mediation is as effective and efficient as possible. The measures include conferral of enhanced powers upon the Tribunal, such as the power to compel parties to attend mediation and to require production of documents. The NNTT's functions will be broadened, including through provision for a new inquiry function relating to particular matters associated with claims.

Behaviour of parties

While modifications to the institutional arrangements are both necessary and appropriate, the Government recognises parties to native title proceedings have a vital role in improving the effectiveness of the native title system, and that timely resolution of claims will require the cooperation of all parties. Under the proposed changes, all participants in mediation before the NNTT will be required to mediate in good faith. There will also be greater responsibility on claimants to progress claims. Claims made in response to future act notices, where the future act has been completed, may be dismissed if the applicant fails to take reasonable steps to progress the matter. Applicants of unregistered claims will also be required to amend their claims or provide additional information in order to meet the merits requirements of the registration test. The Government is also considering measures to ensure participation by non-government respondents is better directed to issues relevant to their specific interests.

The Government has made clear the proposed changes are not intended to wind back rights of native title holders, or to upset the existing balance of rights within the system. However, the Government considers all parties involved in native title processes have a shared responsibility and interest in acting in a flexible way to secure meaningful and realistic outcomes.

Next steps

The Government is currently preparing legislative amendments necessary to implement the recommendations from the review, along with other changes to give effect to the inter-related reform measures. The other measures include:

- minor and technical amendments to the Native Title Act to address specific issues identified by stakeholders in relation to the operation of the legislation
- reforms to the program for funding respondents to native title claims to strengthen the focus on resolution of issues through agreement-making
- measures to assist in the effective function of prescribed bodies corporate, the bodies established to manage native title once it has been recognised
- further liaison with key stakeholders, including State and Territory governments, on steps to ensure greater transparency and communication between all parties involved in native title matters
- Reforms to improve the responsiveness, effectiveness, and accountability of Native Title Representative Bodies, which are fundamental to the operation of the native title system.

Further information about the reforms to the native title system is available at http://www.ag.gov.au/nativetitlesystemreform. The report of the Claims Resolution Review and the Government's response are available at http://www.ag.gov.au/claimsresolutionreview.

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FEATURE

NATIVE TITLE VICTORY FOR THE NOONGAR PEOPLE

On September 19, Justice Murray Wilcox handed down a preliminary finding that the Noongar people had established native title rights and interests over the metropolitan area in Perth, as part of the wider single Noongar claim covering 193,956 sq km from Hopetoun in the south to north of Jurien Bay. The Noongar people, represented by the South-West Aboriginal Land and Sea Council (SWALSC), had lodged the Single Noongar claim in the court in September 2003.Wilcox J said that the claimants, communally, held native title rights and interests that had survived since sovereignty despite the impact of colonisation in the area and the disruptions in the practice of traditional laws and customs caused by settlement. The judgement did not resolve issues of extinguishment, and, due to the complexity of that inquiry the judge recommended that the parties reach a negotiated settlement.

The full decision is available at: <http://www.austlii.edu.au/au/cases/cth/federal_ct/2006/1243.html>

SOUTH AUSTRALIA'S FIRST CONSENT DETERMINATION

The De Rose Hill judgement and recognition ceremony was held on the 27th at Ilintjitjara on APY lands. The Yankunytjatjara people first lodged their claim with the National Native Title Tribunal on 9 December 1994. Initial mediation between the parties failed to result in an agreement leading to a trial hearing in the Federal Court. It lasted 69 days with Justice O'Loughlin reaching a decision in 2002 where he held that the claimants had lost their continuous link to the area. The decision was eventually appealed with three Judges in the Federal Court finding that the lead claimant, Peter de Rose, had passed through ceremonial Western Desert law and was bound by the rules of the country. This showed that he, and others who regarded themselves Nguraritja (traditional custodians or owners), had non-exclusive native title rights over the area.

The judgment also found that native title was extinguished where there were improvements on the land (such as houses, sheds, airstrips and constructed dams) built in accordance with the pastoral leases.

This resulted in the first recognition of native title in the state's history. The claim covered an area about 1865 square kilometres of land adjacent to the Anangu Pitjantjatjara Aboriginal freehold lands just 40 kilometres south of the Northern Territory border.

Based on the rules for coexistence established in The De Rose Hill decision, the claimants and pastoral lease holders in the surrounding area entered into negotiations toward a sense of ILUAS and a consent determination.

South Australian native title claimants and the state government, resources industry, pastoral industry, local government and fishing industry are engaged in a plan to establish broad agreements in the form of indigenous land use agreements (ILUAs).

On the 28th at Marla, the Justice Mansfield handed down a consent determination following agreement of the State of South Australia and six Pastoral Lessees party to the neighbouring Yankunytjatjara/Antakirinja native title claim covered by pastoral leases. The ceremony brought an end to a 12 year struggle.

Picture of Peter De Rose and other Traditional Owners with Tribunal member Bardy MacFarlane at the handover.

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WHAT'S NEW

Senate Inquiries

Inquiry into the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 and associated bills)

The Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill 2006 (the Transitional Bill), was introduced into Parliament on 14 September 2006, along with an associated bill, the Corporations Amendment (Aboriginal and Torres Strait Islander Corporations) Bill 2006 (the Amendment Bill).

On 14 September 2006, the Senate referred the provisions of the Transitional Bill and the Amendment Bill to the committee for inquiry and report by 9 October 2006.

The committee intends to table its final report in relation to all three bills by 9 October 2006 and welcomes further submissions to the Transitional Bill and the Amendment Bill by 25 September 2006.

The bills, second reading speeches and Explanatory Memoranda are on the committee's website at www.aph.gov.au/senate_legal.

Please contact the secretariat on (02) 6277 3560 if you require further information.