

Native Title News contains, where applicable, the application numbers for native title claims mentioned in the news. Following the news summary is the NNTT Application number and the Federal Court number.

National

Noel Pearson recently delivered the Sir Ninian Stephen Annual Lecture at Newcastle University's Law School. In his lecture Pearson argued that the High Court was misinterpreting the *Native Title Act 1993* (Cth). Using the recent claims of the Miriung-Gajerrong people and the Yorta Yorta people, Pearson described native title litigation as a battle for 'leftover land'. He added that the misinterpretation of fundamental provisions of the Native Title Act, meant the judges were destroying the opportunity to finally settle the outstanding question of Indigenous land justice in Australia. *Sydney Morning Herald*, 18 March 2003.

The Human Rights and Equal Opportunity Social Justice Commissioner, William Jonas, recently tabled his annual reports on native title and social justice in Canberra, calling on the Federal Government to lift its game. He said reconciliation and native title have dropped off the national agenda and have been replaced with an antagonistic and adversarial view towards indigenous policy overall. He did commend certain aspects of indigenous policy, such as commitments to partnerships, but was disappointed in the lack of consistency. Dr Jonas suggested that it was time to re-evaluate native title and amend legislation in line with Australia's international law obligations. *West Australian*, 21 March 2003.

South Australia

Around sixty people gathered at Stenhouse Bay on the 6-7 March to participate in talks regarding native title in the area. These par-

ticipants consisted of local Aboriginal groups, peak bodies and organisations with an interest in native title. The ultimate aims included: determining any uncertainty over native title issues; getting to know all parties; and, listening to particular issues and concerns. The discussions were initiated by the State Government and the York Peninsula Region of Councils as part of a State wide approach to settle native title matters through negotiation rather than litigation. *York Peninsula Country Times*, 7 March 2003.

The South Australian Government is planning to use ILUAs as their mechanism to produce native title outcomes within the State. This approach is an attempt to resolve their current native title issues. Included in the talks are the South Australian Government, the Farmers Federation, Chamber of Mines and Energy, Fishing Industry Council and the Seafood Council. *Koori Mail*, 14 March 2003.

Due to the successful negotiation of native title agreements in South Australia, more than \$1.5 billion is expected to be invested into the State's oil industry in the next four years. It will include fifteen new access agreements for petroleum exploration licences in the Cooper Basin area. Paul Holloway, Minister for Mineral Resources Development, announced native title agreements in the Cooper Basin area now cover twenty-seven exploration licences worth an estimated \$275 million of investment to the State. These agreements will provide employment, royalties to the State and production payments to the registered native title claimants. *Adelaide Advertiser*, 22 March 2003.

The Federal Court has struck out the largest native title claim ever lodged in South Australia due to dissension and legal wrangling. Justice Mansfield dismissed the claim, and suggested the applicants lodge a new appli-

cation. The claim over 120,000sq km of land including Lake Eyre, was filed in 1997 on behalf of the Dieri Mitha people. Problems arose when a different group, the Edward Landers Dieri people also sought a determination over parts of the same claim area. Justice Mansfield stated, 'it was regrettable that the issue could not be resolved, so that the Dieri people, as a native title group could press ahead with an application for determination of native title'. *Adelaide Advertiser*, 1 April 2003. Dieri Mitha claim: SC95/2, SG66/98.

The Yankunytjatjara people are appealing the decision that native title does not exist in their lodged claim area. In December 2002, Justice O'Loughlin dismissed the case. It will go to the Federal Court on 22 May 2003. The case was the first in South Australia to reach the courts and covers 1,865sq km of land in the far north region of South Australia. For the first time, evidence for this case was heard on country. *Koori Mail*, 9 April 2003. Yankunytjatjara claim: SC97/9, SC6022/98.

Western Australia

Newmont Australia and BHP Billiton have been acknowledged for their contributions to native title and building good relationships with Indigenous communities. They were the inaugural winners to the Yamatji Land and Sea Council's Snakewood Awards. The awards recognise commitment to the native title process and Indigenous communities. BHP invested around \$500,000 to heritage projects, well above the normal contribution. They also ensured the traditional owners benefit from the mining exploration by increasing Aboriginal employment for the project. *Pilbara News*, 6 March 2003.

The State Government's intentions to negotiate settlements is currently being questioned by the Ngarla people. State representatives failed to attend a recent mediation conference with the Ngarla claimant group. The Ngarla peoples claim covers

10,086sq km of land and water north of Port Hedland. The mediation meeting was called by the NNTT to be held on the De Grey riverbanks more than a month ago. *West Australian*, 26 March 2003. Ngarla claim: WC99/26, WG6085/98.

Geraldton is the location for a testimonial to the contribution Aboriginal people and early pioneers have made to Australia, in the form of public artworks. Still in the planning stages, the commemoration will take the form of a \$150,000 heritage trail. The Naaguja people are currently in discussion with the Geraldton City Council to ensure Aboriginal heritage and culture is reflected in the foreshore design, and business, training and employment opportunities are created. Project consultant Paul Rajan, stated the heritage trail could be incorporated into the Francis Street precinct. Geraldton Aboriginal organisation Wila Guthara would be invited to compete for tenders in the foreshore redevelopment. *Geraldton Guardian*, 4 April 2003. Naaguja claim: WC99/73, WG6194/98.

Esperance was recently the location of a preservation hearing. The historic occurrence saw the Noongar native title claimants give evidence to support the Esperance Noongar claim. These proceedings give witnesses the opportunity to give evidence, which then may be used in the main Federal Court native title hearing. This was the first time such a hearing had taken place in Esperance. The date for the Federal Court hearing is yet to be set. *Esperance Express*, 10 April 2003. Noongar claim: WC95/56, WG6048/98.

Members of the Nanda Indigenous group were recently handed back their land in an ceremony at the Department of Indigenous Affairs (DIA) in Perth. This outcome has been achieved about 27 years after the Nanda people lodged their first application. The area returned was Mt View Farm, located in the Yamatji region. *Koori Mail*, 9

April 2003. Naanda claim: WC96/111, WG6136/98.

The Western Australian Government is currently in talks with the Miriuwung-Gajerrong people about settling their ongoing claim. The Government is offering the Miriuwung-Gajerrong people freehold title over 50,000ha of Crown land, if the traditional owners agree to settle their claim. Western Australian Aboriginal Affairs Minister, Eric Ripper, stated that the claim group had been seeking native title rights for more than nine years, and the State Government was trying to bring the matter to conclusion through negotiation. *Koori Mail*, 9 April 2003. Miriuwung-Gajerrong claim: WC94/2, WG6001/95.

Queensland

A native title claim lodged late last year by the Jagera People, covers more than 40 percent of the Boonah Shire. The claim covers over 6,103sq km of land and also includes land in the Brisbane, Gold Coast, Toowoomba and Redlands local authority areas. The claim covers all State owned land, waterways, lakes, river and creek beds, mountain ranges and beaches, and does not include land under freehold title. Boonah Shire Council will have an opportunity to join as a party to the application. *Fassifern Guardian (Boonah)*, 11 March 2003. Jagera claim: QC02/33, Q6031/02.

There are currently twelve native title claims in the North Queensland region, in the notification stage. They include the Bar-Barrum people who have lodged four native title claims over 2,323sq km of land in the Herberton and Mareeba shires; the Wuthathi people (No.2), who have laid claim over an area of 1,176.6sq km adjacent to Shelbourne Bay in the Cape York Peninsula; the Kudjala people (No.4); Kudjala and Jirandali people (No.2); Mbara Ngawun group; Kutjala Jirandali and Mbara Ngawun people; Kutjala and Gugu Badhun; Kudjala Jirandali (No.3); and, the Kudjala (No.5). These groups have lodged a series of native title claims mainly

over exploration areas in the Dalrymple, Flinders, Etheridge and Richmond Shires covering an area of 1,775sq km. NNTT will directly notify all affected landholders. *Queensland Country Life*, 27 March 2003. Bar-Barrum #4 claim: QC01/32, Q6030/01; Bar-Barrum #5 claim: QC01/33, Q6031/01; Bar-Barrum #6 QC01/34, Q6032/01; Bar-Barrum #7 claim: QC01/35, Q6033/01; Wuthathi claim: QC02/25, Q6022/02; Kudjala claim: QC02/18, Q6015/02; Kudjala and Jirandali #2 claim: QC02/24, Q6016/02; Mbara Ngawun claim: QC02/19, Q6017/02; Kudjala Jirandali #3 claim: QC02/31, Q6028/02; Kudjala #5 claim: QC02/32, Q6030/02; Kutjala Jirandali and Mbara Ngawun claim: QC02/22, Q6020/02.

The travelling art show 'Native Title Business', opened in Townsville during late March. The work of sixty Indigenous artists from around Australia, was opened by Mrs Bonita Mabo, widow of native title pioneer Eddie 'Koiki' Mabo. The main purpose of the exhibition is to promote understanding of why Indigenous people are fighting for land and water rights. 'Native Title Business' is officially presented by the Gurang Land Council. The exhibition aims to broaden public perceptions of native title. *Townsville Bulletin*, 29 March 2003.

The Gugu Badhun people of North Queensland and mining company Kagara Zinc have recently signed an ILUA, following registration with the NNTT. The two groups reached the agreement over the 1,234ha area, approximately 235km southwest of Cairns near Greenhale, after eighteen months of negotiations. The ILUA allows Kagara Zinc to mine in the area and provides the Gugu Badhun group with benefits to enable them to pursue their native title aspirations. Through the agreement, the Gugu Badhun people will gain employment and training opportunities. The claimants will also be offered natural and cultural heritage protection management opportunities along with future business

development opportunities. *Mining Chronicle*, 11 April 2003. Gugu Badhun claim: QC02/23, Q6021/02.

The Central Queensland Land Council has congratulated the Flinders Shire Council for taking the lead in their native title negotiations. Two agreements between the Yirandali traditional owners and the Flinders Council have been formalised. The first agreement resolves issues with the creation of a 38ha parcel of land in Hughenden, intended for future industrial expansion. The second, was to ensure a continued solid working relationship remain between the Council and the Yirandali people. *Townsville Bulletin*, 30 April 2003. Yirandali claim: QC00/9, Q6008/00.

New South Wales

Over 30 Yaegl native title members recently participated in a successful workshop at Yamba. The Yaegl native title claim covers the lower reaches of the Clarence River from Harwood to the river mouth at Yamba. The workshop considered issues arising from an anthropologist's draft report and progress was made with the genealogical study recording the details of claimant group families. There are also plans to work closely with the Birrigan, Gargle and Yaegl Local Aboriginal Land Councils to deal with overlapping issues. *Koori Mail*, 18 March 2003; *National Indigenous Times*, 2 April 2003. Yaegl claim: NC96/38, NG6052/98.

The fourth Living Centres Inspirational Planning Seminar was held in Pambula recently. Around fifty people attended, including representatives from Bombala Council, Bega Valley Shire Council and local Aboriginal land councils and community representatives. Native title lawyer, Sharon Payne, facilitated the seminar. Ms Payne provided an overview of Aboriginal cultural perspectives, a history of Australian property law and native title and an outline of the impact it has had to date. *Eden-Imlay Magnet*, 3 April 2003.

Victoria

Intensive mediation meetings will take place on the Wotjobaluk people's native title claim over the next three weeks. Kerryn Shade chief executive officer of Horsham Rural City, said the Wotjobaluk people, government representatives and other parties had agreed to a timetable of meetings. Mr Shade who is representing Wimmera municipalities, also said Wimmera Council had offered no objection to the State Government's in-principle agreement to settle the claim. This agreement would grant the Wotjobaluk People native title rights and interests to two per cent of their original claim area. In 1995 when the claim was first lodged, it was the largest in Victoria covering almost a million hectares. *Wimmera Mail Times*, 3 March 2003. Wotjobaluk claim: VC95/2, VG6002/98.

The NNTT formally registered the last of three ILUAs paving the way for gold mining at three central Victorian sites. The Tribunal's Victorian State manager, Tony Shelley, stated the agreements made with the Dja Dja Wurung people, were a good example of native title working on the ground to deliver real benefits for the whole community. The commitment from miners to protect Aboriginal heritage on site and consultation with the native title group about environmental protection are among the benefits to flow from the ILUA. The three sites in agreement were: 4.48ha near Amherst, 67km south-west of Bendigo; 17.8ha near Huntly, 13km north-northeast of Bendigo; and, 4.96ha near Rheola, 54km west-northwest of Bendigo. All three sites are subject to the same mining licence. *Bendigo Advertiser*, 27 March 2003.

Tasmania

Circular Head Mayor Ross Hine, is keen to meet with Lance Lesage, leader of a native title proposal in the local area. A date has not yet been established. The native title claim which is being pursued encompasses a large area on the west coast of Tasmania,

including a portion of the Arthur Pieman Conservation Area. Mr Hine said that some of his fellow councillors did not fully understand the implications of a native title claim

being lodged in their local government area.
Circular Head Chronicle, 13 March 2003.

REGISTRATION TEST

The National Native Title Tribunal posts summaries of registration test decisions at <www.nntt.gov.au>. The following decisions are listed for March/April. The first number following the name is the NNTT Application Number, the second is that of the Federal Court. If an application has not been accepted, this does not mean that native title does not exist. The applicants may still pursue the application for the determination of native title. If an application does not pass the registration test, the applicant may seek a review of the decision in the Federal Court or re-submit the application.

Rockhampton-Brunette Downs	DC03/1 D6001/03 Not Accepted	Town of Larrimah	DC02/24 D6025/02 Not Accepted
Deep Well	DC03/2 D6002/03 Accepted	Bidwell Clan	VC02/1 V6001/2002 Not Accepted
Gan Bruce #2	NC02/5 N6003/2002 Not Accepted	Lorella Nathan River	DC02/30 D6031/2002 Not Accepted
New Wanderrie Road	DC02/31 D6032/02 Not Accepted	Byron Bay Bundjalung People #3	NC01/8-1 N6020/01 Accepted
The Githabul Peoples #3	NC95/11-3 NG6019/98 Accepted		

APPLICATIONS CURRENTLY IN NOTIFICATION

Closing Date	Application Number	Application Name
25/06/2003	QC02/32	Kudjala People #5
8/07/2003	QC02/2	Warral & Ului People
	QC02/4	Mualgal People #2
	QC02/34	Kalkadoon People #2
	QC02/3	Badu & Moa People #2