

and customs is not inconsistent with the public right to fish or navigate. His Honour found that this traditional right would be inconsistent with the common law right to fish and thus was not recognised by the common law at the date of settlement.

Regulation of fisheries in the sea to 2km seaward of the low water mark - section 73 of the *Land Rights Act*

The applicants were unsuccessful in their argument that the result of section 73 (1)(d) of the *Land Rights Act* is that the Northern Territory Government does not have the legislative power to enact the *Fisheries Act* so as to authorise the grant

if fishing licences within 2km of the low water mark.

Final Orders and Determination

At the time of decision, the case was reserved pending the parties' submissions on the form of the native title determination and final orders in the Judiciary Act matter. Written submissions have been filed by all parties. However the date for hearing of submissions was vacated due to the unexpected death of Justice Selway. Dates have now been set for hearing submissions regarding the form of the final orders and native title determination before Justice Mansfield on 18-19 July 2005.

NATIVE TITLE IN THE NEWS

National

The Federal Government was reported to have proposed putting all legal services provided by native title bodies up for competitive tender. This decision comes amid concerns from mining companies that underfunding of native title representative bodies (NTRB) adversely affects the resolution of native title claims and the quality of legal service provided. Central Land Council Director David Ross said the tendering of NTRBs would fragment communities, lead to confusion and overlapping claims. *Australian Financial Review*, pg 36. 08-Apr-05.

The 'Native Title Report 2004' prepared by the Aboriginal and Torres Strait Islander Social Justice Commissioner of HREOC was released. The report is currently being tabled in Parliament. The report supports negotiated outcomes to Indigenous land issues, a whole of government approach to resolving disputes over land and water and the

recognition for the need for sustainable and enduring agreements between parties to avoid long and costly disputes. *NNTT Media Release*, pg 5. 08-Apr-05.

Spacial data used to map native title boundaries is now available free online on the National Native Title Tribunal website. This initiative will allow the Tribunal to utilise existing government infrastructure and also increase exposure of native title information to the community. The online information will especially be useful for legal, historical and educational purposes, with the information updated monthly. *Kalgoorlie Miner*, pg 7. 05-Apr-05.

New South Wales

Ian Watson represented The Darug People from coastal NSW in a co-management agreement with Baulkham Hills Shire Council over the 300 hectare Bidjigal Reserve dispelling their previous native title claim. The Reserve which combines

Darling Mills State Forest and Excelsior Reserve runs along Darling Mills Creek, reaching into Northmead, Castle Hill and West Pennant Hills. *Hills News*, pg 13. 19-Apr-05. Darug people.

Metals exploratory company Malachite Resources is attempting to negotiate a native title claim with the New England Aboriginal group in order to progress its Conrad Silver project, 20km south of Inverell. A meeting will take place soon in Tingha to hopefully finalise the agreement. *Northern Daily Leader*, pg 5. 28-Apr-05. Nucoorilma Clan of the Gamilaray Aboriginal People, NC98/17; NSD6106/98.

Northern Territory

The Northern Territory Seafood Industry Council has expressed concern about traditional owners offering fishing access to what they suggest are sacred sites in exchange for money. The Council's CEO Ian Smith said several professional fishermen had been approached by representatives of the Northern Land Council with this offer. This access relates to areas in the Blue Mud Bay claim off the eastern coast of Arnhem Land. *ABC Online: Message Stick*. 01-Apr-05.

Queensland

Queensland Mines Minister Stephen Robertson MP recently ratified a number of native title agreements which will allow eight mining exploration permits to be granted in the Cloncurry area. The agreement is between Ivanhoe Cloncurry Mines Pty Ltd and the Kalkadoon, Yulluna and Mitakoodi Peoples. These permits will cover land south of Cloncurry around the Selwyn copper-gold mine. *ABC Online; Indigenous News - Message Stick*. 03-Mar-05. Kalkadoon, Yulluna and Mitakoodi Peoples.

The long running native title dispute over the Community of Yarrabah in Far North Queensland and a large strip of its southern coast will be heard by a Federal Court Judge in Cairns. The communal native title claim involves four applicants from clans in the Yarrabah region, including the Mandingalbay, Yidinji and Gunggandji groups. The Yarrabah Community Council involved in the claim has said the delay in resolving it was hurting the community by preventing vital developments including essential services. *Cairns Post*, pg 5. 14-Mar-05.

The Ganumi and Woppaburra people have made an agreement with the Queensland Department of Natural Resources and Mines in the Rockhampton region. The agreement will grant them 300 hectares of freehold land which they plan to turn into reserve land. Of the 300 hectares 140 hectares will be on Great Keppel Island and 160 hectares at Mt Wheeler. *Morning Bulletin*, pg 8. 24-Mar-05. Ganumi & Woppaburra People.

The National Native Title Tribunal has registered three ILUAs in relation to the Wik and Wik Way People, three pastoral holdings and the Queensland Government on the west coast of Cape York Peninsula. The parties to these ILUAs can now carry out all aspects of the agreement such as access arrangements as well as the Local Government planned infrastructure and development in the area. *NNTT Media Release*, pg 5. 24-Mar-05. Wik & Wik Way People.

The Aboriginal Land Act 1991 (Qld) and the Torres Strait Islander Land Act 1991 (Qld) administered by the Department of Natural Resources and Mines are being reviewed to align with federal native title legislation and State Indigenous policy

because the context in which the Acts were originally drafted has significantly changed. The comprehensive review will make recommendations concerning their future use, operation and application. *Murri Views, April 05*. N.D Apr 05.

The Calliope Shire Council in Queensland agreed at its last meeting that compulsory acquisition of native title land may be the only option available to establish its own water treatment plant. Council CEO Graeme Kanofski stated the other option was to seek surrender of the site through an ILUA, however this process is not preferred as it is expected to take considerably longer. The State Government has offered to grant the council freehold title over the site once native title issues are resolved. *Gladstone Observer, pg 3*. 19-Apr-05. The Gooreng Gooreng People, The Gurang People, Taribelang Bunda People, The Bailai People.

South Australia

Members of Ceduna District Council, the Ceduna Marina Development Company and the South Australian State Government met with representatives of the Far West Coast Aboriginal Negotiation Committee and the Aboriginal Legal Rights Movement (ALRM) recently to discuss issues surrounding the proposed Ceduna Keys Marina development. The proposed development will involve native title and Aboriginal Heritage issues. Due to some of the land being Vacant Crown Land and other land vested in the Aboriginal Lands Trust, the parties hope to reach agreement between respective stakeholders to determine how native title and Aboriginal heritage interests in the project will be accommodated. At this stage the parties are committed to exploring a negotiated outcome through

the use of an ILUA. *West Coast Sentinel, pg 1*. 03-Mar-05.

The Aboriginal Legal Rights Movement's Native Title Unit (ALRM NTU) has initiated an independent review which will inquire into the way native title negotiations have been undertaken in South Australia. The review will inquire into all levels of negotiations and also related processes. ALRM's Executive Officer Parry Agius said both negative and positive aspects will be covered with the results documented. *Koori Mail, pg 61*. 09-Mar-05.

The Australian Democrat Party has called on the Federal Government to ensure the rights of native title claimants are not overlooked if a takeover of WMC resources occurs. Senator Lyn Allison leader of the Democrat Party said there is currently a native title claim pending in the area by the Kokatha and Bangarla peoples over Roxby Downs, including the location of the Olympic Dam mine. On top of this, WMC Resources applied to the court to bring the trial hearing date forward, with the first hearing expected to be as soon as 15 April. *Australian Democrats Press Release, pg 15*. 04-Apr-05. Kokatha and Bangarla Peoples.

Tea Tree Gully, Salisbury, Playford, Port Adelaide Enfield and Gawler Councils have formed a representative committee to conduct ILUA negotiations with the Kurna People. The claim which does not affect freehold property, takes in Crown Land from Port Pirie to Yankalilla. Peter Leue from Tea Tree Gully Council said joining with other councils to negotiate with the Kurna people was the best way to handle the claim. Kurna-Yerta Heritage Board Chair Lynette Crocker welcomed the approach and hoped any agreement reached by the parties was

broader than the issue of land use and ownership. *Leader Messenger*, pg 9. 06-Apr-05. Kurna People.

Victoria

An historic meeting of 20 Victorian traditional land owners recently in Melbourne, was an outstanding success according to Native Title Services Victoria (NTSV) Chairman Graham Atkinson. The group endorsed a statement which was presented to Victorian Attorney-General Rob Hulls and Minister for Aboriginal Affairs Gavin Jennings calling on the State government to commit to a process of negotiation. *National Indigenous Times*, pg 10. 03-Mar-05.

Six traditional owner groups between Bendigo and Mildura recently met to discuss native title issues pertinent to their region. Garry Murray, the Deputy Chairman of North West Clans Nation said that at present, a regional agreement was being negotiated with the State Government to settle the six native title claims. Mr Murray also said other issues to be discussed at the meeting included traditional owner's boundaries and the establishment of a body corporate. *Bendigo Advertiser*, pg 9. 05-Mar-05.

The Gunditjmara people recently gave evidence over three days in relation to their connection to land at a Federal Court hearing in Mt Eccles National Park. The claim covers 20,000 sq km in south-west Victoria and consists of Crown land, rivers, coast and up to 22 nautical miles offshore from north of Glenelg River to the South Australian border, south to Portland and beyond. This evidence will then be referred back to the National Native Title Tribunal for further mediation. *Hamilton Spectator*, pg 1. 31-Mar-05. Gunditjmara people.

Western Australia

Junior miner Crescent Gold and Wongatha native title claimants have reached an agreement paving the way for a mining lease to be granted on its flagship tenement at Laverton. Crescent Gold Managing Director Andrew Haythorpe said both parties had entered into an all-encompassing land access agreement. Crescent now has to apply to the State Development Minister for the mining lease before development can commence. *Kalgoorlie Miner*, pg 12. 03-Mar-05. Wongatha Claim.

The Kimberley Land Council (KLC) has said that native title holders and claimants in the Kimberley region will oppose any canal proposals from Fitzroy River to Perth. KLC Executive Director Wayne Bergman said he had also received many calls from traditional owners expressing their objections to the proposal. *Broome Advertiser*, pg 1. 03-Mar-05.

The West Australian Government's long-running bid to overhaul the State's Mining Act and clear the native title backlog has again been halted, with the centrepiece of the legislation passed in October now requiring further amendment before it can be enacted. These improvements to the legislation were formulated after more than two years of talks between the industry and native title groups. However, the changes are now unlikely to come into effect until June 30 provided new amendments can be passed when Parliament resumes. *West Australian*, pg 60. 12-Mar-05.

A coalition of 16 Councils from the Western Australian Wheatbelt region have signed an ILUA covering over 40,000sq km. The coalition was formed by members of local governments which are part of the

Central Country Zone of the WA Local Government Association (WALGA). The South West Aboriginal Land and Sea Council is the representative body for the Noongar claimants. Benefits from the agreement for the Noongar claimants include significant protection of cultural heritage sites, cross-cultural training, employment, training and contracting opportunities, along with consultation with the State, Councils and other land developers. *Narrogin Observer*, pg 3. 16-Mar-05. Single Noongar Claim.

A Noongar people's claim, which is the largest ever to be filed in Western Australia, is currently in notification. The claim is 194,000sq km and spreads from Jurien Bay, east to Coorow and southwards to Hopetoun. The claim is made up of several smaller claims that have been filed over the years and excludes privately owned land. *Central Midlands & Coastal Advocate*, pg 4. 17-Mar-05. Single Noongar Claim.

BHP Billiton Iron Ore and the Njamal People signed an agreement at a ceremony in Port Hedland during mid March. The Njamal People will receive some financial compensation along with other benefits. The agreement will also ensure the expansion of the company's operations at Yarrrie mine, which is 180 km east of Port Hedland. The Njamal People are represented by the Pilbara Native Title Service. *North West Telegraph*, pg 3. 23-Mar-05. Njamal People.

An agreement signed between the State Government and the Rubibi community in October last year has allowed for the residential development of 33 hectares of prime land near Cable Beach and will also allow for the creation of an aged care facility. Under the agreement the Rubibi

traditional owners are compensated for extinguishment of native title over the area by cultural, economic and social benefits. Kimberley Land Council Executive Director Wayne Bergmann said the agreement was a solid building block in the relationship between the Rubibi traditional owners and the State. *Business News*, pg 18. 24-Mar-05. Rubibi People.

Nickel miner Minara Resources is facing a \$20 million legal claim from the Wongatha people for breach of agreement when the company was known as Anaconda Nickel and Andrew Forrest as the then CEO. The Wongatha people and five signatories are seeking damages and compensation as they claim Minara breached its obligations under an ancillary agreement in July 1998 to make payments to the Wongatha Trust. *West Australian*, pg 38. 01-Apr-05. Wongatha People.

Yamatji Land and Sea Council have refuted Gurrmayinhwonga elder Gladys Walker's claims in the *Pilbara News* that the Council's Working Party processes removed the rights and interests of native title claimants, and were in conflict with Aboriginal law and customs with the process benefiting the State Government and mining companies by expediting the decision-making process. The Yamatji Land and Sea Council said the Working Group members which are nominated and authorised by the members of the underlying native title group have proved effective and successful thus far. *Pilbara News*, pg 3. 20-Apr-05.

The Federal Court has received a native title application from the Ngarlawangga people over land earmarked for development by Hope Downs, an iron ore mining company, about 50 km west of Newman in Western Australia. Working Group member Diane Limerick said

although this was only the first step, it was a great moment in history for the Ngarlawangga people. *North West Telegraph*, pg 4. 20-Apr-05. Ngarlawangga People.

Kalgoorlie Miner, pg 5. 23-Apr-05. Wongatha People.

A Federal court decision in relation to the long-running Wongatha native title claim is expected in May 05. The claim which has been ongoing for more than a decade encompasses more than 160,000 sq km of land in the Goldfields region. Goldfields Land and Sea Council executive director Brian Wyatt expressed disappointment in how long an outcome has taken. He believes that the matter could have been resolved in a way which supported both the claimants and industrial needs.

The signing of a native title agreement between the Tjurabalan people and Tanami Gold mining company over almost 26,000 km will pave the way for a new mining development of the Coyote Gold project, 200km south-east of Halls Creek in northern Western Australia. The mining operation will cost \$20 million to develop and could commence as soon as early 2006. The agreement also includes a commitment by Tanami Gold to create employment opportunities for Aboriginal people. *Business News*, pg 20. 28-Apr-05. Tjurabalan People.

APPLICATIONS LODGED

The National Native Title Tribunal posts summaries on their website of applications that are lodged with them, www.nntt.gov.au. The following applications were lodged in March/April 2005.

Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
08/03/05	Gangalidda & Garawa People #2	QLD	QC05/3	QUD66/05
18/03/05	East Comet/West Dawson People	QLD	QC05/5	QUD79/05
18/03/05	Wangan/Jagalingou People	QLD	QC05/4	QUD78/05
22/03/05	Gugu Badhun People #2	QLD	QC05/7	QUD85/05
22/03/05	Gudjala People	QLD	QC05/6	QUD80/05
23/03/05	Ghungalu People #2	QLD	QC05/8	QUD86/05
30/03/05	Irrwanyere Mt Dare Native Title Claim	SA	SC05/1	SAD66/05
07/04/05	Ngarla #2	WA	WC05/2	WAD77/05
08/04/05	Ngarlawangga People	WA	WC05/3	WAD78/05