



Victorian Traditional Owner Land Justice Group

The Victorian Traditional Owner Land Justice Group (LJG) provides a voice for traditional owner groups in Victoria. It lobbies governments for improvements to policy, legislation and in how government goes about its business, to achieve greater land justice for all of the traditional owners of Victoria.

July 2009

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Message from LJG Co-chairs

We are thrilled that since our last newsletter in December 2008, the Victorian Attorney-General Rob Hulls, has announced the government's acceptance of the Settlement Framework as the preferred method for resolving native title in Victoria. All our hard work is finally getting us somewhere.

The announcement, made by Victorian Attorney-General Rob Hulls on 4 June at the National Native Title Conference, involves traditional owner groups having the ability to forge agreements with the State Government to access their traditional land either through hand-back, or joint management of Crown Land, including national parks, and to access land for hunting or camping without a permit. Traditional owners could be compensated for activities including mining, carbon capture and storage as a result of reforestation and the maintenance of wetlands under land-use agreements.

The Land Justice Group has been working to find a way for native title agreements to better meet the real aspirations of traditional owners. We believe the new system has the potential to provide real land justice, and could become a model for other states more broadly. Traditional owners want to engage with the economic system of this country, as equal partners, and not remain marginalised on the fringes of Victorian society.

The decision comes on the back of many years of hard work by traditional owners in Victoria, through the Land Justice Group, for an alternative system of resolving land title that is cost-effective, timely and does not require going to court. As the State Cabinet has accepted the recommendations of the Steering Committee, the next steps will include detailed consultation with traditional owners, and further work to develop policy, including the development of legislation. Further Cabinet approval is required before legislation can be put to parliament and made into law. If you would like a copy of the Steering Committee report you can contact the Secretariat or look online at <http://www.landjustice.com.au/> The LJG is pushing for full implementation of the Framework by April 2010 so that groups who are interested in this new avenue can start to access it in mid-2010.

We'd like to thank Victorian traditional owners for their support and all LJG members for the commitment to representing our commonly held aspirations at the state level. LJG negotiating team members made a major contribution to the development of the Victorian Settlement Framework through the Steering Committee process. We'd like to recognise in particular Sandra Onus, Albert Mullett and proxy Mick Harding for their dedication. We'd also like to take this opportunity to thank Jane Holden, who acted as LJG secretariat after Mark Brett's departure. Jane's hard work throughout the year, in concert with LJG members, has been crucial in achieving positive policy outcomes. The LJG would also like to welcome Romany Tauber, the new Secretariat for LJG, who comes to the position after working with the Northern Land Council in Darwin. Romany will continue to work with David Yarrow, barrister and NTSV staff to ensure the implementation of the new Framework.

Len Clarke, Bobby Nicholls and Graham Atkinson, Co-chairs.

Settlement Framework

What has been decided?

In what has been hailed as one of the biggest overhauls of the native title system since the Mabo judgement, the State government has decided to offer traditional owner groups the opportunity to settle native title claims out of court through agreement making. The State has agreed to offer a much wider range of opportunities and benefits to traditional owners as part of settling native title issues. The system will be streamlined so more resources are committed to outcomes for traditional owners.

Under the Framework, individual agreements are negotiated between the State Government and traditional owners around issues of recognition, access to land, access to natural resources, strengthening culture and improved native title claims resolution.

Traditional owners will be able to negotiate directly with the State, if they so choose, moving away from protracted legal native title claim battles in the Federal Court. Traditional owner groups may elect to go to negotiation with State government and will need to satisfy the government that they are the right people for country. Traditional owners will still provide evidence of their connection to land to the standard required by the State Government. This will be achieved through a more collaborative, less adversarial process.

The current native title model is very slow and expensive. When traditional owners are required to lodge their claim in the Federal Court, the claim is then referred to mediation, and approximately three quarters of the costs are spent on lawyers/experts and limited outcomes are produced.

The Framework provides Victorian traditional owners with the opportunity to negotiate individual agreements with the State Government in a streamlined process to obtain benefits which will go some way to redressing past injustice.

As LJG co-chair Len Clarke explains: *“The main purpose of the Framework is to provide better ways to resolve native title, including options for the ownership and joint management of Crown Land.”* Mr Clarke goes on to say that the Framework went further than the initial native title legislation in that each group will be free to negotiate their own settlement agreement, through State-based policy and legislation.

LJG co-chair Graham Atkinson explains: *“A critical aspect of what we have been advocating for in Victoria is to establish a fairer process, which recognises the nature of connection traditional owners have to land today, and does not view traditional owners as museum pieces frozen in time... Delivering land justice is about more than just delivering symbolic recognition – Traditional Owners need pathways to economic development.”*

How did the Settlement come about, and what will the impact be?

Collaboration

The Framework is the result of a collaborative undertaking between the Land Justice Group and the State Government to find an alternative way to resolve native title claims in Victoria which provides land justice for Victorian traditional owners. It has come about because of the commitment by both parties to work together, to achieve greater understanding of each other's positions.

Sandra Onus said: *“At the end of the day when recommendations were made, we did it as a team. It was a great process to be involved in and something I feel very humbled by. We're talking about the lives of traditional owners in this state and possibly around Australia, if other states take it on. There is more room, more respect for people to talk in these times.”*

Benefits and Opportunities

The Framework promotes a fair go for traditional owners in Victoria. It will result in agreements that have greater economic, environmental and cultural benefits for traditional owners. These

include transfer of land and joint management arrangements, employment opportunities for traditional owners, improved environmental and land management practices in Victoria's national parks and state forests, and education for Victorians about the Indigenous cultural heritage of this state.

The problem solving approach which underpins the Framework is less combative and will enhance community relations by providing real land justice for Aboriginal Victorians and resolution of native title claims for government.

Impact

The Framework sets up the process of negotiated outcomes between the Victorian public and traditional owners which recognise and respect traditional owners' rights and acknowledge first nations' connections to the area.

In practical terms, it will facilitate improvements for land management and the environment in Victoria through joint management arrangements. It will also help educate the wider Victorian public about Indigenous cultural heritage.

There will also be an economic development benefit to Indigenous communities which could flow through to regional communities, with the development of jobs and business/commercial opportunities.

Significance/Implications

The Framework is a ground-breaking reform and is leading the way for alternative native title resolution in Australia. It will result in wider choice for traditional owners in Victoria and has the capacity to resolve all Victorian native title claims.

Consultations

Native Title Services Victoria is developing a plan to consult with the State's traditional owners about the recently-announced Framework.

LJG involvement in these consultations and recommendations to government about how best to consult will be discussed at the next meeting.

Timeframes for Framework Delivery and Implementation

Stage 1: Negotiating and delivering report – completed December 2008

Stage 2: Implementation stage
NTSV and LJG will consult with traditional owners around the state. This stage will also involve development of policy detail including legislative reform. Further Cabinet acceptance of policy detail and legislation will be required.

Stage 3: Operation of the Framework- expected around April 2010. Individual groups will be able to negotiate and settle Framework agreements with the State government.

Australian Human Rights Commission congratulates LJG negotiating team

In a recent letter from the Australian Human Rights Commission to the co-chairs, Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, congratulated all fellow members of the Land Justice Group, in particular the negotiating team, on the Victorian Native Title Settlement. Mr Calma said:

“It brought a tear to my eye to see that justice for Victorian Aboriginals might be achieved in the near future”.

Mr Calma acknowledged that it is “a truly historic achievement” which sets the standard for other jurisdictions. Mr Calma understands there is still a lot of work to be done to implement the framework and negotiate individual Framework agreements, and sincerely hopes the successes continue.

Future Role of the LJG

As a result of the decision to overhaul the native title system in Victoria, the

LJG will discuss the scope of its future role. At the next meeting of LJG members, on Thursday 30 and Friday 31 July at the Downtowner Hotel in Carlton, there will be broad discussion on the group’s role in ensuring that the Framework is implemented effectively and in a timely manner. This may include providing assistance to any traditional owner organisations who choose to negotiate directly with the Victorian Government.

Native Title Conference held in Melbourne in June

About 650 delegates including native title holders, representative bodies, lawyers and policy makers attended the event, at the Melbourne Cricket Ground. The conference, with the theme ‘Spirit of Country, Land, Water, Life’ was co-convened by Native Title Services Victoria and the Australian Institute for Aboriginal and Torres Strait Islander Services, and hosted by the Wurundjeri people.

As well as the announcement by Victorian Attorney-General Rob Hulls that the Victorian Native Title Settlement Framework would become the preferred method for negotiating native title settlements in Victoria, Victorian Traditional Owners took part in an Indigenous Talking Circle run by LJG co-chairs Len Clarke, Bobby Nicholls and Graham Atkinson, and chaired by Professor Mick Dodson.

On the first day of the public program LJG co-chair Graham Atkinson gave a keynote address explaining the Framework came at a time when traditional owner groups were fostering new relationships and building new ways forward to achieve real land justice. See this link for full content of Mr Atkinson’s address <http://www.landjustice.com.au/?t=5> (under speeches). For all other conference papers see the AIATSIS website at: <http://ntru.aiatsis.gov.au/conf2009/NativeTitleConferenceWebsite/papers.html>

The Victorian session of the Indigenous Talking Circle was dedicated to the memory of Auntie Elizabeth Hoffman, a Yorta Yorta Traditional Owner from the Cummeragunja community, who worked tirelessly throughout her life for land justice in Victoria. She worked as administrator at the Aborigines Advancement League, co-founded Elizabeth Hoffman House, the first Indigenous women’s refuge in the country, was a significant player in the establishment of the Victorian Aboriginal Child Care Agency, the Victorian Aboriginal Legal and Health Services and the Aboriginal Housing Cooperative. She was also involved in the establishment of the Yorta Yorta Local Land Council and the Moama Local Land Council. She also played an important role in the Yorta Yorta Native Title claim, and in retirement remained active as an Elder on the Yorta Yorta Nations Aboriginal Corporation. She will be sadly missed by all who knew her.

Update on new National Indigenous Representative Body

The Australian Government has committed to setting up a National Indigenous Representative Body to give Aboriginal and Torres Strait Islander people a voice in national affairs.

The Government is seeking the views of Aboriginal and Torres Strait Islander people on a proposed National Indigenous Representative Body and is committed to establishing the body within this term of office.

The Government has communicated some broad principles for this body:

- The Government will not create another ATSIC;
- There will not necessarily be separate elections for the body; and,
- The body will have urban, regional and remote representation.

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National Indigenous Representative Body (continued from previous page)

The initial public consultation process to establish a National Indigenous Representative Body began in July 2008 and included 80 public meetings in each State and Territory and received more than 100 submissions. (LJG co-chairs Graham Atkinson and Len Clarke attended the Melbourne public meeting held last year). The second stage of the process is being led by Indigenous Australians, with Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma convening an independent Indigenous steering committee to oversee the process. The Steering Committee members are; Mr Mark Bin Bakar; Ms Tanya Hosch; Mr Geoff Scott; Dr Jackie Huggins; Mr Tim Goodwin; Ms Yananyumul Mununggurr; Mr Jason Glanville; Ms Rosalie Kunoth-Monks; Mr John Toshi Kris; and Ms Nala Mansell-McKenna. Professor Mick Dodson is participating in an advisory capacity. Mr Calma is due to present the results of a national workshop held in March by the end of July.

Some of the issues raised in the initial consultations about the role and make-up of any proposed body:

- What outcomes do you want the National Indigenous Representative Body to deliver?
- What role don't you want to see the body, particularly from past lessons learned?
- How does the body support rather than duplicate the work of Indigenous peak organisations, and representative arrangements at the State/Territory and regional level?
- How should people be chosen to be members of this body?
- How can the body most accurately represent the views and priorities of Indigenous people living in urban, regional and remote parts of Australia?
- How will the body its performance measured and be held to account?
- What sources of funding could be used to cover the costs of the body?

Further information about the process can be found on the **Australian Human Rights Commission website:**

www.humanrights.gov.au/social_justice/repbody/ or the FaHCSIA website: www.fahcsia.gov.au

Land Justice Group membership

Last year a paper was sent to LJG members on the membership protocols of the LJG and the future role and structure of the LJG. If you would like a copy of this paper or would like information on whom your groups' representative is, please contact the Secretariat, Romany Tauber on (03) 9321 5319 or Toll free: 1800 791 779.

Upcoming Meetings

The Land Justice Group members will be meeting next on Thursday 30 and Friday 31 July 2009. Please contact the Secretariat, Romany Tauber if you have any questions.

Has your mob seen this newsletter?

If not, pass it on and encourage them to get on the mailing list - they can contact Drew Berick to be added - (03) 9321 5304

Further information

Bobby Nicholls – Co-Chair

Len Clarke – Co-Chair

Graham Atkinson – Co-Chair

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