



Nyoongar decision has nation talking

Native Title and You



By National Native Title Tribunal President **GRAEME**

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The recent Federal Court decision recognising the native title rights and interests of Nyoongar people over some of the metropolitan area of Perth has brought native title to the nation's attention once again.

Comments in the media from politicians, legal professionals and the Indigenous community have attempted to shed some light on the decision and speculate on how it might affect claims over other Australian cities and towns.

Despite Justice Wilcox's assurances that the decision was not 'a pot of gold' for the Nyoongar people, nor 'a disaster' for everybody else, some commentators voiced concerns about what the decision would mean for Nyoongar claimants and non-Indigenous residents of Perth.

While some reactions to the decision raised alarm bells, many comments welcomed the decision and referred to the possibility of agreement.

As Justice Wilcox

pointed out, the litigation over native title in the Perth area had gone on for a long time and has cost a lot of money.

He recognised that if there was an appeal and his judgment WAS upheld, there would still be a lot of work to be done to identify the areas in Perth where native title has not been extinguished.

Expensive, time-consuming

It would then be necessary to deal with the Nyoongar native title claim to land outside Perth. This would also be an expensive and time-consuming exercise.

He encouraged the West Australian Government and Nyoongars to sit down and negotiate some broad areas where native title might survive. That might take place after any appeal.

The WA Government and the Commonwealth have announced that they

want to appeal Justice Wilcox's decision.

But Deputy Premier Eric Ripper also said the State was willing to negotiate with the Nyoongar leadership and work towards agreement about the recognition of native title and compensation for its extinguishment.

The responses to this judgment show that attitudes towards native title today are a lot different from the environment of 10 years ago. Most determinations of native title have been made by agreement. More are being negotiated.

Court cases are sometimes necessary to sort out difficult questions of fact or law, and parties sometimes appeal from the decisions of single judges.

But it is widely accepted that the courts cannot decide everything, and that usually these issues are better dealt with through a process of negotiation.



South West Aboriginal Land and Sea Council chairman Ted Hart outside the Federal Law Courts in Perth after Justice Murray Wilcox handed down his decision on the native title claim over Perth and its surrounds.