

APPLICATIONS CURRENTLY IN NOTIFICATION

Queensland

Closing date	Application no	Application name
6 June 2002	QC01/22	Tagalaka People #1
	QC01/27	Gunbara Bulara Group
	QC01/36	Gunbara Bulara #2
	QC01/37	Muluridji People #2
	QC01/38	Djungan People #4
	QC01/39	Western Yalanji People #6
	QC01/41	Gunbara Bulara #3
	QC01/43	Christmas Creek Holding Group
	QC99/35	Gubbi Gubbi People #2
	19 June 2002	QC01/24
QC01/26		Kudjala People #3
QC01/40		Cape Holding Group
QC97/9		Kowanyama People
QC99/15		Mardigan People

For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or <www.nntt.gov.au>.

RECENT PUBLICATIONS

'Review of the Native Title Claim Process in Western Australia: Report to the Government of Western Australia' by Paul Wand and Chris Athanasiou, September 2001

Review by Christine Ratnasingham, NTRU

The State of Western Australia has the second highest number of native title applications. The current Western Australian Government, when elected in February 2001, expressed a keen interest to reform the Western Australian native title claim process, and commissioned a review of the process in April 2001, also known as the *Wand report*. This review was conducted by Paul Wand, a former Vice President of Aboriginal Relations for Rio Tinto Ltd., and barrister Chris Athanasiou. Both Wand and Athanasiou have previously provided significant contributions to discussion of native title.

At the time this report was commissioned, the newly elected government expressed its aim as finding "the best way to achieve an environment where native title agreements are the norm rather than the exception". The review supports this aim and provides informed and well considered recommendations to assist the government establishing such an environment in Western Australia.

Justifying its recommendation that native title claims should move towards negotiation and mediation rather than litigation, Chapter 4 critically examines the native title claims process in Queensland, South Australia, New South Wales and Victoria. The native title claims process varies significantly in each state and territory due to the unique concerns of each region. The Northern Territory's native title claims process was excluded from the review because of its significant emphasis on litigation. The Aus-

tralian Capital Territory and Tasmania were also excluded from the report.

The review concluded that claims in Western Australia are similar to those of Queensland because both states have: high numbers of native title claims; the largest land area; a similar proportion of Aboriginal reserves; significant pastoral holdings; and, both have strong links between mining activities and native title. Since 1998, the Queensland Government has been committed to developing its negotiations based approach to native title claims. This approach resulted in the State Government entering into a protocol with Aboriginal organisations, and the establishment of the Native Title Services within the Department of the Premier and Cabinet. With just over 80 per cent of native title consent determinations coming from Queensland, the Queensland Government's approach is viewed favourably. The review strongly recommends that the Western Australian Government cease allocating approximately half of its native title budget on litigation and reallocate the funds to areas that will ensure negotiations-based outcomes.

The review recognises that the native title claims processes involve local, state and Commonwealth governments, and that governmental bodies such as the Native Title Unit of the Department of the Premier and Cabinet in Western Australia, Native Title Representative Bodies, ATSIC, the National Native Title Tribunal, and the Federal Court of Australia, each of which have a significant role in native title claims, are interdependent on each other. Furthermore, many of these bodies are under-resourced. Plans to increase the funding of the Federal Court, the National Native Title Tribunal and the Commonwealth Attorney-General's Department are of concern to the review, as the Federal Court has expressed an aim to dispose of all native title cases in three years, a move that would have a detrimental effect on a negotiations-based approach to native title.

In light of such plans, it becomes vital that this review is seriously considered by the

Western Australian government. While the review takes care to include the views of a range of relevant parties, such as land councils, industry organisations, academics and relevant governmental bodies, it should be noted that the Western Australian Farmers Federation expressed its fear that the review is 'one-sided', after having been significantly misquoted in relation to its opinion on the availability of connection reports (*ABC News*, 7 January 2002).

Despite this controversy, the review provides researched criticism into current native title claims processes, and offers practical suggestions that are aimed at establishing a process that includes dialogue between all relevant parties.

Copies available from:

The report can be viewed or downloaded from <<http://www.ministers.wa.gov.au/>>; follow the 'Eric Ripper' link and then click on the 'Native Title Update' icon.

Background Briefing Papers: Indigenous Water Rights, Lingiari Foundation: Broome. February 2002

Background Briefing Papers: Indigenous Water Rights contains nine papers concerned with onshore water rights for Indigenous people. It is one of two briefing papers developed in conjunction with ATSIC examining both onshore and offshore water rights. Following the *Crocker Seas* decision, a variety of legal, political and practical elements of the case have emerged. This document aims to provide information and promote feedback regarding the development of a national policy on Indigenous rights to water.

The contributions to *Background Briefing Papers: Indigenous Water Rights* provide diverse legal, cultural, scientific and economic perspectives to Indigenous rights to onshore water. The content includes: 'Crocker seas decision recognises Native Title sea rights - what now?' by The Northern Land Council; 'A common law right to groundwater' by Virginia Newell; 'The economics of Indige-

nous ownership of water resources and commercial fisheries' by Ian Manning; 'On-shore water project - briefing paper' by Jennifer McKay; 'Freshwater' by Marcia Langton; 'Water rights and international law' by Neva Collings; 'Water rights in Australia: Some Canadian reflections' by Larissa Behrendt; 'Briefing paper for the Water Rights Project' by Michael O'Donnell; and, 'Scien-

tific and environmental issues related to Indigenous ownership and use of aquatic environments in Australia' by Stephan Schnierer.

A copy of this Briefing Paper can be downloaded at <www.atsic.gov.au> (click on the 'What's New' link and find the rights to water project publications).

NATIVE TITLE RESEARCH UNIT PUBLICATIONS

Issues Papers: Land, Rights, Laws: Issues of Native Title

Native Title Research Unit Issues Papers are available through the native title link at <www.aiatsis.gov.au>; or are available, at no cost, from the NTRU. Receive copies through our electronic service, email <ntru@aiatsis.gov.au>, or phone 02 6246 1161 to join our mailing list.

Volume 2

- No 13: *Recent Developments in Native Title Law and Practice: Issues for the High Court* by John Basten
- No 12: *The Beginning of Certainty: Consent Determinations of Native Title* by Paul Sheiner
- No 11: *Expert Witness or Advocate? The Principle of Ignorance in Expert Witnessing* by Bruce Shaw
- No 10: *Review of Conference: Emerging Issues and Future Directions.* by Graeme Neate
- No 9: *Anthropology and Connection Reports in Native Title Claim Applications* by Julie Finlayson
- No 8: *Economic Issues in Valuation of and Compensation for Loss of Native Title Rights* by David Campbell
- No 7: *The Content of Native Title: Questions for the Miriuwung Gajerrong Appeal* by Gary D Meyers
- No 6: *'Local' and 'Diaspora' Connections to Country and Kin in Central Cape York Peninsula* by Benjamin Smith
- No 5: *Limitations to the Recognition and Protection of Native Title Offshore: The Current 'Accident of History'* by Katie Glaskin
- No 4: *Bargaining on More than Good Will: Recognising a Fiduciary Obligation in Native Title* by Larissa Behrendt
- No 3: *Historical Narrative and Proof of Native Title* by Christine Choo and Margaret O'Connell
- No 2: *Claimant Group Descriptions: Beyond the Strictures of the Registration Test* by Jocelyn Grace
- No 1: *The Contractual Status of Indigenous Land use Agreements* by Lee Godden and Shaunnagh Dorsett

Discussion papers

Discussion papers are published in concert with AIATSIS Research Section and are available from the Research Section on telephone 02 6246 1157.

- No 10: *The Community Game: Aboriginal Self-Definition at the Local Level* by Frances Peters-Little
- No 11: *Negotiating Major Project Agreements: The 'Cape York Model'* by Ciaran O'Faircheallaigh

Monographs

The following NTRU publications are available from the Institute's Bookshop; telephone (02) 6261 4285 for prices.