

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
NATIONAL NATIVE TITLE TRIBUNAL

Question No. 147

Senator Fierravanti-Wells asked the following question on 13 February 2007:

- a) Recently some representative bodies have criticised the Tribunal about its mediation performance. In particular, Ron Levy, of the Northern Land Council, was very critical in his submission to the committee some two weeks ago. Could you please outline the Tribunal's response to these criticisms? A copy of the relevant transcript date 30 January 2007 is attached.
- b) Could you please provide details of any native title claims, past or present, which have been filed, considered or determined by the NNTT regarding the Illawarra region of NSW.
- c) Have any such native title claims involved the Illowra people?

The answer to the honourable senator's question is as follows:

- a) The Tribunal has responded to representative bodies' criticisms about its mediation performance in a written submission to the Senate Legal and Constitutional Legislation Committee, which was lodged on Friday, 9 February 2007. The Tribunal's submission responds to submissions and evidence dealing with the capability and capacity of the Tribunal that were presented to the committee. The Tribunal's submission makes specific reference to comments made by the Principal Legal Officer of the Northern Land Council, Mr Ron Levy.

In his evidence before the Committee, Mr Levy's use of the Newcastle Waters matter to illustrate that quicker mediation outcomes are achieved by the Court than the Tribunal did not give a complete overview of progress on that matter. Mr Levy omitted to mention that the Tribunal used mediation to identify what was agreed between parties and to distil to three the critical outstanding issues in Newcastle Waters. By agreement of all the parties, the Newcastle Waters matter was taken to the Federal Court to seek a ruling in relation to the legal issues. The Tribunal's mediation allowed all parties to the matter to ventilate their concerns in a private and without prejudice setting, leading to refinement of the issues and saving considerable expense in further mediation until those issues were resolved. The Newcastle Waters matter serves as an example of the strategic interplay between the Tribunal and the Federal Court to manage a native title matter in the most efficient and effective way.

My inquiries reveal that with the exception of the Newcastle Waters matter, and in earlier times, a Miriuwung Gajerrong matter, the Northern Land Council has had limited experience of Tribunal mediation. It has sought to avoid referral of native title claimant applications to the Tribunal for mediation, or has sought to have the Court order that Tribunal mediation cease. The Northern Land Council has consistently advised that it and its clients lack resources to participate in mediation of applications that are referred to the Tribunal.

- b) Below is a list of all native title claims made in relation to areas of land or waters in the Illawarra region. It should be noted the Tribunal does not determine claims,

although they are included in this list. Two maps of the region depicting active claims and inactive claims are attached.

<i>Current Applications</i>				
Claim Number	Application Name	Applicants	Local Government Area	Status
NC97/7	Gundungurra Tribal Council Aboriginal Corporation #6	Elsie Stockwell, Pamela Stockwell	Blayney, Blue Mountains, Camden, Cowra, Upper Lachlan, Lithgow, Liverpool, Oberon, Penrith, Wingecarribee, Wollondilly, Bathurst, Palerang, Goulburn Mulwaree	In mediation
NN05/9	Minister for the Environment for the State of NSW (non-claimant application)	Minister for the Environment for the State of NSW	Shoalhaven	Notification complete
NN05/18	Sada Services Pty Ltd (non-claimant application)	Sada Services Pty Ltd	Wollongong	Notification complete
<i>Determined Applications</i>				
Claim Number	Application Name	Applicants	Local Government Area	Status
NN05/11	Illawarra Local Aboriginal Land Council	Illawarra Local Aboriginal Land Council	Wollongong	Determined on 06/02/2007 (determination that native title doesn't exist)
<i>Previous Applications</i>				
Claim Number	Application Name	Applicants	Local Government Area	Status
NC94/4	Wadi Wadi #1	Alan Carriage, Jean Carriage, Joan Wakeman	Wollongong	Discontinued on 07/11/2000
NC95/9	Elouera Aboriginal People	Ernest Duren	Kiama, Shellharbour	Dismissed on 06/09/2002
NC96/11	Elouera People	Esther Ford	Shellharbour, Wollongong	Struck-out on 19/12/2000
NC96/12	Wadi Wadi #2	Alan Carriage	Campbelltown, Kiama, Mulwaree, Shellharbour, Shoalhaven, Sutherland,	Discontinued on 27/04/1999

			Wingecarribee, Wollondilly, Wollongong	
NC96/13	Wadi Wadi #3	Allan Carriage, Jean Carriage	Kiama, Shellharbour, Shoalhaven, Wollongong	Withdrawn on 20/06/1997
NC96/21	Gundu-ngura	Gordon Wellington	Bankstown, Burwood, Camden, Campbelltown, Canterbury, Fairfield, Hurstville, Kiama, Kogarah, Liverpool, Marrickville, Mulwaree, Penrith, Rockdale, Shellharbour, Shoalhaven, Strathfield, Sutherland, Wingecarribee, Wollondilly, Wollongong	Rejected on 28/04/1997
NC96/31	Elouera People #3	Ernest Duren	Shellharbour	Rejected on 29/04/1997
NC96/32	Elouera People #4	Ernest Duren	Shellharbour	Rejected on 29/04/1997
NC97/1	Dariwal (KEJ Tribal Elders)	Ernest Duren, Gordon Wellington, James Bell, Angeline Thulin, Coral Wright, Elizabeth Fitzpatrick, Ester Ford, Gwendoline Brown	Kiama, Mulwaree, Shellharbour, Shoalhaven, Tallaganda, Wingecarribee, Wollondilly, Wollongong	Rejected on 30/07/1997
NC98/12	Dariwul People	Gordon Wellington	Kiama, Mulwaree, Shellharbour, Shoalhaven, Tallaganda, Wingecarribee, Wollondilly, Wollongong	Dismissed on 23/06/2000
NC99/3	Kim Moran #3	Kim Moran	Bathurst, Blue Mountains, Camden, Campbelltown, Upper Lachlan, Evans, Lithgow, Hawkesbury, Kiama, Liverpool, Mulwaree, Oberon, Penrith, Rylstone, Shellharbour, Shoalhaven, Wingecarribee, Wollondilly, Wollongong	Dismissed on 25/11/1999
NC02/6	Elouera People	Norma	Kiama, Shellharbour	Struck-out on

		Simms, Gwendoline Brown, Reuben Brown		21/08/2002
NC02/12	The Cubbitch Barta People	Glenda Chalker, Rebecca Chalker	Wollondilly	Discontinued on 03/07/2003
NC03/2	Glenda & Rebecca Chalker	Glenda Chalker, Rebecca Chalker	Wollongong	Dismissed on 23/03/2005
NN94/12	Moomba to Sydney Pipeline #1 (non-claimant application)	The Pipeline Authority	Wollondilly	Dismissed on 16/09/1996
NN94/13	Moomba to Sydney Pipeline #2 (non-claimant application)	The Pipeline Authority	Wollondilly	Dismissed on 16/09/1996
NN94/14	Moomba to Sydney Pipeline #3 (non-claimant application)	The Pipeline Authority	Wollondilly	Dismissed 16/09/1996
NN94/15	Moomba to Sydney Pipeline #4 (non-claimant application)	The Pipeline Authority	Wollondilly	Dismissed 16/09/1996
NN97/28	NSW Government #44 (non-claimant application)	Kimberley Maxwell Yeadon, MP	Wollondilly	Discontinued 07/12/2000
NN01/10	Minister for Land and Water Conservation for the State of NSW (non-claimant application)	Richard Amery	Wollongong	Discontinued 19/09/2002

c) As in the table above, five claims have involved the Elouera People.