

What's New February 2008

Cases

Australia

***Wilfred Hicks and Others on behalf of Wong-goo-tt-oo/Mark Lockyer and Others on behalf of Kuruma Marthudunera/Western Australia/Mineralogy Pty Ltd* [2008] NNTTA 3**

This decision of the NNTT considered the proposed granting of exploration licenses attracting the expedited procedure and the subsequent application of native title parties objecting to the grant of the licenses. In reaching its decision the Tribunal considered whether the acts were likely to interfere directly with the carrying on of community or social activities; interfere with sites of particular significance; cause major disturbance to land or waters and whether the grantee party failed to consult the community adequately.

***Naghir People #1 v State of Queensland* [2008] FCA 192**

Justice Greenwood considered a work plan for the Naghir People's Claim. He noted that the claim had been in mediation for the last 12 years, something that he considered to be unacceptable. Justice Greenwood ordered that the applicants file a Notice of Facts and Contentions detailing the following:

1. Description of the persons on behalf of whom the native title determination application is made (including the composition of the group, subgroups and criteria for membership)
2. Description of the society that subsisted at the time of sovereignty or annexation pursuant to whose laws and customs that native title rights and interests were held on the relevant land. This should also include a description of the 'current society'.
3. The connection or relationship between the original society and the current society from sovereignty to the present. Genealogical information should be included if possible.
4. The nature of or a list of rights and interests which are now claimed and the content as to where those rights existed and whether they confer occupation, use and enjoyment of the relevant area.
5. List of rights and interests that were held by the original society and the content of those rights and list of rights and interests of the current society.
6. Description of the traditional laws and customs under which each of the rights and interests are said to derive in relation to both the original society and the progressively through to the contemporary society.
7. Outline of the facts that are relied upon by the applicant group to prove historical connection with the claim area.
8. Outline of the facts relied upon by the applicant to prove contemporary connection with the claim area including details of the current use.

Justice Greenwood also noted that he wanted the parties to be guided and informed by the schedule of proposed orders which have been circulate to parties which were the subject of the orders of French J in *Leo Akiba, Joseph Tabitii, George Meye and Napoleon Warria on behalf of the Torres Strait Regional Seas Claim v State of Queensland* (QUD6040/2001).

International

Sustainable Development Consortium, [Settlement and Implementation Support \(SIS\) Strategy for Land and Agrarian Reform in South Africa](#), Commission on Restitution of Land Rights in the Department of Land Affairs, 2008.

The SIS Strategy draws from the experience of land delivery to date, and clearly sets out the content of support that is needed to achieve sustainable development on land acquired through the land reform programme. It shows that land reform cannot just depend on the Department of Land Affairs, the National Department of Agriculture, or the departments of agriculture at provincial level.

Native Title in the News

- [NTRU Native title in the News](#)

Publications

Reviews & Reforms

[Dept of Industry, Tourism and Resources. Leading Practice Sustainable Development Program for the Mining Industry: Working With Indigenous Communities](#)

This handbook acknowledges the traditional and historical connection that Aboriginal people have to the land, and the effects of colonisation and development, including mining. It also addresses cross cultural issues and how mine operations impact on neighbouring Indigenous communities. Issues to do with the recognition of land rights and native title are discussed as well as how relationships are developed and fostered between mining companies and Indigenous communities through agreement making. Recognition of differences in culture, language, law and custom are an important part of these processes, and some principles of community engagement are discussed.

Speeches, Seminar Papers and Conference Presentations

Attorney-General Robert McClelland. [Speech to the Negotiating Native Title Forum Lawson Ballroom, Level 2, the Novotel Brisbane](#)

Training and Professional Development Opportunities

- See the [Aurora Project: Program Calendar](#) for information about [Learning and Development Opportunities](#) for staff of native title representative bodies and native title service providers.
- The Melbourne Law School Masters program is offering the subject **Native Title Law and Practice in April/May 2008**. The subject focuses on current issues in native title and will include the following: the 2007 amendments to the Native Title Act, claims process, evidentiary issues including expert reports, State Governments' connection requirements, negotiated, mediated and litigated native title and non-native title outcomes, future acts, the right to negotiate, heritage, ILUAs and agreement making, and PBCs. More information is available from the Melbourne Law Masters office at <http://www.masters.law.unimelb.edu.au/go/about-us/melbourne-law-masters> ; telephone 03 8344 6190 or from Maureen Tehan m.tehan@unimelb.edu.au