

Pearson backs Keating on native title reverse onus

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ABORIGINAL leader Noel Pearson says indigenous people have fewer land rights than squatters, backing Paul Keating's call for the onus of proof to be reversed in the Native Title Act.

On the 19th anniversary yesterday of the Mabo decision, he said the way the legislation had been interpreted in case law was "perverse" to its original intentions and that of the 1992 High Court ruling.

Mr Pearson, a lawyer and director of the Cape York Institute, was involved in negotiating the Native Title Act in 1993. It was a "huge injustice" that Aboriginal people had to establish continuous association with their land to be awarded title, and reform was needed.

"We can consider that law reform, because the heat has gone out of native title now," he said.

"We don't have the hysterical fears about native title we had 19 years ago."

"The country would be remiss if we don't extend to those Aboriginal groups and Torres Strait Island groups the full benefit of the Mabo decision."

Mr Pearson said it was wrong that someone who was an "adverse possessor" of land, such as a squatter, could be granted court ownership after squatting for 20 years. "An adverse possessor doesn't have to prove they were present on the land in 1788, and . . . prove a complex series of traditional laws and customs that applied 200-plus years ago."

Delivering the annual Lowitja O'Donoghue Oration at Adelaide University this week, former prime minister Keating called for native title objectors to be required to prove that a continuous attachment no longer existed.

Mr Keating said only 121 native title determinations had been concluded from 1300 claims in the 15 years since the Native Title Act began operating.

Some of the claims were rejected because indigenous traditional owners had been shifted from their land by white settlement, making it almost impossible to prove continuous association.

"It (the onus of proof) has substantially slowed the right of redress by Aboriginal people to adequate recognition of their rights in respect of land, water and other

natural resources," Mr Keating said in his address.

The former prime minister was echoing the sentiments of High Court chief justice Robert French in 2008.

The Keating government passed the Native Title Act in 1993 after negotiation with Aboriginal leaders such as Mr Pearson.