



MEMORY OF THE WORLD REGISTER – NOMINATION FORM

Australia – The Mabo Case Manuscripts

PART A – ESSENTIAL INFORMATION

The personal papers of Edward Koiki Mabo are held alongside legal and historical materials relating to the Mabo Case. Eddie Mabo was an indigenous activist whose efforts resulted – shortly after his death – in the Australian High Court, in June 1992, overturning the doctrine of ‘terra nullius’. The judgment unleashed profound change in Australia’s legal and legislative landscape, influencing the status and land rights of its indigenous peoples and race relations generally. The significance of the Mabo Case lies in it being an extremely rare instance in world history of pre-existing tribal law being formally recognised as superior to fundamental law of the ‘invading’ culture, regardless of the economic and political implications.

1. Identity and Location

1.1 Name of documentary heritage

The Mabo Case manuscripts

1.2 Country

Australia

1.3 State, province or region

Australian Capital Territory

1.4 Address

National Library of Australia

Canberra ACT 2600

1.5 Name of organization or institution (if appropriate)

National Library of Australia

2. Legal Information

2.1 Owner (name and contact details)

National Library of Australia and indigenous people of the Murray Islands, Torres Strait

2.2 Custodian (name and contact details)

National Library of Australia

2.3 Legal status (if different from 2.1)

(a) category of ownership (e.g. public, corporate or private)

public

- (b) details of legal and administrative provisions for the preservation of the documentary heritage
1960 National Library Act
- (c) accessibility
restricted or closed access
- (d) copyright status
multiple copyright owners

2.4 Responsible administration

National Library of Australia

3. Identification

3.1 Description and inventory

Personal papers of Edward Koiki Mabo (1936-1992) and records relating to the case Mabo v. State of Queensland (No.2) in the High Court of Australia (1992)

3.2 Bibliographic/Registration details

The personal papers comprise diaries, correspondence, business papers, personal documents, financial papers, legal papers, newspaper cuttings and printed ephemera, 1959-92 (19 boxes). The legal papers comprise exhibits, transcripts of evidence, submissions, and correspondence between the plaintiff's solicitors and their clients and witnesses, 1982-92 (73 volumes).

3.3 Visual documentation, if appropriate (for example, photographs or a video of the documentary heritage)

Not available

3.4 History

The personal papers of Edward Koiki Mabo were purchased by the National Library from his widow, Bonita Mabo, in 1995. The legal papers were received from Bryan Keon-Cohen QC, a barrister in the Mabo Case, in 2000.

3.5 Bibliography: Please indicate up to three published sources describing the proposed documentary heritage.

Guide to the papers of Edward Koiki Mabo in the National Library of Australia, Canberra, National Library of Australia, 1995

Cunningham, Adrian. *The Chamberlain and Mabo papers: case studies of personal papers of national significance*. In Australian Society of Archivists Conference Proceedings, 1997, pp. 98-103

Loos, Noel and Koiki Mabo. *Edward Koiki Mabo; his life and struggle for land rights*, Brisbane, University of Queensland Press, 1996

Brennan, Frank. *One land, one nation: Mabo – towards 2001*, Brisbane, University of Queensland Press, 1995

Rowse, Tim. *After Mabo: interpreting indigenous traditions*, Melbourne, Melbourne University Press, 1993

Sharp, Nonie. *No ordinary judgment: Mabo, the Murray Islanders' land case*, Canberra, Aboriginal Studies Press, 1996

Stephenson, M.A., ed. *Mabo: the native title legislation*, Brisbane, University of Queensland Press, 1995

3.6 Names, qualifications and contact details of up to three independent people or organizations with expert knowledge about the values and provenance of the documentary heritage

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4. Management plan – see below Annex 1

5. Assessment against the Selection Criteria

5.1 Assessment of the documentary heritage against each criterion described in Annex 2.

Criterion 1 – Influence

The papers were acquired by the Library in 1995-2000 and, in addition, access to them is restricted. Inevitably, their use in so short a time has been limited. They have, however, been used by the biographer of Mabo, Noel Loos, and they were drawn on extensively for an award-winning film about Mabo and the Mabo Case. They have therefore indirectly had a great influence on popular perceptions of Edward Mabo and of public appreciation of the significance of the Mabo Case.

Criterion 2 – Time

The papers date from 1959-92. This is a crucial period in the history of race relations in Australia, with a series of battles and legal cases over the ownership and use of land, growing awareness of racial discrimination, and the social and health problems of indigenous peoples. It also saw the emergence of a small group of Aboriginal leaders who became household names by the 1990s. The Mabo Case papers include copies of documents relating to the ownership of land on the Murray Islands extending back to the first arrival of Europeans in the nineteenth century.

Criterion 3 – Place

The Mabo Papers, particularly the legal papers, are an extraordinary source on the history and society of the Murray Islands in Torres Strait. They also contain a good deal on social

and employment conditions in North Queensland. The value of the papers is by no means confined to this remote geographical area. The issues discussed in the papers have a bearing on the rights of both indigenous peoples and the descendants of European settlers throughout Australia. Moreover, these Australian discussions have aroused considerable interest in New Zealand, North America and in other countries where the rights of First Nations, and especially their land rights, have been hotly debated in recent decades.

Criterion 4 – People

In the first place, the papers document much of the life, experiences and thoughts of Edward Mabo, a man who was not widely known at the time of his death in 1991 but who is now a household name in Australia. More generally, they document the struggles of indigenous peoples, particularly the Torres Strait Islanders, to improve their economic position and affirm their legal rights. Mabo became a famous name, but his business ventures in Townsville and his efforts to improve housing and education were similar to those of other indigenous leaders in this period in other parts of Australia.

Criterion 5 – Subject/theme

The subject matter of the papers relate firstly to the history of land ownership and use, and social customs and beliefs, in the Torres Strait Islands over more than a century. In particular, they shed light on the concept of terra nullius, which was rejected by the High Court in 1992. In addition, the papers deal with some major issues in modern times: the political advancement of indigenous peoples, race relations in provincial cities, barriers to employment and higher education of indigenous peoples, and the survival and promotion of Aboriginal culture.

Criterion 6 – Form and style

The collection contains material in a variety of formats created by many people. It is not possible to generalize about its form and style.

Criterion 7 – Social value

For the reasons stated above, the papers are of the utmost value to the indigenous peoples of Australia, especially the Torres Strait Islanders. The Mabo Case was one of the most famous of High Court cases and the judgment had an immediate and long-term impact on land claims throughout Australia. The papers are therefore of importance to both indigenous and non-indigenous Australians.

Secondary Criterion 1 – Integrity

The integrity of the collection derives from its provenance: the personal papers were written or accumulated by Edward Mabo over many years, while the legal papers were assembled by the counsel representing Mabo and the other plaintiffs. They have been preserved intact by the Library.

Secondary Criterion 2 – Rarity

The personal papers are unpublished and unique. Many of the legal papers are copies, but they are interfiled with unique papers and it would be virtually impossible to reconstruct this archives.

5.2 Contextual assessment including an assessment of the importance of a series of documents, the importance of a series of documents in a particular setting, and the assessment against other documentary heritage

Much of the value of the papers derive from the integrity and completeness of the collection. Individual documents may, in themselves, be of little interest, but as part of a series, or as part of the whole collection, they document the life of Edward Mabo and the long chain of events that led to the 1992 Mabo Judgment. No comparable collection is known to exist in Australia.

5.3 An evaluation of the authenticity

The personal papers were received directly from the Mabo Family and the legal papers were received directly from lawyers in the Mabo Case. The authenticity of the papers is self-evident.