

## Policy Statement No. 48 - INDIGENOUS PEOPLES' LAND AND WATER

---

### 1. INTRODUCTION

ACF recognises that:

- a) Indigenous peoples, mentioned in this policy, refers to Aboriginal and Torres Strait Islander people in Australia today;
- b) native title exists in common law;
- c) Indigenous people have never relinquished their sovereignty over Australia and therefore have the right of political independence;
- d) as a result, the non-indigenous occupation of Australia amounts to an illegal dispossession of Indigenous people for which they should be compensated on fair and just terms;
- e) despite the 1967 Referendum, and the mandate given to the Commonwealth Government by the Australian people to legislate on the behalf of Indigenous people; Indigenous people remain the most economically, socially and politically disadvantaged people in Australia;
- f) Indigenous people have the right to self-determination;
- g) a fair and just settlement of Indigenous land and water issues is a precursor to social reconciliation in Australia;
- h) this policy applies to remote, rural and urban areas;
- i) water referred to in this policy includes inland and coastal rivers, inter-tidal zones, sea and oceans.

### 2. POLICY

#### 2.1 Native Title

ACF recognises and supports the decision of the High Court of Australia which found that native title exists in common law. ACF supports Indigenous peoples' right to have their native title recognised and protected in a timely and culturally appropriate manner. ACF recognises that Indigenous law continues to be exercised by Indigenous peoples and therefore, Indigenous peoples' custodial interests should not be limited to where the existence of native title is proven.

#### 2.2 Regional Agreements

ACF supports the principle and use of Regional Agreements where they are initiated by Indigenous people. ACF believes that such Agreements are preferable to litigation. These Agreements need not be restricted to land and water issues nor dependent upon proving the existence of native title. Where appropriate ACF will participate in such negotiated Agreements.

#### 2.3 Indigenous Land Use Agreements

ACF supports the principle and use of Indigenous Land Use Agreements where they are initiated by Indigenous people. These Agreements may be strategic land and water use plans and they are not dependent upon proving the existence of native title. Where appropriate ACF will participate in such negotiated Agreements.

#### 2.4 Land Ownership

ACF supports Indigenous ownership, occupation and management of culturally significant lands and waters. This may include unalienated crown land, national parks, marine parks, wilderness, other areas managed as reserves and other lands successfully claimed, acquired or negotiated by Indigenous people.

That with respect to Indigenous peoples' ownership of national parks, marine parks, wilderness and other areas managed as conservation reserves the ACF supports the use of management arrangements negotiated by traditional owners that protect natural values such as biodiversity.

ACF believes that such lands should be held under inalienable freehold title. Other Indigenous lands should similarly be held under inalienable freehold title wherever possible.

ACF supports fair and just compensation to Indigenous people where traditional lands have been alienated.

#### 2.5 Hunting, Fishing and Gathering Rights

ACF supports the continued right of Indigenous people to hunt, fish and gather food for cultural and subsistence purposes, and that where these activities take place in national parks or other designated conservation areas they are conducted in accordance with appropriate management strategies. ACF does not support the traditional use of threatened species in the exceptional circumstances where it is proven that such use is contributing to the decline of the species.

#### 2.6 Consultation Regarding Lands and Water for Conservation Purposes

ACF supports an on-going process of consultation with Indigenous people about the identification, declaration and management of land and waters for nature conservation purposes. ACF supports the use of negotiated agreements with Indigenous people on lands and water of conservation value.

#### 2.7 Funding

ACF recognises the critical requirement and supports on-going financial resources to assist Indigenous people to claim, acquire, occupy and manage their land and waters in a culturally appropriate and ecologically sustainable manner that protects biodiversity and natural values.

#### 2.8 Indigenous Autonomy

ACF recognises, respects and supports the right of Indigenous people to self determination.

#### 2.9 Environmental Protection

ACF believes that all land, whether in public or private ownership, should be managed according to ecologically sustainable principles.

#### 2.10 Development and Environmental Impact

ACF supports the right of Indigenous people to control development on their land. Such control should include the right to negotiate.

In common with practices elsewhere in Australia, major development proposals on Indigenous land should be subject to a public environmental impact process.

ACF reaffirms that all development should be ecologically sustainable, and also reaffirms its opposition to exploration and mining, forestry and other damaging activities in national parks and other areas of high conservation value.

ACF will endeavour to negotiate with Indigenous people in cases where development proposals are considered environmentally inappropriate and supports the right of Indigenous people to be provided with full and comprehensive information about environmental consequences of activities relating to land.

#### 2.11 Degraded Land

ACF recognises that land degradation problems on Indigenous land are mainly the result of past non-Indigenous actions, such as pastoralism, agricultural use, mining, urban development and the introduction of exotic species. Wherever this is the case, the cost of rectifying these problems should be borne by the Australian community as a whole, or where appropriate funding should be sought from past occupiers.

ACF believes that selection criteria for general land and water management funding schemes such as Landcare and Coastcare, should recognise the cultural context and special needs of Indigenous people.

#### 2.12 Education, Training and Information

ACF recognises and respects that Indigenous people have traditional and contemporary land and water management skills, knowledge and technologies that are of use to all land and water managers.

ACF supports initiatives which develop a meaningful dialogue between Indigenous and non-Indigenous people and appropriate programs to assist in the implementation of these techniques in day to day management practices, education curriculums and training courses.

These initiatives should be developed in a manner suitable to Indigenous groups and communities.

#### 2.13 Intellectual Property Rights

ACF recognises and respects the intellectual property rights of Indigenous people. ACF recognises in some circumstances information held by Indigenous people must not, as a matter of practice, be disclosed and ACF will accept this as a given.

#### 2.14 Promotion of Policy

ACF will actively promote this policy.

#### 2.15 Reconciliation

ACF supports meaningful consultation processes between Indigenous and non-Indigenous people to promote a clear understanding of each other's perspective on land and water management issues. Further, ACF supports negotiated agreements with Indigenous people as the principle means of achieving beneficial outcomes.

ACF will actively work towards the vision established by the first Council for Aboriginal Reconciliation which is a "united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all."

C84:25

15 November, 1998