

Talking Western Australia



NATIONAL NATIVE TITLE TRIBUNAL STATE E-NEWS

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Message from the State Manager, Lillian Maher

2006 was an eventful year for the Tribunal and native title in general.

Attorney-General Philip Ruddock announced plans to introduce a series of reforms to improve the efficiency and effectiveness of the native title system across Australia, and introduced the Native Title Amendment Bill 2006 into Federal Parliament in December.

In the WA Registry, we have been preparing ourselves to deliver more agreements and better outcomes by evaluating how we work, putting in place a more flexible workforce, and streamlining our internal processes.

While our performance in the 2005–06 reporting period showed we were able to achieve more than our expected outputs for future act and native title process/framework agreements, we are aiming to deliver increased outputs in agreement-making, particularly with indigenous land use agreements (ILUA) and native title applications, for this financial year.

On the horizon for 2007

We expect the workload for future act agreement-making to continue to be high and for there to be more work with ILUAs.

The Wongatha decision that was handed down on 5 February stipulates that all applications remain on the Register of Native Title Claims (RNTC) for fourteen days. If the Goldfields Land and Sea Council (GLSC) obtain an extended 'stay' of the judgement, it may result in those applications being kept on the register until an appeal is heard. There will be more information available regarding the consequences of the decision in future weeks.

The Federal Court's Noongar native title decision, which drew considerable media coverage and put native title in the spotlight on a national scale, has meant our work in the South West has increased.

The reviews of the Central Desert, Geraldton/Pilbara and South West Regional Standard Heritage Agreements are scheduled to be completed by early March 2007. (The review of the Goldfields Regional Standard Heritage Agreement has been completed.)

We held two workshops on legal issues surrounding native title, and will continue to provide similar opportunities for our stakeholders during 2007, particularly as there are likely to be changes to the Native Title Act and our processes.

While the Tribunal will provide stakeholders with the national picture through our website and quarterly

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newsletter, Talking Native Title, the Talking WA e-newsletter will provide more state-related information and explain how any future changes might affect native title in Western Australia.

If you have any comments or suggestions about the Talking WA e-newsletter or would like to discuss how we may be able to assist with your information needs, please email enquiries@nntt.gov.au.

Future act activity

The Tribunal reached a milestone on 1 December when the 100th referral for Tribunal assistance under s. 31(1)(b) NTA was lodged for 2006.

The current resource and minerals boom, as well as action taken by the Department of Industry and Resources (DoIR) to clear many outstanding exploration and prospecting leases, are the underlying reasons for this unprecedented high.

With this high number of active mediations currently with the Tribunal, the larger workload for future act agreement-making looks set to continue until June 2007.

Future Act Senior Case Manager Alan Toogood said that although the agreements reached with Tribunal assistance were high, they were not in direct proportion to the total number of referrals. This was due to the recent amendments of the Government of WA's Mining Act allowing larger tenements, longer tenure and more time to explore before tenements are compulsorily surrendered to the state government.

"Some grantees of current exploration and prospecting licences are choosing to reapply from the ground up to benefit from the (new) provisions," Mr Toogood said.

With the deadline just passed for the reversion to prospecting and exploration tenure under the amended Mining Act, DoIR anticipates a high number of strategic s. 31 mediation referrals involving outstanding mining lease applications not subject to reversion.

There may also be an increase in the number of s.29 notices issued to move the 'new' exploration and prospecting titles being applied for through native title processes (including those managed by the Tribunal).

The increase in future act agreement-making has had a flow-on effect into the Tribunal's arbitral functions with sixty-two applications for future act consent determination lodged already this financial year. Thirty-eight of these applications were determined within the space of only a few weeks from lodgement, showing

that consent determinations continue to be effective for agreements which cannot be finalised by full execution of a state deed.

What's happening in the regions?

South West and Goldfields

In the Goldfields Member Ruth Wade is conducting a series of individual meetings with the applicants of Central West, Kalamaia and Gubrun in an attempt to resolve native title application overlaps. Although there have been delays in the program, there is progress on resolving the overlaps.

Member John Catlin is also continuing to ensure progress occurs in the North West Goldfields cluster of claims and South West Area 3 Esperance Nyungars.

At the Federal Court case management conference for the South West on 13 December, orders were made for the applicants and respondents (in conjunction with the Tribunal) to prepare mediation protocols and a timetable covering steps and issues to be dealt with by mid-May. The Federal Court also made orders for the Tribunal to convene meetings with overlapping claims to help resolve those overlaps. The regional case management conference is to be re-convened on 31 July. Mr Catlin is assisting the parties to comply with these orders.

Kimberley and Central Desert

In the Kimberley, the Tribunal is progressing mediation in relation to Noonkanbah, Uunguu and Dambimangari and Balangarra.

The Kimberley Land Council (KLC) is conducting research into the boundaries and cultural information in the east Kimberley to re-examine several claims. This research may result in changes to the number and configuration of claims in the area.

In 2007, the Tribunal expects there to be progress in relation to Ngurrara pending an agreement between the KLC and state government about connection.

Some recent initiatives by the state government in relation to Fitzroy Valley may also result in the resolution of some native title issues and development of claims in the area.

In the Central Desert, the wait for the Wongatha decision slowed down mediation because of the possible flow-on effect it would have on adjacent native title applications and the outcomes and effect of that

decision will now be the primary matter for consideration for some time to come.

Pilbara and Geraldton

The first six months of 2007 will be a very busy period due to orders made at the Geraldton regional directions hearing on 18 December.

The Federal Court has ordered that the Tribunal jointly develop a plan with represented and unrepresented applicants in the southern Geraldton cluster of claims, to resolve overlaps. The Tribunal is also expected to ensure all active respondent parties are kept up-to-date regarding the overlap resolution plan and report to the court on the plan and implementation schedule.

In the north-west Geraldton sub-region, the Tribunal has been ordered to work with applicants and/or representatives of the Gnulli, Mulgana, Nanda and Mullewa Wadjari to assess the status of existing research material, and develop a plan for additional research material.

At the Federal Court Pilbara regional directions hearing on 15 December, the court made a range of orders affecting:

- the resolution of overlaps in the Warrarn, Ngarla and Njamal matters
- the overlaps between the Kuruma Marthudunera, Yaburara & Marthudunera and Wong-goo-to-oo applications
- the potential combination of the Innawonga, Gobawarra Minduarra Minhawangga, Jurruru and Innawonga Bunjima applications to form the 'Single Innawonga' application
- the potential combination of the Innawonga Bunjima, and Martu Inja Bunyjima to form the "Single Bunjima" application.

Additionally, the Ngarla and Ngarla 2 and Eastern Guruma applications are scheduled for consent determination in May and March respectively.

Notification and Registration Testing

The Nyikina Mangala – Shire of Derby ILUA (WC99/25), which was officially signed on 19 October 2005, is currently in notification which ends 22 February 2007.

The South West Boojarah #2 application was notified on 20 December 2006, with the closing date of 19 March 2007.

Contacts in the WA Registry

Name	Position	Areas
Lillian Maher	State Manager	
Sara Burke (acting until 28 February 2007)	Senior Case Manager	Future act mediation Indigenous land use agreements
Angela Murphy	Senior Caseload Manager	Future act arbitration
Steve Edwards	Senior Case Manager	South West and Goldfields
Lynda Strawbridge	Senior Case Manager	Kimberley and central Desert regions Registration test and notification
Tom Weaver	Senior Case Manager	Geraldton, Pilbarra and Kimberley
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