

## **NATIVE TITLE DEVELOPMENTS OF INTEREST TO LOCAL GOVERNMENT**

### **Training Workshops in QLD and WA.**

The Australian Local Government Association has held a round of training workshops on the use and application of its 2 recent publications the *Working with Native Title* Guide and the *Working out Agreements* Guide.

To date seven workshops have been conducted throughout Queensland and eight workshops throughout Western Australia. Participants have included:

- Elected members of local Councils
- CEO's of local Councils
- Senior managers and practitioners
- Elected members of NTRB's
- Managers and staff of NTRB's
- ATSIC Regional Office staff
- NNTT Members and staff
- Local Aboriginal Land Council representatives
- Consultant planners, engineers and surveyors
- State Government officials from a range of departments, including Crown Solicitor's Office, Planning and Aboriginal Affairs, and
- Other individuals.

(The round of workshops involved over 22,500 km in 29 days, 50 hours flying time through 5 time zones, 15 workshops in 14 different cities/towns with 204 participants, and more than 150 hours standing on two feet by one of the Guide's co-authors!!)

The workshops provide participants with an opportunity to ask questions and to raise issues for clarification. A selection of issues raised in the Qld and WA workshops include:

- what are the trigger points for native title processes;
- how native title affects Aboriginal Local Government (DOGIT) Councils in Qld;
- how native title matters are resolved;
- what is the State's role;
- how intra-indigenous conflicts can be resolved;
- what happened after a determination of native title has been made;
- what is the impact of native title on planning processes;
- what are the implications for land management practices;

- what is the role for agreements in the native title context;
- what is the connection or relationship with reconciliation;
- what is Council's liability for invalid future acts;
- what do the procedural rights involve, and how does Council respond to a comment received in response to 'an opportunity to comment';
- how can Councils work with NTRB's;
- what does co-existence mean and what are the implications;
- length of the process;
- compulsory acquisition - processes and responsibilities of the parties;
- understanding of mediation/negotiation processes;
- the differences or advantages of mediation over litigation;
- interaction between Commonwealth and State/Territory legislation;
- obtaining and releasing land for subdivision;
- how do local laws apply to native title rights and interests; and
- many more issues.

Other interesting issues raised included compulsory acquisition, whether the gazettal of a statutory planning scheme constitutes a future act, and the valuation of native title.

At the completion of the workshop, each participant is invited to complete an evaluation form. The overwhelming feedback can be summarised as follows:

- the one-day workshops are too intensive;
- the workshops need to spread out over at least two days;
- participants want more specific examples and more relevance to their local circumstances;
- participants want time to absorb the material and to have more time for questions and answers;
- participants want the training delivered in ways that will enable them to make use of the material in their work or in training other members of staff
- simple information is needed to allay the misconceptions and fears of their elected members on Council;
- that basic information on native title needs to be included in elected member training as part of the standard training for new Councillors; and
- all the feedback was very positive, especially on the usefulness of the Guide and the knowledge and expertise of the trainer.

There were also many interesting and rewarding experiences in explaining the basic facts to participants as well as enlightening them to some of the simpler aspects of native title. It is remarkable that in explaining the page of basic

facts about native title many of the participants are for the first time exposed to some of its parameters in ways that they were previously unaware of. Armed with this knowledge, many participants felt better equipped to tackle some of the concerns of their elected members and/or senior managers and the wider local community.

All participants commented on the value and simplicity of the Action Plan.

### **Training workshops in Victoria**

Four native title training workshops were conducted in Victoria during February 2000. Two in Melbourne, one in Horsham in western Victoria and one in Echuca in northern Victoria. Attendance at all three workshops has been around 20-25 participants at each, and have included:

- Local Government elected members;
- Local Council chief executive officers;
- senior officers and practitioners in Local Government;
- consultants;
- representatives from Optus;
- several State Government officers from the Native Title Units in the Department of Justice and the Department of Natural Resources and Environment;
- a representative from Mirimbiak Nations (the NTRB for Victoria);
- representatives from ATSIC; and
- representatives from a community organisation called 'Defenders of Native Title'.

The kind of issues raised at the commencement of the workshops included:

- a desire to understand native title better;
- which organisations are responsible for what;
- how does native title relate to Local Government's 'good governance' responsibilities;
- how does native title impact on reserves and parks and tourism activities;
- an understanding of the processes for determining where native title may exist and the processes for future acts;
- what extinguishes native title and why;
- clarification of past acts, intermediate period acts and future acts;
- the impact of native title on Local Government's functions and responsibilities, especially in relation to Crown land under its care or trust;
- what are the notification requirements;

- the impact of native title on strategic and statutory planning and land management processes;
- the relationship between native title and Aboriginal heritage;
- agreements, how they can be made and registered;
- what can agreements be about;
- can they be binding on Local Government and the traditional owners;
- how can Council communicate with the claimants and build a better relationship with traditional owners;
- what the implications are for infrastructure agencies; and
- why the community is so unaware of the basic facts about native title.

One of the first questions put on the table at the introduction of the first workshop in Melbourne on Monday 7 February was ‘Why has it taken so long for Local Government to be told of the facts and its new responsibilities?’. The answer to this question lies in the fact that it has taken a long time to develop the resource materials because of the complexity of the *Native Title Act 1993*, and that most State Governments have until recently been in a state of denial about that fact that Aboriginal and Torres Strait Islander peoples now have, in certain circumstances, an enforceable right and interest in land and waters.

Most of the discussions during the workshops centred on the fact that Councils in Victoria only hold and manage land for and on behalf the State Government and that if Council wants to do anything with the land, the State Dept of Natural Resources and Environment’s (DNRE) approval is generally required as a pre-requisite. In relation to native title, however it was reported in more than one workshop that the DNRE is not releasing of allowing new leases to be issued over Crown land that is subject to a native title claim (registered or unregistered).

At the conclusion of the workshops some local Councils were surprised at the extent of their new responsibilities and how little they knew about them. At the end of each workshop there was ample opportunity for discussion about where to go from here, what sort of strategies might need to be considered and what realistic targets can be set to achieve a greater level of awareness of Local Government’s responsibilities. At each workshop there was spirited discussion about these matters, with some Councils saying how useful and practical the Guides will be.

The predominant comment in the evaluation reports was that the participants found the workshops very valuable, but that there was too much material

covered in one day. Several participants said that the course should be offered over two days and that there is a need for follow-up training. Many participants also expressed concern about how they would be able to canvas these issues with their own Councils and communities. They said they may need some assistance as some Councillors are still in a state of denial and are not fully conversant with the facts.

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### Recent publications

The publications reviewed here are not available from AIATSIS. Please refer to individual reviews for information on obtaining copies of these publications.

**Yarning About Indigenous Land Use Agreements.** National Native Title Tribunal. 2000.

The National Native Title Tribunal (NNTT) has issued a free audio tape explaining Indigenous Land Use Agreements (ILUAs). The tape is being distributed to Indigenous organisations, native title claimants and Indigenous radio stations. There are currently 6 Indigenous Land Use Agreements registered in Australia and five more have been lodged with the NNTT for registration. The tape runs for 37 minutes and is broken into four segments. The new provisions for ILUA's are explained and 3 case studies of registered ILUA's are discussed. The tape is presented in plain language and conversational style. NNTT President Graeme Neate said the audio program aimed to provide insights about the issues involved in negotiating agreements through the experiences of Indigenous people who had successfully negotiated agreements in the Northern Territory, Queensland and New South Wales.

Copies of the tape are available from the NNTT registries in all states on 1800 640 501. (*NNTT Media Release, 4 Feb*)\*

**Strategic Resources Agreements Victoria,** Discussion Paper, Livesey, N. National Native Title Tribunal, Melbourne, 2000.

The National Native Title Tribunal has published a Discussion Paper on options for Agreements in Victoria which examines 16 separate pieces of Victorian legislation. The paper analyses Commonwealth and State legislative frameworks which regulate the acquisition, protection, use and management of land and resources of the respective resources and how these laws may allow for the