

**Parliamentary Joint Committee on
Native Title and the Aboriginal and
Torres Strait Islander Land Fund**

OPERATION OF THE NATIVE TITLE ACT

**Inquiry Into The Effectiveness Of
The National Native Title Tribunal**

Submission No:1

Mr Wesley Aird

**Eastern Yugambah Native Title Group
Management Committee**

PO Box 5543

West End QLD 4101



E-mail:

Eastern Yugambah Native Title Group
Management Committee

27 August 2001

Mr Peter Gundy
The Senate
Parliament House
Canberra ACT 2600

Dear Mr Gundy

Application for determination of Native Title QC01/002 - Eastern Yugambah people

The Eastern Yugambah application overlaps with two Kombumerri applications and mediation has been ordered by the Federal Court. However, Eastern Yugambah people are experiencing difficulty in having the mediation actually take place.

The Eastern Yugambah people have made it clear to the National Native Title Tribunal that the most efficient way to resolve the overlap is to mediate directly with the sole applicant for the Kombumerri applications.

In the six months since the Court ordered mediation, the National Native Title Tribunal has only once been able to bring the sole Kombumerri applicant to a mediation conference. The most recent advice from the National Native Title Tribunal is that they are unable to contact the sole applicant and therefore mediation is 'on hold' until they can either find and convince the applicant to attend a mediation conference or the Kombumerri replace the applicant.

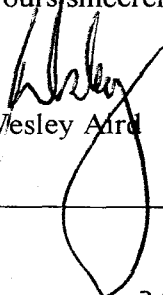
The Eastern Yugambah people are most dissatisfied with delays and the reactive and ineffective style of case management being displayed by the National Native Title Tribunal.

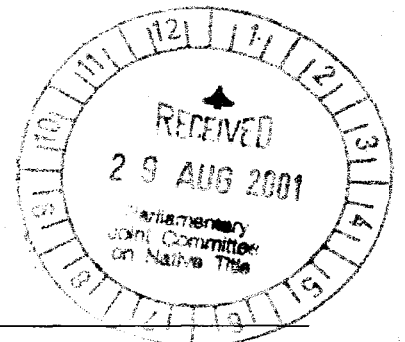
Attached are copies of correspondence between the Eastern Yugambah people Management Committee and the National Native Title Tribunal. I would greatly appreciate you distributing copies to the members of the Native Title and the Aboriginal and Torres Strait Island Land Fund Committee.

Representatives of the Eastern Yugambah people would be available to meet with members of the Committee to discuss our difficulties. Eastern Yugambah people could be available to meet at either Brisbane or the Gold Coast.

Thank you for your assistance in this matter.

Yours sincerely


Wesley Aird



Eastern Yugambah Native Title Group
Management Committee
a group maintaining customary laws, traditions and connection to country
PO Box 5543, West End Qld 4101



NATIONAL NATIVE TITLE TRIBUNAL

MLC Building GPO Box 9973, BRISBANE QLD 4001
Level 30 239 George Street Telephone: (07) 3226 8200
BRISBANE QLD 4000 Facsimile: (07) 3226 8235
AUSTRALIA Website: www.nntt.gov.au

31 July 2001

Mr W Aird
PO Box 5543
WEST END QLD 4101

BY FAX: 3846 4737

Dear Mr Aird

I refer to your letter dated 13 July 2001 and apologise for the delay in responding to it.

At our meeting on 4 July 2001, I confirmed with you that the Tribunal was the only body mediating the native title applications made by the Kombumerri people and Eastern Yugambeh people, and indicated that the Eastern Yugambeh people's application was scheduled to be registration tested in August this year.

At that meeting you indicated that the Eastern Yugambeh people were looking for the resolution of the overlapping applications and were willing to attend a mediation conference with the Kombumerri people at an appropriate venue so long as the named Kombumerri applicant, Mr David Dillon, was present. You indicated a strong preference for a meeting to be held soon.

Following our meeting I discussed the matter with Mr John Sosso, the Tribunal member mediating the matter. I have been informed that subsequently efforts were made to convene a mediation conference to deal with the overlapping applications on 19 July 2001. Although senior members of the Kombumerri claimant group were contacted by the Tribunal and agreed to attend the proposed mediation conference, Mr David Dillon could not be contacted. Two Eastern Yugambeh applicants indicated that, without a guarantee of Mr Dillon's presence, they would not attend. Consequently, the mediation conference could not proceed.

I am satisfied that Mr Sosso and the case manager have used their best endeavours to bring the two groups together to allow the issues between those groups to be addressed. It appears that, for so long as there are difficulties in arranging Mr Dillon's attendance and his attendance is a condition of Eastern Yugambeh involvement, such a conference will not take place.

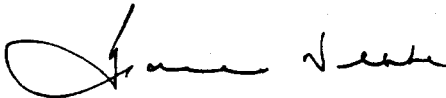
The Tribunal understands that the proposed research project to be undertaken by the QSRBAC has not proceeded as outlined in Mr Sosso's mediation progress report to the Federal Court dated 20 April 2001. QSRBAC has informed the Tribunal that they wrote to the Eastern Yugambeh people in relation to this project. The Tribunal acknowledges that, although the QSRBAC represents the Kombumerri people, it does not act on behalf of the Eastern Yugambeh people.

I have considered your request concerning the member allocated to mediate those matters and do not intend to replace him. Nor do I intend to give him directions about whether or not to perform specific functions in relation to these matters.

I understand that the Kombumerri and Eastern Yugambeh applications have been listed for mention at a Directions Hearing before Justice Dowsett on Wednesday 1 August 2001. The Tribunal will monitor the outcomes of the Directions Hearings and will abide by the orders of the Court.

In your letter, you reiterate the commitment of the Eastern Yugambeh people to the process of mediation and continue to request for assistance from the Tribunal to achieve resolution of the overlap with the Kombumerri applications. If these matters remain in mediation and there is some prospect of the two groups meeting, I will consider whether additional Tribunal resources should be allocated to facilitate the mediation process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Graeme Neate', written in a cursive style.

Graeme Neate
President

Tel: 07 3226 8223

Fax: 07 3226 8218

Email: graemen@nntt.gov.au

PO Box 5543
West End Qld 4101

13 July 2001

Mr Graham Neate
President
National Native Title Tribunal
GPO Box 9973
Brisbane Qld 4001

Dear Mr President

Mediation of QC01/002

I have recently received from Ms Therese Forde an email outlining the intentions of the NNTT in relation to the Eastern Yugambeh people and Kombumerri people. It would appear the case management proposed by Mr Sosso and Ms Forde conflicts with the agreed outcomes of our discussion in your office last week on Wednesday 4th July 2001.

The Eastern Yugambeh people again reassure you that we are committed to the process of mediation and continue our request for assistance from the NNTT to achieve a resolution to the overlap with the Kombumerri claims.

In light of our bad history with the current case manager and member, the Eastern Yugambeh people do not have confidence in either Mr Sosso as Member and Ms Forde as Case Manager. As a result the Eastern Yugambeh people can not attend any future meetings facilitated or attended by either Mr Sosso or Ms Forde.

We again request Mr Sosso and Ms Forde be removed from all future dealings with Eastern Yugambeh people. We require a Member who is prepared to take a hard line to mediate and we would appreciate the appointment of Mr Geoff Clarke. We require a case manager that understands indigenous culture, as this is a difficult intra-Aboriginal matter where understanding Murri nuances is very important and we request Ms Margaret Saunders be allocated as Case Manager.

Ms Forde has requested the contact details of the applicants for the Eastern Yugambeh people. We are not willing to provide these details and request Ms Forde cease all contact with the Eastern Yugambeh people.


It would appear Mr Sosso intends to report back to the Federal Court on the progress of the mediation as ordered by the Court. Given his inaction and insensitivity in dealing with the application we request that Mr Sosso be prohibited from making any further reports to the Court in relation to the Eastern Yugambeh peoples' application.

It would seem Ms Forde has information relating to a research project being undertaken by the QSRBAC. To date there has been no contact between the QSRBAC and the Eastern Yugambeh people in relation to this project. The QSRBAC has been informed in writing they have no authority to represent the Eastern Yugambeh people in any way. We now ask the NNTT to provide in writing an outline of this research project being conducted by the QSRBAC in so far as Ms Forde has knowledge of it.

To reiterate, the Eastern Yugambah people are committed to mediation and look forward to a mutually successful outcome being facilitated by the NNTT in a proper manner.

I look forward to a response at your earliest convenience.

Yours sincerely



Wesley Aird

Copy to: Federal Court



NATIONAL NATIVE TITLE TRIBUNAL

Level 4
Commonwealth Law Courts
1 Victoria Avenue
Perth Western Australia 6000

GPO Box 9973 Perth WA 6848
Telephone: (08) 9268 7272
Facsimile: (08) 9268 7299
Website: www.nntt.gov.au

Reference: QC01/2, QC96/69, QC98/24

27 June 2001

Mr Wesley Aird
PO Box 5543
WEST END QLD 4101

Dear Mr Aird

Re: Eastern Yugambah People (QC01/2)

I refer to your letter of 25 June, 2001 regarding the mediation of the Eastern Yugambah People's application (QC01/2).

As you would appreciate, the mediation of native title applications is the responsibility of Members of the Tribunal, who are allocated applications by the President. Tribunal Members mediate claims pursuant to Orders of the Federal Court, and report directly to the relevant Judge of that Court.

The State Manager of the Queensland Registry has no responsibility with respect to the conduct of mediations by Members, and should you have concerns with same, I would suggest that the appropriate course of action is to contact the relevant Member, or the President of the Tribunal, Mr Graeme Neate.

Any further correspondence concerning the conduct of the mediation of the Eastern Yugambah application, therefore, should not be directed to the State Manager, but to the Member responsible or the President.

I draw your attention to correspondence dated 30 May, 2001 forwarded by Ms Therese Forde to the solicitor acting for the Eastern Yugambah Peoples, Mr Terry Fisher. In that letter, the proposed mediation strategy of the Tribunal is set out, and attached thereto is the most recent report of the Member to the Federal Court.

When reading the mediation report you will note that the Member specifically advised the Federal Court of the proposed course of action of the Queensland South Representative Body.

Cont'd.../2

NATIONAL NATIVE TITLE TRIBUNAL

Mr Wesley Aird
West End. Qld

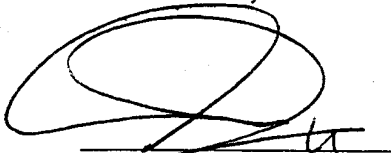
- 2 -

I am informed that the Tribunal will continue to endeavour to mediate the overlap between the Eastern Yugambeh Peoples and the Kombumerri, but you need to have regard to the specific statutory role of the representative body as enshrined in the *Native Title Act 1993*. The Queensland South Representative Body is reposed with certain statutory functions, and it is the responsibility of the Tribunal to determine if the representative body is in a position, and has the capacity, to assist in resolving overlap issues.

The Member responsible for your claimant groups application, has made it clear that he is determined to continue to achieve a mediated outcome, and is attempting to ensure that all avenues available for achieving that objective are explored.

Further meetings between the Eastern Yugambeh and Kombumerri are being investigated, and you will be informed, together with other applicants, in the near future. I suggest that you keep in contact with your solicitor, or make personal contact with Ms Forde.

Yours sincerely



Allan Padgett
State Manager

Tel: (07) 3226 8200

Fax: (07) 3226 8235

Email: registrar@nntt.gov.au

FAXED

Wesley Aird
PO Box 5543
West End Qld 4101

25 June 2001

Mr Allan Padgett
State Manager
National Native Title Tribunal
GPO Box 9973
Brisbane Qld 4001

Dear Allan

Eastern Yugambeh people QC001/2

This is a letter of complaint against the National Native Title Tribunal. The complaint is made on the ground that since the subject application was lodged in January 2001, the NNTT has convened one and only one meeting to resolve the overlap with the other claims in the region.

The Eastern Yugambeh people have made repeated requests for resolution of the overlap. The requests have been made regularly to the NNTT by telephone, email, and letter. In spite of these requests there has been no subsequent action to resolve the overlaps. The lack of action by NNTT is unacceptable to the Eastern Yugambeh people. Further, it is arguably against the spirit of the direction given by the Court.

The current case manager recently advised the NNTT is awaiting QSRBAC to mediate the overlap and that the NNTT shall not take any action before the end of July. Unfortunately for the NNTT, no-one bothered to ask the Eastern Yugambeh people if this would be acceptable. Be that as it may, QSRBAC are yet to respond to a two month old inquiry by the Eastern Yugambeh people. If we are required to wait at least two months for a single letter, the chances are remote for success in the complex task of mediation. Clearly the strategy of the NNTT was ill-considered and has failed.

In the absence of any meaningful management of this application we request the NNTT:

- remove Mr Sosso as the Member for this application,
- remove Ms Forde as case manager,
- convene a meeting at the earliest convenience between yourself and representatives of the Eastern Yugambeh application to develop a plan to mediate the overlap.

To reiterate, this is a letter of complaint and to stop the matter from going any further I would greatly appreciate receiving from you a written response at your earliest convenience or in any case no later than 5.00 pm on Friday 29th June 2001.

Yours sincerely

