

NATIVE TITLE IN THE NEWS - JANUARY & FEBRUARY 2001

National

The President of the National Native Title Tribunal, Mr Graeme Neate, addressed a gathering of international mining companies at an Australian Mining Seminar at Australia House in London and stated that negotiating with traditional owners was increasingly becoming a standard way of doing business in Australia. There were clear signs that the mining industry had recognised that native title was a permanent part of the legal landscape and had incorporated it into business practice, as it had done with environmental protection laws, he stated. 'The workability of the system is as much about goodwill and the commitment of everyone involved to negotiation as it is about the legal framework. Those companies who are coming to grips with the law and entering into good faith negotiations with traditional owners are reaping the rewards,' he said. The native title environment in Australia in 2001 was vastly different to that of three years ago:

- today native title claimants wanting to have a say over mining and exploration must first pass a stringent registration test;
- seven out of 10 exploration and other low impact applications go through without the need for native title negotiations;
- there has been a one third net reduction in the total number of native title applications over the last three years;
- there are now 13 consent determinations of native title compared to three in 1998;
- there are now nine registered Indigenous Land Use Agreements.

Native title negotiations can be difficult and time consuming but State and Territory governments, and exploration and mining companies, are coming up with their own solutions within the broad legal framework laid down by the Commonwealth, stated Mr Neate. He urged companies to creatively explore the best options for achieving commercial objectives while establishing or consolidating community relationships. (*NNTT Media Release, 7 February 2001*)

New South Wales

The National Native Title Tribunal has called for landholders and other interest holders affected by four native title applications in north western New South Wales and southern Queensland to register to become parties for mediation talks.

The advertised applications are

- The Nyoongah Biblah Bibbil Gubbie Clan of the Euahlayi People's application in the vicinity of Brewarrina.

of Bogan, Bourke, Brewarrina and Cobar.

- The Hall Murray Clan of the Euahlayi People's application located approximately 26 kilometres north east of Lightning Ridge and falling within the Shire of Walgett.
- The Moorawarri Aboriginal People's application located between Bourke and Cunnamulla and falling within the Shires of Bourke and Brewarrina in New South Wales and the Queensland Shires of Balonne, Bulloo and Paroo.

NSW State Manager Andrew Solomon stated that anyone with an interest in the land or waters subject to the applications can be involved in discussions about whether native title exists in the area and if so how it might be recognised and respected in a way that preserves everyone's interests. (*NNTT Media Release, 7 February 2001*)

Victoria

A series of community consultation meetings is being held across Victoria during early 2001 as part of Victoria's native title protocol and framework agreement. The protocol is a statewide agreement that commits ATSIC, Miriambiak Nations Aboriginal Corporation and the Victorian Government to negotiate a resolution to native title claims in Victoria. The framework agreement will not replace native title claims in Victoria but will provide the means to resolve claims by negotiation rather than litigation and will give Indigenous people the chance to express their views. (*Ararat Advertiser, 2 Jan, p4*)*

The Full Bench of the Federal Court dismissed an appeal by the Yorta Yorta People against the 1998 ruling that they could not demonstrate a continuous connection to the land in the claim area. Following the ruling the Victorian Attorney General, Rob Hulls, announced that the Bracks' Government would enter into discussions with the Yorta Yorta People to try and achieve a negotiated settlement.(see report page 3) (*Aus, 9 Feb, 2001*)*

Queensland

The Cape York Land Council has been recognised as the Native Title Representative Body for the Cooktown invitation area. Applications for the Cairns area are still being considered. (*Senator John Herron, Media Release, 12 January 2001*)

A native title agreement with the Kangoulu and Ghungalu people has cleared the way for the development of a coal mine near Emerald in central Queensland. Following the agreement the Queensland Government is expected to issue a mining lease to GA Togara Pty Ltd to begin work on the \$350 million mine. Construction is expected to begin in 2002. A separate agreement with the Kangoulu and Ghungalu people has allowed for the issue of 45 leases for sapphire mining near Emerald.

native title legislation was providing the means by which Indigenous groups could pursue their rights to a share of income from mines on their land. (CM, 23 January, p4)

The Queensland South Representative Body Aboriginal Corporation has been recognised as the Native Title Representative Body for the Queensland South invitation area. The new organisation is the restructured Goolburri Land Council. (CM, 31 January, p2)*

The National Native Title Tribunal has stated that the recent acquittal of two men facing charges in relation to the theft of fish related to the 'specific facts of a case dealt with under the Queensland Criminal Code and did not signal any new right for fish to be taken from commercial fishermen by people claiming native title rights'. Tribunal Deputy President Fred Chaney said that the case has no wider implications for the application of Commonwealth native title law. 'Federal and High Court decisions and the Commonwealth Native Title Act make it clear that native title cannot take away or interfere with the valid rights and interests of other citizens, and that includes commercial fishermen' he said. (NNTT Media Release, 7 February)*

The National Native Title Tribunal has called for landholders and other interest holders affected by the Bidjara #3 native title application over land and waters in the Charleville region to register for mediation talks. The application falls within the local government areas of Barcaldine, Bauhinia, Blackall, Booringa, Bungil, Emerald, Jericho, Murweh, Paroo, Quilpie, Tambo and Taroom and excludes all private freehold land. NNTT Regional Manager Craig Jones stated that Federal legislation and court decisions had made it clear that native title could not take away the valid rights and interests of other citizens, including lease or licence holders. 'Continued public access to and enjoyment of national parks and other public places is guaranteed by law' he said. (NNTT Media Release, 21 February)

South Australia

The National Native Title Tribunal has written to more than 3,500 interest holders and placed newspaper advertisements advising interested parties, including people in the fishing industry, affected by six native title applications that they have three months to register as parties to mediation talks. The external boundaries of the applications range in size from 8,000 square kilometres to 96,000 square kilometres, and are in the western Eyre Peninsula, top of Spencer Gulf, northern Riverland and far north east of the State, including a portion of south west Queensland. All excluded private freehold land, which is not claimable. (NNTT Media Release, 6 February 2001)*

National Native Title Tribunal for registration. The agreement is between the South Australian Government, members of the Narungga Native Title Management Committee and Paradise Developments Pty Ltd, the developer of the proposed Port Vincent Marina. Tribunal Registrar Chris Doepel said anyone who believed they were native title holders and had not authorised the agreement has three months to lodge a written objection with the Tribunal. If no objections were received the agreement could be formally registered and would be binding on all native title holders whether they were involved in the agreement or not. (*NNTT Media Release, 21 February*)*

Joint briefings by the National Native Title Tribunal and the South Australian Fishing Industry Council have been held to address the concerns of people with fishing interests in the Riverland and Lakes & Coorong regions. The information sessions aimed to raise awareness of how their rights can exist alongside those of Indigenous traditional owners and were an important step in preparing the way for mediation to take place over three native title applications in the region. Mr Chris Uren of the NNTT stated that the three applications are seeking recognition of the Indigenous people's native title rights. 'Recognition of native title rights cannot take away or interfere with the rights of other citizens' he said. (*NNTT Media Release, 22 February*)

Western Australia

The National Native Title Tribunal has called for landholders and other interest holders affected by nine native title applications to register for mediation talks. The applications are

- the Wajarri Elders' application, a combination of six earlier applications, which is located 100 kilometres north-east of Geraldton and falls within the Shires of Chapman Valley, Cue, Meekatharra, Mount Magnet, Mullewa, Murchison, Northampton, Upper Gascoyne and Yalgoo;
- the Yugunga-Nya People's application, a combination of six earlier applications, which falls within the Shires of Cue, Meekatharra, Mount Magnet, Sandstone and Wiluna;
- the Hutt River application, which is 25 kilometres north of Geraldton and extended seaward 12 nautical miles. It falls within the Shires of Chapman Valley and Northampton;
- the Naaguja People's application, located in the Geraldton region, and extending 12 nautical miles out to sea and falls within the City of Geraldton and the Shires of Chapman Valley, Greenough, Irwin, Mullewa and Northampton;
- the Yued Families' application, 52 kilometres north of Perth, extending 12 nautical miles out to sea and falls within the City of Wanneroo and the Shires

Toodyay, Victoria Plains and Wongan-Ballidu.

- the Wagyl Kaip application which falls within the City of Albany and the shires of Boyup Brook, Bridgetown-Greenbushes, Broomehill, Cranbrook, Denmark, Dumbleyung, Gnowangerup, Jerramungup, Katanning, Kent, Kojonup, Lake Grace, Manjimup, Plantagenet, Ravensthorpe, Tambellup, Wagin and Woodanilling.
- the Njamal People's application, located 30 kilometres south east of Port Hedland, falls within the Town of Port Hedland and Shire of East Pilbara.
- the Ivy Bindaye application, located 220 kilometres south of Kununurra, falls within the Shire of Halls Creek.
- The Gnaala Karla Booja application which falls within the cities of Armadale, Bunbury, Cockburn, Mandurah and Rockingham; the towns of Kwinana and Narrogin; and the Shires of Beverley, Boddington, Boyup Brook, Bridgetown-Greenbushes, Brookton, Capel, Collie, Corrigin, Cuballing, Dardanup, Donnybrook-Balingup, Harvey, Kojonup, Murray, Narrogin, Pingelly, Serpentine-Jarrahdale, Wagin, Wandering, Waroona, West Arthur, Wickepin, Williams and Woodanilling.

State Manager Andrew Jagers said people affected by the applications had three months to register as parties. Mediation aimed to reach native title agreements that respected everyone's rights and interests. If people with an interest in the land and waters wanted to be involved the best way was to become a party to the application. *(NNTT Media Releases, 16 January 2001)*

Northern Territory

The National Native Title Tribunal has launched an information program to brief mining companies operating in the Northern Territory on dealing with native title. Tribunal State Manager Ian Williams said information kits showing the steps in the process to gain native title clearance for access to land for mining or exploration had been sent to every company seeking mining or exploration tenements on land where native title might survive. 'The information kits aim to raise awareness of the native title process so people know where they stand and what options they have' he said. Federal native title law did not give Aboriginal people a veto on development however Aboriginal groups who have passed the registration test have the right to negotiate about mining and exploration proposals. *(NNTT Media Release, 30 January 2001)*

The High Court began hearing an appeal that will determine whether native title sea rights include exclusive hunting and fishing rights. The appeal involves a claim to native title over waters around Croker Island in the Northern Territory. *(CM, 6 Feb, p6)**