

NTSV

Issue 3, May 2004

From the Chairman



I recently attended a meeting in Canberra of representatives of all Native Title Representative Bodies (NTRBs) across Australia.

This was a very interesting forum and it is quite apparent that the focus of native title has moved from litigation (that is, trying to prove native title in court) to agreement making.

I think that in Victoria we really need to get on with the business of using our rights as native title claimants to secure benefits and recognition for our people through agreements with various land users and service providers.

Unfortunately one of the greatest obstacles to the making of such agreements is disputation within and between native title groups. This conflict is holding us back and robbing our people of the recognition and benefits that they would otherwise be able to secure. It is time that we resolved some of these disputes and put them behind us.

The opportunities that the Native Title Act (NTA) provides to traditional owners to enter into agreements will not exist forever and it is important that we do everything possible to make the most of the native title rights and interests that we currently have under the Act.

Native Title Service Victoria (NTSV), as a professional service delivery organisation, will do all that it can to assist groups with the process of negotiating agreements with such bodies as local government bodies, mining companies and various agencies undertaking new activities on land that is subject to native title claim.

Where, however, there is conflict within a native

title group, NTSV's assistance is confined to assisting with the resolution of that conflict and no focus can then be placed on the important business of negotiating agreements with external parties. This also wastes the valuable time of both staff and claimants that might otherwise be devoted to more constructive purposes.

Chris Marshall and I gave a presentation in Canberra on the structure, background and focus of NTSV. This was well received and some representatives of other NTRBs around the country expressed the hope that traditional owners in Victoria will be better served by the model we now have in place than they were in past years.

Certainly, we are doing our best to build and earn people's confidence.

I take this opportunity to advise you that there is likely to be a statewide meeting of representatives of all native title groups within the next few months. We are therefore enclosing a paper setting out some of the ideas and issues that could be discussed at a statewide meeting. These issues could then be taken up with the State Government. It is time for real land justice in this State.

What's inside?	Page
Dja Dja Wurrung	2
Principal Legal Officers	2
Strategic Planning Workshop	3
Kirrae Whurrong Agreement	3
Australian first! Pro Formas	4

From the Consultant CEO Chris Marshall

This is the first NTSV newsletter for 2004. There is a lot happening and all staff are very busy.

We have shifted office and are now located upstairs at 642 Queensberry Street North Melbourne.

NTSV is operating well and our newly appointed Corporate Services Manager Stan Skrabal is highly competent in financial and compliance matters.

As well as working with various native title claimant groups across the State on their claim and future acts matters, NTSV is also seeking to engage with the State Government in an attempt to achieve better recognition of the rights of traditional owners. In this regard the NTSV Board recently had a productive meeting with the Attorney - General Rob Hulls and the Minister for Aboriginal Affairs, Gavin Jennings.

Graham Gee, who did excellent work on the SAM-LIV project, has joined NTSV for a few months and is working on specific policy matters such as local government, natural resource management and cultural heritage issues so that we can assist native title claimants in relation to these matters.

The position of CEO with NTSV has been advertised and the Board will be conducting interviews at the end of May. The outcome will, of course, be reported in the next newsletter.

Dja Dja Wurrung Native Title Group sign-off on agreements

The Dja Dja Wurrung Native Title Group recently finalised two agreements with mining companies within their native title claim. The mining licences are located in the region of Burkes Flat and Avoca.

NTSV solicitor Paul Simmons, stated that: "The Dja Dja Wurrung Native Title Group are seeing the advantage of setting standard form instructions for exploration and mining within their native title claim. This has significantly streamlined negotiations and allowed for agreements to be finalised expediently."



Robert Nicholls



(L-R) Gary Murray and Ken Stewart

NTSV Project Officer Ron Johnson

Ron is out of action for a while following a heart attack. The best wishes of all of us are with him for a speedy recovery.



Introducing the Principal Legal Officers

In February 2004, the NTSV Board approved the appointment of Annie Keely and Alison Murphy as Principal Legal Officer on a job share basis.

Annie and Alison are responsible for the supervision of the legal staff and the overall management and coordination of the legal work of NTSV.

Annie and Alison each work part time and liaise closely with the other NTSV lawyers who have day to day management of each of the claims. Both Annie and Alison have considerable experience in native title law in other states.

Annie Keely is from Melbourne originally but hasn't lived here for over 15 years. Most of that time she has lived in the NT, where she worked for the Central Land Council.



(L-R) Annie Keely and Alison Murphy

She spent a year in Tennant Creek working on settling the Waramungu Land Claim, and a year in Darwin during which time she worked with the Mirrar people at Kakadu, and has also worked in South Australia with the Ngarrandjeri people. Annie has worked on several land claims under the NT Land Rights Act and on the Alice Springs native title claim and the Yulara native title claim.

Alison Murphy is from Perth originally and has been in Mel-

bourne for about a year. Alison got involved in native title while working as a judge's associate in the Federal Court at a time when the first native title matters were coming through the court.

She worked as a native title lawyer at the Aboriginal Legal Service of WA for several years in the Pilbara region and then as the Deputy District Registrar for native title matters at the WA Registry of the Federal Court.

Prior to coming to Melbourne Alison spent two and a half years as Principal Legal Officer of the Torres Strait Regional Authority on Thursday Island. Alison returned to Melbourne shortly before having a baby last year and commenced working part time as a lawyer with NTSV in October 2003.

Strategic Planning Workshop

On 16 March a Strategic Planning workshop was held, involving the NTSV Directors and senior staff. The workshop was facilitated by Dr. Mick Dodson and was a productive day, at which the major functions and objectives of NTSV were discussed and clarified.

The Strategic Plan has subsequently been written up and submitted in draft form to ATSI, as required by the Native Title Act. The workshop agreed on the following vision statement for NTSV.



NTSV VISION STATEMENT

Our Vision is to be recognised and accepted by all stakeholders as the key organisation in all aspects of native title in Victoria.

We will deliver high quality, best practice, transparent and ethical professional native title services to native title holders and claimants in Victoria;

assist and empower native title groups to achieve their aspirations under the Native Title Act;

deliver sustainable native title and related outcomes to Aboriginal people in Victoria that will respect, protect and transmit Aboriginal culture and identity for present and future generations.

Kirrae Whurrong Native Title Group sign an agreement

The Kirrae Whurrong Native Title Group have finalised an Indigenous Land Use Agreement ("ILUA") with Woodside Energy Ltd.

The ILUA allows Woodside Energy Ltd to build a pipeline approximately 20 metres underneath the Port Campbell National Park to link its off-shore oil and gas reservoirs to an on-shore processing plant.

A meeting was held on 6 December 2003 in Warrnambool at which the Kirrae Whurrong Instructing Committee agreed to accept the in-principle agreement negotiated with Woodside Energy Ltd and to sign off on the final ILUA. The ILUA will provide long term benefits to the traditional owners for the time in which the pipeline is used by the Project.

The agreement demonstrates what can be achieved through negotiation between native title groups and proponents regarding access to Crown land areas. NTSV would like to acknowledge the hard work of the following people: Henry Alberts, Bunta Patten, Wilma Blundell, Myrtle Evans, Bernice Clarke, Ivan Couzens, Len Clarke, Eileen Alberts (NTSV), Paul Simmons (NTSV), Steve White (Woodside) and Annalisa Grubisa (Woodside).



GUNDITJMARA

Connection report and statement of aspirations has been provided to the State. Attorney-General Rob Hulls to meet with the claimant group on country. (date to be finalised)

WOTJOBALUK

Boundary issues being addressed in preparation for the Federal Court Hearing on 4 June.

GUNAI/KURNAI

Court hearing on 27 May to sort out matters currently preventing this claim going ahead.

NORTH WEST

North West claims representatives have a meeting with Attorney-General Rob Hulls in Swan Hill on 4 August to discuss a single regional settlement of their claims.

Research work continuing



(L-R) Lenny Clarke and Mike Shearman (Woodside Energy)

“Australian first!” Launch of Pro forma Mining Agreements

Native Title Groups in Victoria are engaged in negotiating agreements with miners, explorers and the petroleum industry. Many agreements are providing Native Title Groups with employment opportunities, cultural heritage protection and profit sharing.

In conjunction with the Victorian Minerals and Energy Council (“VMEC”) and the State of Victoria, the legal department of Native Title Services Victoria Ltd developed a set of “Pro forma” or template agreements which can be used by Native Title Groups as the basis for finalising negotiations with miners, explorers and the petroleum industry.

The development of these pro forma documents took approximately 2 years to complete. VMEC, the State of Victoria and NTSV consider these Pro formas to be an important mechanism for finalising negotiations efficiently.

On 21 April 2004 the pro forma native title agreements were launched on the Parliament House lawns in Melbourne. Energy Industries and Resources Minister Theo Theophanous, and Attorney General Rob Hulls participated in the launch.

Attorney General Hulls said “ In an Australian first, three parties: Koories, the Bracks Labor Government, and the Mining community, have worked together to cut red tape, to empower Koorie communities and to facilitate the negotiation of mining and exploration leases”.

NTSV Chairman Graham Atkinson said NTSV had been pleased to work in partnership with the Bracks Government and the Victorian Minerals and Energy Council in the development of the pro forma documents. “These pro forma documents will make negotiations with native title parties simpler and more expedient and

Graham Atkinson (NTSV Chairperson) speaking at the pro forma launch.



Theo Theophanous (Minister for Energy Industries and Resources) and Attorney-General Rob Hulls

will lay the foundations for building long term relationships between native title groups and the minerals and petroleum industry” Mr Atkinson said.

NTSV Board member Eleanor Bourke said “ I welcome these documents. Native Title parties want respect and want certainty. These documents lead the way on how native title negotiations should occur”.

The Pro formas are only templates and Native Title Groups and proponents may wish to vary these documents. The Pro formas cannot cover every conceivable situation relevant to a particular Native Title Group and will often need to be amended to reflect the particular circumstances of a Native Title Group.

This is particularly the case with the cultural heritage management procedures which will need to be varied to deal with the particular manner in which the relevant Native Title Group deals with their cultural heritage issues.



(L-R) Eleanor Bourke (NTSV board member), Graham Neate (President of National Native Title Tribunal) and Graham Atkinson (NTSV Chairperson)

Developing Local Government Protocols

In June NTSV is meeting with the Municipal Association of Victoria's Local Government Indigenous Network Committee. We hope to create stronger relations with local government in order to support the possibility of future protocols, ILUAs, or other agreements being developed between traditional owners and their local government body. If your aspirations include developing protocols with local government, please raise the issue at your next native title meeting and contact one of the project officers at NTSV.