

CLAIMS

New South Wales

Nucoorilma People

The Nucoorilma people have formally proceeded with a native title application lodged last month. The application covers native title on unallocated Crown Land in an area ranging from the Macintyre and Mole rivers in the north, the Great Dividing Range in the east and south to the Moonbi Ranges. From there, the application extends north-west to Barraba and back northward to the Macintyre River. The application is centred on Mt Bullwangen near Tingha. (*Glen Innes Examiner, 13 Aug, p1*)

Elouera People [NNTT Ref#NC95/9]

The National Native Title Tribunal has referred the Elouera People's native title application in the Illawarra region to the Federal Court for resolution. The application covered specific parcels of crown land and coastal waters between Shellharbour and Kiama on the NSW South Coast and was lodged on 6 September 1995.

NSW Regional Coordinator Mr Andrew Solomon said the Tribunal referred the matter because efforts to mediate between the applicants and other parties were unsuccessful. The Tribunal consulted all parties to the mediation, including the State, local government, and the NSW Aboriginal Land Council. There was general support for referral of the application to Court. (*NNTT Media Release, 4 Sept, p1*)

Capertee [NNTT Ref#NN98/2]

A Non-Claimant Native Title Determination Application has been lodged with the National Native Title Tribunal over a residential lot in Capertee (45km north of Lithgow). The Tribunal has given notice that anyone who wishes to register an application over the area, or anyone who wishes to become a party to the application, needs to notify the Tribunal (following correct procedure) by 16 November 1998. (*Aus, 16 Sept, p33*)

Wiradjuri Wellington [NNTT Ref#NC94/1]

With the Wiradjuri Wellington claim due back in the Federal Court in November, claimants and the Government are working towards an agreement. An agreement has so far evaded parties to the claim, but with the deadline approaching, a new solution is being canvassed in which the land would be transferred as freehold. The land under question is the 253-hectare Wellington Common on the banks of the Macquarie River in the State's central west. If this agreement comes about, it will be the first land under native title to be handed back to Aboriginal people. (*SMH, 19 Sept, p5*)

Wagga Wagga [NNTT Ref#NN98/10]

The National Native Title Tribunal has issued a notice of non-claimant native title determination application, asking those who might wish to claim native title over any part of the area subject to the application to lodge their claim with the Native Title Registrar by 23 November 1998. The application covers Cabarita Park, Wagga Wagga. (*Aus, 23 Sept, p17*)

Cobar [NNTT Ref#NN98/8]

The National Native Title Tribunal has issued a notice of non-claimant native title determination application, asking those who might wish to claim native title over any part of the area subject to the application to lodge their claim with the Native Title Registrar by 23 November 1998. The area covered by the application comprises land situated near Cobar. (*Aus, 23 Sept, p17*)

Queensland

Wulgurukaba People No.1 and No.2 [NNTT Ref#QC98/30, QC98/31]

The National Native Title Tribunal has issued a notice of claimant native title determination applications, asking those who might wish to become a party in relation to the applications to contact the Tribunal by 23 November 1998. The applications cover areas of national park and unallocated state land on Magnetic Island. (*Aus, 23 Sept, p17*)

Yalanji People [NNTT Ref#QC95/10]

The National Native Title Tribunal today welcomed the nation's third agreement to formally recognise native title - and the first over a pastoral property. Tribunal President, Justice Robert French, said the coexistence agreement, struck by pastoralists and local traditional owners in north Queensland, was an historic step forward in the development of native title in Australia. The agreement is between Mr & Mrs Pedersen of Karma Waters Station and the Western (Sunset) Yalanji people. It includes a legally binding land use and access agreement which can serve as a model for other pastoralists around Australia wanting to negotiate the resolution of native title applications.

The Western (Sunset) Yalanji native title application, covering 25,000 hectares near Mount Carbine, north west of Cairns, was lodged on 19 May 1995. The application covered Karma Waters Station, which was held by the Pedersens under an occupation licence that they sought to upgrade to a more secure form of tenure.

Justice French said the Queensland Government's support for terms of the agreement was a critical ingredient in achieving a consent determination of native title, which was ratified by the Federal Court in Cairns today. Justice French said while there were more than 1,200 documented agreements since the introduction of native title laws in Australia, few involved the pastoral industry. (*NNTT Media Release, 28 Sept, p1*)*

Western Australia

Kalaako [NNTT Ref#WC97/25]

The National Native Title Tribunal has referred a 25,000 square kilometre central Goldfields native title application to the Federal Court for resolution. The application, by Rollick Dimer and Edna Reid on behalf of the Kalaako people, was lodged on 26 March 1997.

Tribunal Registrar Chris Doepel today said the application was overlapped by 26 other native title applications. Intensive efforts to mediate between the Indigenous applicants about the overlap had been unsuccessful, leaving the Tribunal with no option but to refer the matter to the Federal Court. Mr Doepel said the Tribunal took every reasonable step in the mediation process to assist the parties reach to resolve differences and reach an agreement. (*NNTT Media Release, 3 Sept, p1*)

Maduwongga People

The National Native Title Tribunal has rejected a submission by lawyers for Goldfields native title applicants that the Western Australian Government did not act in good faith in negotiations over the grant of a mining lease 40 kilometres north of Kalgoorlie to two small scale miners. Tribunal Registrar, Mr Chris Doepel, said the submission was made by lawyers representing the Maduwongga people following the breakdown of negotiations and an application by the State Government for the Tribunal to arbitrate the matter. Mr Doepel said Tribunal Member Mr Kim Wilson had ruled that the State Government had done everything possible to progress the negotiations, rejecting the submission by the Maduwongga people.

Following the decision on the "good faith" submission, the Tribunal will now move to determine the substantive question of whether the grant of the mining lease should go ahead, and if so, under what conditions. (*NNTT Media Release, 13 Aug, p1*)

Balanggarra People

The State Government has signed a framework agreement that recognises the Balanggarra people as traditional owners of about 26,000 sq km of land in the north-west Kimberley. The agreement, negotiated outside the *Native Title Act*, was signed last month. Negotiations are now proceeding over the details of the agreement, which should include recognition of native title rights and interests and issues of land management. (*Sunday Times, 6 Sept, p4*)

Northern Territory

Larrakia – East Arm (water) [NNTT Ref#DC94/4], and

Larrakia – East Arm (land) [NNTT Ref#DC94/5]

The National Native Title Tribunal has referred two Darwin native title applications to the Federal Court for resolution. Tribunal Registrar, Chris Doepel, said the two applications total 18 sq km of land and sea on the site of the East Arm Port being built in Darwin Harbour. The larger of the two applications - nearly 15 sq km - covers waters in East Arm as well as Catalina, North Shell and South Shell islands which the Northern Territory Government compulsorily acquired under the Lands Acquisition Act for the project. The smaller three sq km application covers the mainland Port area and was also subject to a compulsory acquisition.

The Northern Land Council on behalf of the Larrakia people lodged the applications on 18 November 1994. A number of meetings about these and other Darwin applications were held. Mr Doepel said as with all native title applications, the Tribunal sought to mediate a settlement between the parties. In this case the parties were the Northern Territory and Commonwealth Governments, the Larrakia people, and the Dangkalaba clan of the Larrakia people. He said referral of native title applications to the Federal Court only occurs when a resolution or settlement could not be achieved through the mediation process, and sometimes where important legal issues were involved. In this case, there was no prospect of a negotiated settlement between the NT Government and the native title parties. The Government also wants clarification of several key legal questions about the impact on native title of the compulsory acquisition of land and waters, and the subsequent development activities. (*NNTT Media Release, 4 Sept, p1*)

Fejo v Northern Territory [1998]

The High Court has handed down a judgement involving native title and freehold title. The Larrakia people had applied for their native title rights to be recognised over a large area of Crown land outside Darwin. The court found that the grant of land in fee simple (in 1882), which has since been resumed by the Crown (in 1927), had extinguished rather than suspended native title. The judges all agreed that a freehold grant did not leave any room for native title to co-exist. Native title could not be revived once a freehold grant ended and the land again became vacant Crown land. (*DT, 11 Sept p28*)(*WA, 11 Sept, p7*)(*Aus, 11 Sept, p2*)*

MINING AND NATURAL RESOURCES

New South Wales

Timbarra Gold Project – Ross Mining

An agreement between mining company Adelong Consolidated Gold Mines NL, the Wiradjuri and Walgalu people and the Tumut/Brungle Aboriginal Council, will be signed today. The parties agreed that the local Aboriginal community would have equity in a gold mine proposed for Adelong, and rights to job, education and training opportunities. Aboriginal people will also