

Western Australia is the first State or Territory to announce legislation that is designed to take over the National Native Title Tribunal's entire function. (WA, 22 Aug, 51)

As a response to the proposed WA legislation, the Aboriginal Legal Service has warned that extinguishment of native title would result in many claims for compensation and a considerable compensation bill. (WA, 24 Aug, p26)

### **Tasmania**

The Tasmanian Aboriginal Centre is holding negotiations with Aboriginal people over pursuing a native title application, which the Centre hopes to lodge in the near future. The application will cover Crown land from Freycinet Peninsula to Ben Lomond and across to the Tamar Valley. The Centre's legal manager, Michael Mansell, has indicated that this will be a test case for Australia as the case will be testing the legal argument that the Aboriginal community still had a legal right to the land it once occupied. This argument relies on gaining recognition that north-east Aboriginal groups had freehold title to large areas of the east coast 200 years ago. (Mer, 26 Aug, p5)\*

### **Northern Territory**

The Northern Territory has become the first state or territory to pass native title legislation following the Federal Government's *Native Title Amendment Act*. The legislation removes the right to negotiate provisions and establishes a Territory native title tribunal. The Northern Territory Government hopes to establish their tribunal, to be called the Lands and Mining Tribunal, by 30 September. (HS, 21 Aug, p16)\* The Tribunal will only take over the National Native Title Tribunal's function in the area of future acts. Aboriginal representatives condemned the legislative package as being the closest thing to extinguishment that the Federal legislation would allow. (WA, 22 Aug, 51)\*

## **GENERAL NATIVE TITLE ISSUES**

### **International**

The head of the Unrepresented Nations and Peoples Organisation (UNPO), Ms Helen Corbett, will address members of the United States Congress on issues including that of how the US can assist Aboriginal people in the furtherance of their rights. Ms Corbett, who is the first Aboriginal person to be invited to address Congress members, is expected to tell the members that the Federal Government is breaching fundamental Indigenous rights. Ms Corbett has warned of the likelihood of a renewed call for a 2000 Olympic boycott, following the passage of the *Native Title Amendment Act* and the rise of One Nation. The UNPO is based in the Hague and is an advocate for about 100 million people from around 50 minorities and small nations around the world. (SMH, 17 Aug, p5)

A delegation of experts involved in the *Delgamuukw case* in Canada yesterday spoke to native title lawyers in Sydney. Delegation members included Maas Gaak (Don Ryan) speaker for the Hereditary Chiefs of the Gitxan; Midiigim Gyemk (Neil Sterritt) Gitxan Chief and spokesperson; Stuart Rush QC and Louise Mandell QC lawyers for the plaintiffs. The Gitxan people have recently demanded half of the profits from wood cutting and mining operations on their territory from the provincial Government. They are yet to hear a response from the Government. The delegation said the *Delgamuukw case* has implications for Australia. Law professor, Richard Bartlett agrees, saying that Aboriginal oral history was given great weight by the Canadian Supreme Court, a fact likely to have considerable significance here. The Canadian Supreme Court also considered the question of Indigenous self-government as important. Mr Stuart Rush,

QC, said that the Canadian Supreme Court and the Australian High Court influence each other's legal thinking. (*SMH, 30 Sept, p6*)

### **National**

A conference focusing on legal issues of native title following the passing of the *Native Title Amendment Act*, will be held in Sydney on 19 – 20 October. The conference is called 'Living With Wik: the new native title agenda'. (*Calcutt Watson and Associates Media Release, 7 Aug, p1*)

The President of the National Native Title Tribunal, Justice Robert French, today expressed appreciation for the service rendered by outgoing Tribunal Member Rick Farley who has resigned to contest an Australian Capital Territory Senate seat in the forthcoming Federal election. Mr Farley, who was appointed as a part time Member on 12 December 1995 for a three year term, tendered his resignation to the Governor General. (*NNTT Media Release, 8 Sept, p1*)

The first national audit of native title agreements since the introduction of native title laws nearly five years ago revealed more than 1,200 agreements had been struck between miners, pastoralists, different Indigenous groups, industry bodies and governments - despite the controversy over the legislation. National Native Title Tribunal President, Justice Robert French, who will detail the findings at the Western Australian Pastoralists and Graziers Association Annual Conference in Karratha today, said some of the agreements were small in scale and many related to the grant of mining leases, but all were building blocks toward a better relationship between Indigenous and non-Indigenous Australians.

"For its part, the National Native Title Tribunal has designed template agreements for use anywhere in Australia, devoted attention to understanding the problems faced by pastoralists through workshops and seminars, and designed its mediation practice to suit the needs of the parties. There is no need for a battery of lawyers or city meetings -- the Tribunal will go anywhere, anytime and offer whatever practical assistance is necessary to draw up localised native title agreements because that is a more inexpensive and less adversarial course of action than to settle native title applications by fighting them in the Federal Court."

Justice French said the NNTT's audit of agreements showed:

There were a total of 1,244 agreements throughout Australia with 91% of all agreements in Western Australia. Of the total number of agreements:

- 246 or 20 % were native title determination application related agreements (including non-native title outcomes); and
- 998 or 80 % were future act related agreements (i.e. related to the grant of mining leases and fast tracked exploration leases, and mainly in Western Australia);

Of the 246 native title determination application related agreements:

- 70 % were in Western Australia;
- 84 % involved the National Native Title Tribunal in mediation;
- 60 % of the agreements were confidential; and
- 50 % were agreements to amend native title applications to remove particular tenure types, or reduce parties or the number of claimants.

Of the 998 future act related agreements most were confidential s.34 agreements (usually related to the granting of mining leases) or agreements associated with fast tracking procedures for

exploration licences which were struck between miners and Indigenous people in Western Australia, usually without direct Tribunal assistance.

For the purposes of the audit, agreements were defined as an outcome reached with the active participation of two or more parties, with or without the Tribunal as mediator. Agreements could include reconciliation agreements, memoranda of understanding, process agreements or statutory title agreements. (*NNTT Media Release, 11 Sept, p1*)\*

The Coalition Government argues that it has solved issues around native title and *Wik*. The Labor Opposition says they will not repeal the *Native Title Amendment Act* if they win Government, but will revisit the legislation with a process to fully involve Indigenous stakeholders. (*Aus, 17 Sept, p6*)\*

The Australian Greens have called for the *Native Title Amendment Act* to be repealed, as it winds back rights recognised by the High Court. (*Age, 21 Sept, pA6*)\*

The United Nations Committee on the Elimination of Racial Discrimination has asked the Federal Government to explain how amendments to the *Native Title Act 1993* fit in with the international treaties it has signed. In particular, the committee wishes to consider the compatibility of the amended *Act* with Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. Australia is the first western country to be asked to explain its policies on race to the Committee. (*SMH, 23 Sept, p7*)\*

### **New South Wales**

The Eastern Suburbs Organisation for Reconciling Australia will hold the first large public forum since the Senate passage of the *Native Title Act* amendments. The forum will assess in detail the consequences of the amended legislation. (*Media Release, 3 Aug, p1*)

A new high school syllabus for Year 7 – 10 students in NSW, will cover issues including Aboriginal reconciliation, land rights and native title. (*DT, 5 Sept, p3*)

### **Queensland**

A steering committee for the Greater Mount Isa Regional Aboriginal Corporation has been working on a submission for a Mount Isa region Native Title Representative Body, which would cover an area spanning from Mount Isa to Camooweal, to Cloncurry, Julia Creek and then to Boulia and Birdsville. Steering committee member, Sunny Ah Sam, said the committee had consulted widely with the community. He said that incorporated status has already been achieved, subject to approval by the Aboriginal Affairs Minister. (*North West Star, 1 Sept, p5*)

### **Northern Territory**

Land councils in the Northern Territory are seeking financial compensation over land to be used for the Alice Springs to Darwin railway. They have also asked for equity in the railway, after the conclusion of the operator's concession. The Federal government are looking to introduce special legislation, at the Northern Territory Government's request, to acquire land along the rail corridor. (*FinR, 7 Aug, p15*)\* Spokesperson for the ALP, Mr Daryl Melham, said the party would not support such legislation in the senate as they had legal advice rejecting the need for special legislation. (*NT, 1 Aug, p6*)

The Federal Government will be ready to introduce legislation to allow the Northern Territory Government to acquire land in September. Federal Transport Minister Mark Vaile, announced the legislation, saying he is confident that it would be passed in September or October. The Northern Territory Government have given the land councils until August 27 to agree to their compensation package. These talks are continuing. (NT, 8 Aug, p 6)\*

## RECENT PUBLICATIONS (Not AIATSIS Publications)

Brennan, F. 1998 *The Wik Debate*

Father Frank Brennan's book, *The Wik Debate*, was launched Monday 14 September by ATSIC Chairperson, Gatjil Djerrkurra. (Aus, 14 Sept, p11)

CDRom:

*ATSIROM*: Aboriginal and Torres Strait Islander CD-ROM. RMIT Publishing, Melbourne.

**Summary:**

*ATSIROM* brings together, for the first time, an extensive collection of significant Australian databases containing selected bibliographic records from the country's leading sources relating to Aboriginal and Torres Strait Islander peoples.

The CD-ROM contains references to published and unpublished material including journal articles, newspaper and newsletter articles, pamphlets, ephemera, media/press releases, books and book chapters, manuscripts, rare works, speeches, conference proceedings, theses, research reports, parliamentary information on key issues, cases and judgments, Internet sources, royal commissions and government department reports, videos, tapes, posters, and much more.

A broad range of subjects are covered across twelve different databases, including land rights and native title, the Stolen Generation, deaths in custody, arts, music, environmental issues, literature, Indigenous languages, law education, heritage, health, history and culture, human rights, social and economic issues, racism and discrimination, tourism, sport and recreation, and exhaustive coverage of the Torres Strait and Far North Queensland.

For further information contact: Subscriptions Department, RMIT Publishing, PO Box 12477, Melbourne, VIC, 8006. Ph: 03 – 9349 4994. (*ATSIC, RMIT Publishing, Joint Media Release, 13 Aug, p2*)

Langton, M. 1998 *Burning Questions: emerging environmental issues for Indigenous peoples in northern Australia*. Centre for Indigenous Natural and Cultural Resource Management, Northern Territory University, Darwin, Australia.

## Native Title Research Unit Publications

*The following NTRU publications are available from Aboriginal Studies Press, ph.: (02) 6246 1191.*

***Working with the Native Title Act: alternatives to the adversarial method.*** Edited by Lisa Strelein, 1998. (Proceedings from a native title legal practitioners' workshop held 4-5 June 1997, Native Title Research Unit, AIATSIS – cost \$9.95 including postage)

***Regional Agreements: Key issues in Australia, volume 1.*** Edited by Mary Edmunds, 1998. (\$16.95 including postage)