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GENERAL NATIVE TITLE ISSUES

National

The President of the Native Title Tribunal, Justice French, appealed for unity between pastoralists and Aboriginal groups. He noted that progress was slowest in dealings between native title applicants and State and Territory Governments, and asked that governments refrain from delaying native title negotiations in expectation of native title legislation amendments, or the handing down of a decision in the Wik case (*FinR, 28 August, p10*).

Predictions were made that a defeat of the Federal Government's plans to amend the Native Title Act in the Senate is quite likely. Aboriginal and industry groups have had fundamental disagreements about key amendments. The Government's fear is that the split will strengthen the resolve of the Opposition and key power parties such as the Greens and Democrats, in blocking amendments (*Aus, 12 August, p3*).

The Federal Government has indicated it may support the Cape York Peninsula agreement, undermining the Queensland Government's opposition to it. Despite the fact that farmers, Aboriginal, and environmental groups all support the deal, the Queensland Premier still refuses to support it. His main concern is that recognising the deal will uphold native title on pastoral leases, and contradict the High Court Wik case (*WA, 10 August, p8*).

Ray Robinson, acting chair of ATSIC, called for more stringent testing for native title procedures, to minimise "stuff ups" because of insincere claims which ruin claims of legitimate claimants (*Aus, 2 August, p5*).

Three Aboriginal fishermen who fished in a creek near Port Hedland to feed 300 people attending a wake have lost a legal claim that they had a native title right to fish in the area (*WA, 20 August, p29*).

Retiring Cattlemen's Union Queensland Chairman, Andrew McInnerney, claimed that the NTA was badly written in that it requires Aboriginal groups to make ambit claims rather than sit down with landholders and work through the issues. Citing the Cape York agreement, he said the Union had shown that it was possible to negotiate without legal intervention (*CM, 29 August, p6*).

Lawyer Noel Pearson, formerly director of the Cape York Land Council stated that in his opinion extinguished native title could be revived. Mr Pearson questioned whether the existence of historical inconsistency resulted in permanent and irrevocable extinguishment. Where the people remained, and tenure inconsistent with native title was replaced by a native title friendly land system, Aborigines again legally owned the land, he said (*Aus, 6 September*).

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NSW

More than a million artefacts and relics, including at least 150 ancient skeletons, are to be returned to their traditional Aboriginal owners by the National Parks and Wildlife Service, which is currently responsible for protecting them. It is also understood that State Cabinet has approved a proposal allowing Aboriginal ownership of some of the State's national parks (*SMH, 7 August, p5*).

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Queensland

General

The Federal Minister for the Environment, Senator Robert Hill, stated in early September that he considered the Queensland Government was likely to end its opposition to the Cape York land use agreement after the High Court brings down its decision on the Wik case later this year. This decision will determine whether pastoral leases and native title can co-exist (*Fin R, 5 September, p5*).

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Cape York

Native Title claims in Cape York have temporarily suspended the expansion of an Aboriginal market garden, despite group confidence that the future owners would probably give permission for the expansion. The Coen Regional Aboriginal Corporation hopes to negotiate with the traditional owners, but the Queensland State Government is nervous about allowing talks (*WA, 2 September, p28*).

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Hinchinbrook

A claim that the proposed Hinchinbrook development area is under native title claim was dismissed by both the Giringun Elders and Reference Association (who were cited as claimants) and the project's developer, Keith Williams. Both insist that reports of the claim were just a rumour (*CM, 29 August, p 6*).

Reports that a barrister for the claim was flown to the Torres Strait on IINA funds were also dismissed as rumour (*CM, 27 August, p8*).

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Western Australia

General

The West Australian Government was embarrassed by an allegation by the Native Title Tribunal on 7 August that it has "failed to negotiate in good

faith" in relation to a native title application. The NNTT ruling has implications for other cases going through the native title process, in that negotiations between all mining lease applicants and relevant Aboriginal native title claimants will be enforced (*Aus, 8 August, p3*).

The Western Australian Premier, Mr Court, proposed that legislation be enacted to ensure Aboriginal title holders be compensated by mining companies. This proposal entails two initiatives: firstly an amendment to the WA Mining Act to enforce compensation for infringement of native title rights and interests and secondly a ministerial condition would be written into all new leases under the Native Title Act, reinforcing the requirement for compensation (*Aus, 14 August, p23*).

Premier Court has also instigated moves for clearing up some of the problems now experienced by companies when dealing with native title legislation. He says that the Native Title Tribunal is inefficient and has put forward suggestions to increase its efficiency. Criticism has arisen as a result, saying that the Premier's recommended changes will weaken Aboriginal native title claimants' right to negotiate (*WA, 14 August, p6*).

Three Aboriginal groups with the native title interest over the Swan River and Perth metropolitan area will unite for talks with the State Government and local authorities over land use agreements for the river and foreshore areas. The parties said they would consider pursuing agreements that would not require the determination of native title such as those with Aborigines in Broome and the Ord River scheme. The parties are expected to draft an in principle agreement by December (*WA, 17 September, p 9*).

A special mediation service developed in the Goldfields of WA, was promoted as a model for use in Aboriginal native title cases nationally. The Goldfields area represents the greatest concentration of native title claims and overlapping claims in the country. The Goldfields Mediation Service represents a bid by a number of stakeholders in the process of determining native title to overcome costly delays in establishing the identity of native title claimants (*Aus, 23 August, p4*).

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WA Pastoralist and Graziers Association

Claims by Tony Boulton, president of the Pastoralist and Graziers Association, that pastoralists will fear for their safety if Aborigines gain access to pastoral land, were denounced by the Western Australia Farmers Federation (WAFF), as racist and unrepresentative. WAFF president, Kevin McMenemy, said that Aborigines had been living on unenclosed portions of pastoral stations for the past 60 years with few problems. KLC executive director Peter Yu supported this, saying that good relations exist between many pastoralists and Aborigines, while other pastoralists were considering allowing access (*WA, 29 August, p 10*)

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NT

NT Railway

The Northern Territory Government, which has long hoped to build a Darwin-Alice Springs railway, has 55 % of the 1410 km corridor needed to build the rail link. It has asked the Federal Government to use its powers of compulsory acquisition, if necessary to secure the 21% of the corridor which passes through Aboriginal land or is subject to claim. A key stimulus to proposals for the rail link is the volume of freight which could be taken to the new Darwin Port, scheduled to open in December next year (*Aus, 10 September, p 24*).

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Northern Territory sea claims

Claims by the fishing industry that sea claims in the Northern Territory could jeopardise its survival were dismissed by Mr Yumbulul, one of the traditional owners of the disputed area. Mr Yumbulul stated that exclusionary zones are not the aim, but rather the traditional owners sought to negotiate a joint management approach, which would allow visiting fishermen to use the area (*NTN, 30 August, p 4*).

The traditional owners of Croker Island have lodged a claim over 3000 square kilometres of sea surrounding the island. The Northern Territory News believes that if the claim is accepted, it would open the floodgates for dozens of other sea claims and give traditional owners effective control of most Northern Territory waters (*NTN, 3 September, p10*).

A group of traditional owners from the Manbunynga ga Rulyapa Steering Committee representing c 6000 Aborigines in North Eastern Arnhem Land said that Indonesia should be asked to protect Aboriginal sacred sites in waters off the Northern Territory as part of an international agreement on maritime zones. The Steering Committee said the Federal Government had failed to ensure sacred sites and fish stocks in the Arafura Sea would be protected under new arrangements for maritime boundaries.

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RECENT PUBLICATIONS

Due to the delays involved in getting this Newsletter to press, this month's publications segment is quite short.

Central Land Council, 1996, *The Land is Always Alive: The Story of the Central Land Council*. This report was compiled by Peter McEvoy and Pamela Lyon. It reviews the progress by Central Australian Aboriginal people in obtaining title to traditional lands year by year from the formation of the CLC in 1974, stressing the watershed formed by the *Aboriginal Land Rights (NT) Act 1976* in changing the status of Aboriginal people from people supervised by 'the Welfare' or 'the Mission' to people with the power to take control of their own communities and their own lives.

Howitt, Richard, (Ed), with John Connell and Philip Hirsch, 1996. *Resources, Nations and Indigenous Peoples: Case Studies from Australasia, Melanesia and Southeast Asia*, Oxford University Press. This