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Highs, lows of 2007

Native Title and You



By National
Native Title
Tribunal
President
**GRAEME
NEATE**

THIS year has been one of celebration for many people involved in native title, and disappointment for others. It also saw the most significant changes to the Native Title Act in a decade.

During the year the total number of determinations of native title reached 108; 73 of them that native title exists. Most of the determinations (87) were made by agreement or were unopposed.

The importance of negotiating outcomes, and not getting bogged down unnecessarily in expensive and time-consuming litigation, was highlighted this year by Australia's 100th native title determination.

The Guditjmarra people's determination over parts of Victoria's western district showed that native title can deliver positive results to all involved when people get together to talk through the issues and come to agreement.

The number of registered Indigenous Land Use Agreements (ILUAs) also rose this year, to a total of 308. Together, they cover more than 11 per cent of the area of Australia.

The number of registered ILUAs has doubled over the past couple of years, showing that they have become an

increasingly popular way to progress native title claims and resolve other land-use issues.

Some native title determinations are helped along by the negotiation of ILUAs that resolve issues before a determination is made.

In February, for example, the Githabul people signed the largest ILUA ever made in New South Wales. It involves national parks and state forests in the Kyogle, Woodenbong and Tenterfield areas. The ILUA was a step towards a consent determination, which was made in November.

A recent native title determination in far north Queensland came about after the completion of 15 ILUAs. The Eastern Kuku Yalanji native title holders now have a greater management role in parks and some reserves, and they own 16,500ha of Aboriginal freehold land for residential and economic development. The national park estate between Cooktown and Mossman was doubled and environmental and cultural values are preserved.

The system, however, does not always produce certainty of outcomes. The long-awaited Federal Court decision about claims over a large part of the Goldfields region of Western Australia did not include a determination of native title. The Wongatha and overlapping claims were dismissed, leaving unresolved the question of whether native title exists in some or all of the area.

With the 15th anniversary of the Mabo decision being commemorated in June, we should look back beyond the past 12 months to see what has been achieved.

Native title never was, and never will be, a solution for all sources of Indigenous disadvantage, but it has provided a platform for recognising and respecting Indigenous Australians and, as a by-product, is creating economic and other opportunities for some groups.

Along with those outcomes, there has been a change in attitudes and processes in recent decades. The resolution of Noonkanbah earlier this year provided an opportunity to see the shift. In 1979, Noonkanbah station, in Western Australia, was the centre of a highly publicised dispute over proposed petroleum drilling in the area of a sacred site. Some 28 years after that confrontation, a determination of exclusive native title was made by agreement of all parties.

With amendments to the Native Title Act implemented in 2007, we have entered the next era of native title. The amendments are part of a package of reforms aimed at encouraging agreement-making and providing outcomes more efficiently and effectively.

But those initiatives will only produce agreed outcomes sooner if parties engage with each other in good faith and with a commitment to finding practical, just and enduring outcomes.

The Tribunal looks forward to working with you next year to achieve such outcomes. In the meantime, I extend my very best wishes to you for an enjoyable and satisfying Christmas season.