

NATIVE TITLE IN THE NEWS - MAY AND JUNE 1999

International

A three-member team of the United Nations Committee on the Elimination of Racial Discrimination has been refused permission to enter Australia. The Federal Government has warned the Committee that ignoring the direction would risk breaching UN protocol. The Labor Party, the Democrats and Aboriginal and Torres Strait Islander Commission Board members invited the Committee to visit Australia. The Government said it had already given extensive information to the Committee on the issues under consideration and that a visit by Committee members would not be of value. *(CT, 1 May, p5)**

Amnesty International's 1998 annual report has criticised changes to the native title laws. The report states that the native title changes favour miners and farmers and limited Aboriginal native title rights to traditional land use. *(Age, 17 June, p4)**

National

The High Court is considering an appeal that should clarify rights of Indigenous peoples to hunt and fish under native title legislation. Mr Murrandoo Yanner was prosecuted under the *Queensland Nature Conservation Act* for spearing and eating two crocodiles on Aboriginal land in north Queensland. The case was first heard in the Queensland Magistrates Court where it was dismissed on the grounds that the Mr Yanner was exercising native title rights under the NTA. On appeal, the Queensland Court of Appeal held that the *Queensland Fauna Conservation Act*, which was enacted before the NTA, had the effect of extinguishing common law rights to hunt crocodiles. The High Court will decide whether the Queensland Act extinguishes common law native title rights to hunt native animals. The case has broader implications for the application of native title to State laws. *(SMH, 5 May, p3)** The High Court has reserved judgement on the case until later this year. *(HS, 6 May, p10)**

New boundaries for Native Title Representative Bodies (NTRBs) were announced by the Minister for Aboriginal Affairs, Senator John Herron. The Minister has invited groups to apply for recognition as NTRBs under the provisions of the amended NTA. Under the NTA, NTRBs now have to be recognised by the Government in order to represent native title applicants. The final decision on recognition lies with the Minister. *(WA, 11 May, p30)*

Victoria

The Victorian Indigenous Working Group and ATSIC Commissioner Geoff Clark have criticised the Victorian Government's consultation process on State legislation relating to future acts. (*Altona/Laverton Mail, 2 June, p15*)

Victorian Minister for Conservation and Land Management stated that 47 native title applications, covering half the state's crown land had been received up to the end of May this year. The Minister said the department had spent \$3 million on the applications. (*Shepparton News, 9 June, p5*)

Queensland

The Local Government Association of Queensland has continued its education campaign on native title with a series of regional workshops. The workshops provide local government with information on: the role of local government in dealing with native title matters; the role of other parties like the state and native title representative bodies; and how to negotiate native title agreements. They bring together a range of experts including the National Native Title Tribunal. Tribunal President, Mr Graeme Neate, who was participating in the workshops congratulated the Local Government Association for setting an example for their members and other peak bodies. (*NNTT Media Release, 11 May*)*

A land interest forum to develop a plan for dealing with native title and land use issues between Brisbane's Indigenous community and Brisbane City Council will be held later this month in Brisbane. The forum will involve traditional Indigenous owners, council representatives, native title organisations, representatives from State and Federal Government departments and local government authorities and Brisbane's Aboriginal and Torres Strait Islander residents. (*The Satellite (Sherwood & Centenary Ed), 16 June, p32*)

A native title objection application has halted construction of a shelter shed at Midge Point. (*Prosperpine Guardian, 17 June, p14*)*

South Australia

A new eight-member taskforce has been formed aimed at 'streamlining' the system of land access including environment and native title issues in South Australia's mineral sector. The taskforce is chaired by Henry Walker chief executive Mr Richard Ryan. The taskforce will present a five-year plan to the Premier, Mr Olsen by September 1999. (*Ad, 12 June, p57*)

A series of workshops to explain Native Title and its implications for landowners will be held in several regional centres this month. Run by law firm Mellor Olsen for the South Australian Farmers Federation the workshops will include presentations by the State Government, National Native Title Tribunal and Aboriginal Legal Rights Movement. *(Ad, 9 June, p24)**

Western Australia

The new NTRB boundaries in Western Australia cover six areas including the Kimberley, Pilbara, Geraldton, the south-west, the Goldfields and the Central Desert. The Kimberley Land Council is concerned that the new boundaries will exclude them from representing some of its constituent communities. *(WA, 11 May, p30)*

The Western Australian Government announced that it will seek expedited procedure approvals under the NTA as a measure to relieve the State's minerals and energy sector. Other measures announced by Mines Minister, Mr Norman Moore, include the introduction of a new protocol for native title negotiations. *(WA, 13 May, p36)*

Ms Nancy Gordan, who is of Mantjintjarra-Ngalia descent, has been appointed to the governing board of the Goldfields Land Council. *(Kalgoorlie Miner, 24 May, p3)*

Glen Shaw, representing the Western Australian Native Title Working Group has suggested that the State Government will not get its native title legislation through Federal Parliament, even with Labor Party amendments. After each State and Territory's native title legislation is passed it must go before the Senate, which has the power to disallow it. The Australian Democrats in Canberra had indicated that they would not support State legislation that had not been signed off by Aboriginal groups. Peter Yu, Kimberley Land Council executive director, stated that the first hurdle was to get the Bill through the State Parliament with Labor's amendments. *(WA, 14 June, p10)* The Hon Greg Smith, MLC, has criticised the Democrats approach because it gives Aboriginal groups the say over whether legislation will be allowed. *(KM, 26 June p1)*

The Aboriginal Legal Service (WA) claimed a victory for traditional Aboriginal rights with the overturning of the conviction for poaching undersized marron against Ted Wilkes, director of the Perth Aboriginal Medical Service. The conviction was set aside on the grounds that the magistrate erred when he rejected evidence that Mr Wilkes was not prohibited from catching or keeping

undersized marron if he was exercising his traditional native title rights under the NTA. (WA, 24 June, p10)

Western Australian Premier, Richard Court, has agreed to give the Opposition documents that show the financial interests of the assistant director-general of the Ministry of the Premier and Cabinet, one of the Government's chief native title policy advisers, in mining companies. (WA, 17 June, p31)

A Nyoongar Oral History

We encourage readers to send in contributions to the Newsletter. Yongar Mungah (Aboriginal name) a Nyoongar man, forwards this contribution from the South West of Western Australia. It highlights the oral traditions and history held by Aboriginal groups around the country, which often provide an alternative view to the popular history.

Prior to the establishment of the Swan River colony here in Western Australia the area was known as Derbal Yarragan. This land was rich in resources and provided economic, social and spiritual sustenance to Nyoongar's within the clans of the Tonduraks, Bullaruk, and Ngoonhnuks.

History tells us that Yellagonga when greeted by Capt. James Stirling, bowed and offered his country and resources to the settlers. In fact the Nyoongar people thought the settlers were countrymen who had returned from the spirit place Djangah. We welcomed them as lost relatives who were to advise us of what knowledge they brought from Djangah. We shifted our Kaleeps (homes) from around river and from the distance we were able to observe our white spirit brothers.

As the time passed we observed that they did not live as we, nor follow the seasons that we were accustomed to. Our white brothers dug up the land and pulled down trees to clear tracts of land. It could be said that unlike us they did not understand the way in which we held the land in the highest esteem and how if the natural forces were broken this would create fighting amongst the clans. Unfortunately we did not realise that this was already taking place alongside the inevitable expansion. The balance of nature was broken, yet we still hunted the kangaroo (yongah) and the possum (coomahl). We would still fire the bushland to procure animals for food, skins and other sustenance. The clans and families were and are the caretakers of the land.

To conclude this story I must inform you of a prophecy among the Nyoongar people known as Moyran's Prophecy. Moyran was the first wife of Midgigooroo and mother of Yagan¹. She gave the first warning about the white spirits as they settled in our country. As our Kaleeps disappeared she voiced her concern that there would come a time when we would be seen as trespassers in our own lands and unable to hunt and gather fish and yams along the Riverland's. Her words are a grim reminder even in today's society. 'Meenya Djanga Boomungar' (The smell of the white man is killing us).

Yongar Mungah
26/05/99

¹Nyoongar resistance leader executed by the British.

APPLICATIONS

National

The National Native Title Tribunal now post summaries of registration test decisions on their website at: <http://www.nmtt.gov.au/>

The following decisions are listed for May and June:

02/05/99 Dariwul People
02/05/99 Dharawal People
02/05/99 Elouera People
02/05/99 Elouera #2
02/05/99 Eora People
02/05/99 Illawarra Tribal Owners
03/05/99 Cosmo Newberry
04/05/99 Widi Mob
13/05/99 Combined Metropolitan Working Group (Combined Application)
13/05/99 Djungan People #2
13/05/99 Kuku Djungan People
21/05/99 Mulbah Family Group
27/05/99 Dambimangari (Combined Application)
27/05/99 Dja Dja Wurrung People #14
27/05/99 Robert Charles Bropho
27/05/99 Swan Valley Nyungah #3
01/06/99 Ballaruks Peoples
01/06/99 Karajarri #3
03/06/99 Njamal (Combined Application)
03/06/99 Munatunga Elders
08/06/99 Maduwongga (Combined Application)