COMPENSATION WORKSHOP 1

INTRODUCTION

BACKGROUND AND CONTEXT
COMPENSATION

LEGAL CONTEXT

1 January 1901

CONSTITUTION

1901

31 October 1975

RACIAL DISCRIMINATION ACT

1975

3 June 1992

MABO

1992

1 January 1994

NATIVE TITLE ACT

1994

23 December 1996

WIK DECISION

1996
TIMBER CREEK

BACKGROUND

• TOWNSHIPS

• LAND RIGHTS CLAIMS

• EARLIER DETERMINATION

• COMPENSATION CLAIMS
COMPENSATION: NATIVE TITLE ACT

STRUCTURE

• EXTINGUISHMENT

• VALIDATION
  • PAST ACT  31 October 1975 - 31 December 1993
  • INTERMEDIATE PERIOD ACT  01 January 1994 - 23 December 1996
  • FUTURE ACT  24 December 1996 – onwards

• ENTITLEMENT TO COMPENSATION
COMPENSATION: QUANTIFICATION
CRITERIA FOR DETERMINING COMPENSATION

• CRITERIA- SECTION 51 NTA

• JUST TERMS COMPENSATION- SECTION 53 NTA

• THE NON – NTA CONTEXT
HOW THIS WORKED

TIMBER CREEK

• ECONOMIC LOSS
  • NATURE OF EVIDENCE AND OUTCOME

• NON ECONOMIC LOSS
  • ROLE OF ANTHROPOLOGISTS
GOING FORWARD

CONSIDERATIONS

• IMPORTANCE OF PROPER ANTHROPOLOGICAL BACKGROUND

• DOES TIMBER CREEK SET A PRECEDENT/TARIFF

• FOCUS ON EVIDENCE FROM ANTHROPOLOGISTS

• EACH CASE WILL BE DIFFERENT
SUGGESTIONS

TOPICS FOR NEXT WORKSHOP

• Cumulative effects
• Loss or damage to reputation/dignity and associated value
• Interest and economic issues
• Future projected issues of loss into the future
• Anthropologists involvement in researching particulars of the acts