

people to fill them. In the case of McIvers, the Agreement with Koutha builds on the existing commercial joint venture. These Agreements reinforce the commitment to work together. (*Peninsula Post*, 26 Nov, p3)

## **Northern Territory**

### **Jawoyn Association**

An agreement to be signed by the Jawoyn Association, the Northern Land Council and the Northern Territory Government, surrenders native title rights on an area of horticultural land in exchange for renal dialysis facilities and an alcohol detoxification centre to be provided by the Territory. Jawoyn executive director, Robert Lee recognised that the Government should provide these services but said that the people don't want to wait for the slow bureaucracy. (*Aus*, 20 Oct, p1)\* The agreement has been condemned as a national shame and a worrying precedent with Australian Medical Association Vice President, Dr Sandra Hacker, saying it's not proper to barter for health care. Mr Lee said the surrendered land contains no sacred sites and no hunting areas or ceremonial places. (*Age*, 21 Oct, pA9)\* Mr Lee defends the Jawoyn people's decision, saying that they have a right to make decisions in regard to their lands. (*Aus*, 26 Oct, p13)

## **AMENDMENTS**

### **National**

Native Title Representative Bodies feel uncertain about their future after the passing of amendments to the *Native Title Act 1993*. Under the new Act, all 25 of the Representative Bodies will have to reapply for their right to represent native title applicants. Indigenous leaders have expressed concerns over the Minister for Aboriginal Affairs having the power to refuse Representative Body status. (*SMH*, 1 Oct, p2)

Deputy Chair of the National Indigenous Working Group on Native Title, Mr Les Malezer, said that Indigenous leaders have made a decision to fight the new native title legislation using a three-pronged approach. Unworkable aspects of the Act would be fought case-by-case, submissions to international bodies would continue to bring international attention to human rights issues in Australia, and a High Court challenge will focus on a claim that the Government has used its race powers unconstitutionally. (*SMH*, 1 Oct, p2)

The new registration test under the NTA, as amended, is expected to deny many native title applicants the right to negotiate. The Western Australian Government expects that approximately half the number of claims in the State would fail the new test. In New South Wales, seven out of 10 applications are likely to fail the test, while the Cape York Land Council believes that most claims in the far north of Queensland will pass. The National Native Title Tribunal will allow three months for applications to be revised before they apply the new test. (*CT*, 1 Oct, p2)

The National Native Title Tribunal today invited Indigenous people in the Mid West and Gascoyne region to take part in forthcoming briefing sessions on the detail of major changes to Federal native title laws which took effect on 30 September this year.

Tribunal Regional Coordinator Lillian Maher said briefings would be held in Geraldton, Mullewa, Shark Bay, Mount Magnet and Carnarvon over the next few weeks to set out the rights and obligations of native title applicants under the new laws.

She said the briefings were the first in the region of the many information sessions being held by the Tribunal throughout Australia with Indigenous people, peak bodies, pastoralists, miners, local authorities and other groups.

Ms Maher said native title applicants would have to satisfy several important conditions to retain or attract the right to negotiate. These included:

- demonstrating that the application was lodged with the authority of the group or clan from whom the native title rights were derived;
- showing evidence of continuous association with the land; and
- ensuring that none of the applicants had been involved in another application that had already passed the registration test.

General information is available from the Tribunal's Website at: <http://www.nntt.gov.au> (NNTT Media Release, 23 Oct)

NNTT President Justice Robert French, has expressed concern that State-based native title regimes will add to the complexity of native title processes. He says that some governments have not committed to setting up the infrastructure to properly deal with the process. He observes that full commitment to the process and to the making of agreements is often lacking. (Aus, 16 Nov, p3)

### **New South Wales**

The New South Wales Government has, in response to the Commonwealth Government's amendments to the NTA, passed legislation to confirm titles granted over pastoral leases between the proclamation of the NTA and the High Court's *Wik* decision. They have no plans for a State-based tribunal. (WAus, 14 Nov, p11)

### **Victoria**

Yorta Yorta people are concerned that the State Government might introduce native title legislation into Parliament without waiting for the outcome of the Yorta Yorta native title claim that is before the Federal Court. The Court's decision is expected to be handed down sometime in November. The Victorian Government is preparing to introduce legislation that mirrors the Commonwealth Government's NTA. Native title applicants fear that it could impact on their native title rights. (Age, 18 Oct, p12)\*

Hearings for the Yorta Yorta native title case are expected to re-open on 3 November. (Border Mail, 24 Oct, p7)

Victorian Premier, Mr Jeff Kennett, has introduced native title legislation into Parliament. The Land Titles Validation (Amendment) Bill follows the Federal Government's amended native title legislation. (Age, 29 Oct, pA6)\* The Victorian Government has no plans for a State-based tribunal. (WAus, 14 Nov, p11)

### **Queensland**

Queensland Premier, Peter Beattie, has introduced native title legislation to Parliament. Under the proposed legislation, Aboriginal people would lose their right to negotiate over low-impact mining and exploration. Negotiation time on other projects would be restricted to a 12-month timetable, with six months for high-impact exploration. A Land and Resources Tribunal would oversee negotiations. The right to negotiate would remain on pastoral leases, but the effect on the economy must be considered. (Aus, 22 Oct, p4)\*

The Kullilli people plan to challenge the Beattie Government's native title legislation [if passed] in the Federal Court. Spokesperson Steve Hagan, said the legislation's exemption of mineral exploration from the right to negotiate processes could lead to damage or destruction of significant sites. (CM, 26 Oct, p2)\*

Queensland Mining Council members say they have major concerns with the Queensland Government's proposed native title legislation. They have set up a working group to address the new legislation. (CM, 29 Oct, p2)\*

The second part of Queensland's proposed native title legislation has been passed. The Government will now have to decide how to structure the new body that will mediate on mining issues. (CM, 12 Nov, p12)\* The legislation sets out a scale of negotiating rights over mining and exploration tenements. The Government has left responsibility for other parts of the native title process with the federal Tribunal. (WAus, 14 Nov, p11)

The Queensland Mining Council are concerned that State Government handling of native title issues may have caused mining companies to spend exploration dollars elsewhere. The Council cited Australian Bureau of Statistics figures showing that mineral exploration expenditure in Queensland has fallen in the past three years. (CM, 13 Nov, p11)\*

Legislation tabled in State Parliament yesterday aims to set up a new Land and Resources Tribunal. This Tribunal will replace the Mining Wardens Court and integrate mining applications with native title issues. It will also consider cultural heritage matters. (CM, 20 Nov, p4)

### **Western Australia**

The Western Australian Government has introduced legislation that adopts in total, the amendments of the Commonwealth Government's native title legislation. The legislation seeks to establish a State-based regime including Australia's first State-based native title commission, which would take over National Native Title Tribunal responsibilities for Western Australian native title applications. (Aus, 19 Oct, p6)\*

The Western Australian Government has been forced to admit it granted 221 titles to seven different parties without following the procedures of the *Native Title Act 1993*. The titles were granted on the understanding that the parties would provide indemnities. The titles were granted to aid major resource projects. The Opposition claims the Government probably granted the leases illegally. (WA, 30 Oct, p9)\* Kimberley Land Council executive director Peter Yu, said the indemnities would not stand up in court because the Government had acted illegally. This could leave the State open to massive compensation payments. (WA, 31 Oct, p26)\*

Western Australian legislation validating more than 9000 land and mining titles has been passed by the Legislative Assembly. The Government cut short the debate on the Bill and forced a vote. The Bill was supported by both the Government and the Opposition. (WA, 13 Nov, p6)\*

The Western Australian Government has amended its native title legislation in response to Commonwealth Government concerns about whether the legislation would fit within the Commonwealth's framework. Premier Richard Court, said that most of the 61 amendments were minor and technical. He named the two substantial changes as the inclusion of the

statutory right to judicial review over decisions made by the State-based commission and measures to protect the independence of the commissioner. (*Aus, 20 Nov, p6*)\*

### **Northern Territory**

The Northern Territory has passed validation legislation in accord with Commonwealth amendments to the NTA. They have also passed legislation to change the right-to-negotiate regime to a right to consultation and to establish a Lands and Mining Tribunal to administer this. Mediation of claims is being left to the NNTT. (*WAus, 14 Nov, p11*)

## **GENERAL NATIVE TITLE ISSUES**

### **International**

A delegation of officials involved in the negotiation of the Nisgaa Agreement in British Columbia, will visit Canberra as part of a world tour to explain the treaty. The Nisgaa have just ratified the treaty, which is now expected to pass through the British Columbian and Federal Parliaments. The treaty delivers the Nisgaa people around eight per cent of Crown land, self-government and about \$C500 million in compensation. (*FinR, 12 Nov, p16*)

A delegation of Aboriginal people from the Kimberley region of Western Australia have talked to British diplomats and MPs because they are concerned that the NTA, as amended, will adversely affect Indigenous peoples in Australia. They are in Europe for a United Nations debate over the draft Declaration on the Rights of Indigenous Peoples. Spokesperson, Kumanjayi Yu, said that he had been informed through a briefing by the Department of Foreign Affairs and Trade, that the Australian commitment to Article 3 of the draft declaration, which relates to self-determination for Indigenous people, has changed. This follows a Cabinet resolution that repeals the commitment to self-determination for Indigenous people in Australia and elsewhere. (*CT, 29 Nov, p2*)\*

### **National**

ATSIC Chair, Gatjil Djerrkura, says reconciliation will not be possible before land rights issues are resolved fairly. (*WA, 22 Oct, p26*)

Australian Local Government Association delegates gathered for an Indigenous issues briefing ahead of the National General Assembly of Local Government. Delegates discussed issues relating to planning, coordination and delivery of services to Indigenous communities. Association President, Cr John Campbell, said that local government has been leading the way in seeking to bring about an understanding of native title in local communities with a program that centred on developing local agreements. (*ALGA Media Release, 8 Nov, p1*)

The Commonwealth Attorney-General, Mr Daryl Williams, is now responsible for native title policy. He is taking over from Senator Nick Minchin, who was responsible for native title during the development and passage of the recent amendments to the NTA. (*Attorney-General Media Release, 26 Nov*)

The Second World Indigenous Peoples Pathways conference is being held in Toowoomba. Speakers at the conference come from all over the world and include West Indian Viv Richards, a personal envoy from President Nelson Mandela, Makhenkesi Stofile, president of Eastern Cape, Senator Margaret Reynolds, Murrandoo Yanner and Samora and Humelo Biko, sons of South African freedom fighter Steve Biko. Participants are here to discuss issues of