	Anthony Kerindun
Roderick Yunkaporta	Peter Peemuggina
Dorothy Pootchemunka	

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THANK YOU

Ngan Aak Kuunch Prescribed Body Corporate

Aurukun Shire Council

Mayor Dereck Walpo, Bernie McCarthy CEO, Karen Nangle, Alan Neilan, Alisha Topping

Aurukun Indigenous Knowledge Centre

Cape York Land Council Aboriginal Corporation

Philippe Savidis, Elizabeth Grady, Dianne Hanselmann, Trudy Mashford

Cape York Institute

Jimi Bostock, Shireen Morris, Sam Montgomery, Kerry Hull

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Lionel Hogg, James Chumbley

Griffith Law School, Griffith University

Heron Loban

Griffith Film School

Donna Hamilton, Lauren Brown, Bobbi-lea Dionysius, David Peterson

State Library of Queensland

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National Film and Sound Archive

Napranum Shire Council

Lockhart River Community

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Steven & Shirley Costello

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John Doyle

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Malarndirri McCarthy	South Australian Museum, Lea Gardam
Krystal & Sarah-Kate Butler	Clancy Hearps
Queensland School of Film and Television	Noosa Boardroom
Khemistry, Phil Hagstrom	Oaks Broome, Danika Strachan
Wuungkam Lodge Aurukun, JD Cartwright	The Johnson Art Series Hotel
Kang Kang Café Aurukun, Tim and Anna	Cairns Sheridan Hotel, Leane Munro
Weipa Car Hire, Karina Dunn	Carlton Clocktower Apartments

ARCHIVE

Minamothu Lew Griffiths Memorial Library
The Custodians of the Library: Louise Griffiths, Annette Griffiths, Paul Churcher,
Marcia Langton AM, Noel Pearson, Dennis Grant, David Thompson, Gabrielle Trainor

SBS Archives

Australian Broadcasting Corporation Library Sales

The Koori Mail - Editor: Rudi Maxwell

Overall Photography

NQ UAV

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John Oxley Library, collection Pastor Roennfeldt slides, reference 7676

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'Ladder Of Success'

Written by Ted Hawkins

Courtesy of Ted Hawkins Music, Inc. (BMI), administered by Wixen Music Publishing, Inc. (BMI)

'Treaty'

Written by S.Kellaway/W.Marika/M.Mununggurr/C.Williams/G.Yunupingu/M.Yunupingu/P.Kelly
Published by Mushroom Music and Sony/ATV Music Publishing (Australia)

'Wunk'

Performed by Maree Kalkeeyorta

The filmmakers wish to pay tribute to the cinematographer whose life's work forms the Minamothu Lew Griffiths Memorial Library. Without Lew's dedication to documenting the Wik people's cause, this film could not have been made.

Lew Griffiths (1957- 2013)

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NITV COMMISSIONING EDITOR

MARY-ELLEN MULLANE

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