

YMAC

news

News from Yamatji Marlpa Aboriginal Corporation

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country
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future



Badimia children on country



Yamatji Marlpa
ABORIGINAL CORPORATION

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Caution: Readers please be advised this publication may contain the names, images, and words of deceased persons. We apologise for any distress this may cause.

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Why does Native Title take so long? an answer to one of our most frequently asked questions



Pilbara Chairperson, Mrs. Doris Eaton



Yamatji Chairperson, Mrs. Lorraine Whitby

Hello and welcome to the twentieth issue of YMAC News, the quarterly newsletter from the Yamatji Marlpa Aboriginal Corporation. A lot has happened over the last few months that we are pleased to share with you in this issue.

Our Annual Regional Meeting in Carnarvon in November saw the election of several new members to the Yamatji Regional Committee and the Board of Directors. New Board members are Lorraine Whitby, Helen Capewell and Beverley Ladyman, as well as Kathleen Musulin, who was already serving on the Regional Committee. Cecily Dowden, Charlie Laphorne, Merle Dann and Delveen Whitby have been elected to the Yamatji Regional Committee.

These new Board and Committee members join an experienced team, all of us dedicated to gaining the recognition of Traditional Owners rights and interests.

We have included a profile of Beverley Ladyman in this issue of YMAC News, and we look forward to introducing the rest of the new Committee members throughout the course of the year.

We hope you enjoy this issue of YMAC News.

If you have any feedback, ideas or photos for YMAC News, please get in touch by sending an email to editor@ymac.org.au.

Ngarlawangga People and Montezuma Sign Agreement South of Newman

Ngarlawangga country

The Ngarlawangga native title group announced in December 2012 the signing of an agreement with Montezuma Mining Company Ltd (Montezuma) for the Butcherbird manganese project over 23,000 hectares of their traditional country, south of Newman, as well as consents to future mining in the area.

The agreement has seen Traditional Owners and Montezuma develop a framework for how they will continue working with each other, including assisting Ngarlawangga people into employment, agreed processes and timeframes by which heritage clearances will take place and support for tendering for new contracts for community businesses.

The signing includes an agreed process should the mining company apply for permission to disturb heritage sites, which provides both parties with a guaranteed consultation process under the Aboriginal Heritage Act (WA).

Ngarlawangga Traditional Owner Dianne Limerick said, "The discussions with Montezuma went well - we're now hoping for jobs and business contracts to develop from this agreement."

Montezuma Mining Company Ltd Managing Director Justin Brown responded, "Achieving an agreement in just over four months has demonstrated a willingness by both parties to truly negotiate in good faith and we feel the resulting agreement genuinely supports the aspirations of the Ngarlawangga People to establish and develop community businesses".

YMAC CEO Simon Hawkins said, "This agreement took just over four months to reach and puts in place practical measures for the two parties, based on their specific goals for the coming years."

"Montezuma listened and responded to the community's needs throughout the process. In turn, the Ngarlawangga people were able to reach agreement quickly, giving the company certainty. Both parties are particularly focused on supporting new and existing Ngarlawangga contracting companies to benefit from this project, including incentives for community businesses."

Working together toward



Mullewa Wadjari representatives

As a result of meetings held in June, July and December 2012, there is now an ASA Working Group made up of representative from all of the ASA groups. All five Native Title Groups have endorsed a Memorandum of Understanding that sets out the relationship of the five groups in negotiations with the State. Representatives from each of the groups have expressed a firm commitment to participate in joint discussions with the State in order to work toward an agreement over the ASA area.

The ASA Working Group will now seek to meet with the State Government to discuss issues of

The Alternative Settlement Agreement (ASA) is a project to resolve the overlapping Native Title claims in the Geraldton area, and address the rights and issues of Traditional Owners in and around Greater Geraldton. These include three claims represented by YMAC, Amangu, Naaguja and Hutt River, and two claims with private representation, Mullewa Wajari and Widi Mob.

An Alternative Settlement provides an opportunity to negotiate over issues such as land use and access, community and economic development, and the protection of important sites.

YMAC has been working towards an ASA since 2004.

The five native title claims that make

up the Alternative Settlement Area are shown by the area bounded by the green line in the map on page 5.

In 2012, YMAC held three important meetings to progress the ASA.

recognition, heritage protection, land access, economic opportunities, land management and other issues relating to the settlement of the Native Title claims.

“YMAC congratulates the ASA groups on coming together to work toward common goals”

Alternative Settlement



Participants at the December 2012 ASA Working Group Meeting

YMAC congratulates the Amangu, Hutt River, Mullewa Wadjari, Naaguja and Widi Mob people on coming together to work towards common goals, and on the positive outcomes reached in the spirit of cooperation in 2012.



Naaguja representatives Patricia and Ross Councillor with YMAC lawyer Nathan Xu

Heritage protection win for Badimia

The Badimia people's ability to protect one of their most sacred places was recently given a boost when the WA State Government dropped an appeal of a decision by the National Native Title Tribunal (NNTT). Lake Moore, a dry salt lake in the southern Murchison region of WA, has been found to be culturally significant by the NNTT on several occasions.

The NNTT has repeatedly found that as a site of particular significance, resource exploration licences that overlap the lake cannot be granted without negotiating with the Badimia people first. The State appealed the NNTT's latest decision on the significance of Lake Moore, but recently discontinued the appeal.

Lake Moore Gypsum, the company seeking an exploration licence, now needs to negotiate with the Badimia people to reach an agreement about the exploration activities.

Lake Moore, located south of Paynes Find, is a very special area where Badimia families go every year to hunt, camp, collect bush medicines, and teach young people about their country and culture. Lake Moore and the surrounding area is not only important as a place for Badimia families to go out on country, but it is home to very sacred places where ceremonies traditionally took place.



Badimia elder Ollie George on his country at last year's Federal Court hearing

Water compensation a first for Pilbara native title agreement



K&M community members with YMAC and IOH staff

In November 2012 the Kurama and Marthudunera (K&M) native title group announced the signing of an agreement with Iron Ore Holdings Ltd (IOH) over their Buckland Project in the Pilbara region of Western Australia.

It is the Pilbara's first native title agreement to provide payments in respect of the use of water and clearance of native vegetation, giving an incentive for IOH to minimise their impact on the environment. IOH also showed flexibility in planning their mine footprint in order to avoid any impact on culturally sensitive sites near the area.

In addition to strong cultural and environmental protection, the

agreement provides milestone and production payments, which are now standard features of native title land access agreements.

Kurama and Marthudunera Traditional Owner, Cyril Lockyer said, "The important thing now is to continue our good working relationship. This area is of great significance to the families involved and we want to work closely with Iron Ore Holdings to see these sensitive places protected."

"This unique agreement is due to the genuine good-will and flexibility shown by both parties, and recognises the cultural and environmental significance of the area for the Traditional Owners. It goes well beyond the requirements of the WA Aboriginal Heritage Act by recognising that water and habitat are inextricably linked to cultural values," said Simon Hawkins, CEO of YMAC.

“Water and habitat are
inextricably linked to
cultural values”

41,000-year-old heritage site to be protected



In December 2012 the Nyiyaparli Traditional Owners from the Pilbara announced the oldest occupation dates ever found in the region.

Working with archaeologists from the heritage company Archae-aus, the Nyiyaparli Heritage Sub-Committee and Karlka Nyiyaparli Aboriginal Corporation have revealed that charcoals found while

excavating a rock shelter are more than 41,000 years old, according to carbon-dating analysis.

The occupation site is named after the nearby creek Kakuthungutanta in the Chichester Ranges to the north of the Fortescue Marsh on mining leases held by Fortescue Metals Group ("Fortescue").

Lead excavator Adam Dias noted that "The results are extremely exciting coming from an area of the Chichester Ranges known to be rich in Aboriginal archaeological sites. Thousands of sites have been recorded to the north of the marsh which is thought to have been a focal point for Pilbara occupation".

Nyiyaparli elder and Heritage Sub-Committee member David Stock said, "We feel proud that this evidence of our ancestors has been found and are happy it will be protected. This kind of work shows Australians that our heritage is very important and that it can be protected".

Nyiyaparli elder and Heritage Sub-Committee member Gordon Yuline said "We have to keep the caves to show the young people how the old people used to live. It is very important we protect these places and we are able to go there and teach the young ones."

Archae-aus Managing Director Fiona Hook noted that the shelter site would be protected by a buffer zone and that Nyiyaparli Traditional Owners had requested further research be carried out at the important site. Fortescue's Chief Executive Officer Nev Power confirmed the company's commitment to preserve the important site.

CEO of Yamatji Marlpa Aboriginal Corporation, Simon Hawkins said, "Archaeological findings such as this reinforce the importance of robust, participative cultural heritage management regimes in native title agreements to protect places of high significance."



Above: Archaeologist Bryn Coldrick with Nyiyaparli Traditional Owner David Stock. photo courtesy of FMG

Nyiyaparli country

Women from Africa and the Pilbara talk mining



Pilbara Traditional Owners and African Women in Mining delegation, courtesy of AAPF/AusAID

In November 2012, senior women from Yamatji Marlpa Aboriginal Corporation met with a visiting delegation of women involved in mining and development issues from various nations across Africa.

The delegation included representatives from the Democratic Republic of Congo, Burkina Faso, Gabon, Madagascar and Mozambique. The group visited the Pilbara as part of a Mining Study Tour funded by the Australian Agency for International Development (AusAID). Organisers of the tour included the International Mining for Development Centre and the Australia-Africa Partnerships Facility.

The women came together in Karratha

to share their experiences working with the mining industry at local, regional and national levels. They also discussed significant expansion of the mining, and oil and gas industries in Africa, the long history of mining on traditional Aboriginal country in the Pilbara and the challenge of channelling the benefits of these industries into sustainable community development.

Njamal elder and Co-Chair of YMAC, Mrs Doris Eaton, said the meeting was an excellent opportunity to learn more about women leading their communities in Africa, and share the experiences of mining and development in the Pilbara.



Mrs. Eaton and Guembre Maimouna of Burkina Faso

Introducing...



YMAC Board Member, Beverley Ladyman

YMAC Board Member: Beverley Ladyman

Beverley is a Malgana woman who lives in Carnarvon. She is an Aboriginal health worker and health professional who has worked at the Aboriginal Medical Service and the Carnarvon Hospital.

She hopes to bring fresh ideas to the YMAC Board of Directors to help bring about positive change for recognition and equality for Aboriginal people.

Beverly loves camping, football, basketball and tennis, and she hopes in the future all Aboriginal people will be able continue with their traditional hunting, camping and fishing.

YMAC News will be featuring profiles on our new Board and Committee members throughout 2013. To find out more about our Board of Directors visit www.ymac.org.au

Why does Native

Getting native title recognised can take a very long time, sometimes up to fifteen years or more. Many people are concerned that while a native title claim is ongoing, elders are passing away, and many of the people who lodge native title claims very sadly don't get to see it through to the end. YMAC shares these concerns, and we constantly work to get the best possible native title outcomes for our clients. People often ask why getting native title takes so long. Here are some of the main reasons:

Research

Connection research takes time because there is so much information to be gathered, and the experts writing the reports need to learn about the people, land and culture of the native title claim, in order to meet the State's strict and extensive requirements. YMAC staff constantly work on research, but there are not enough qualified experts around to do the additional intensive work to author the Connection Reports for all of the claim groups at once. So often a claim group has to wait until a suitably qualified professional becomes available, and the funds are available for their consultancy fees, before their Connection Report is written.

State Government's Assessment

Once the Connection Report has been given to the State Government, their experts and lawyers go through the report to decide if they think the claim group has native title. The State's experts need to go through the report carefully, and often come back to the native title group through YMAC to ask for more information. There are a limited number of experts working for the State for all native title claims in WA. In recent years the State Government has made changes to the way they respond to Connection Reports, and that has been causing significant delays as well.

Overlaps and other disputes

The Native Title Act generally does not allow any overlaps in native title determination areas and often the State will not agree to progress a claim until overlaps and other disputes between native title groups are settled. This is always going to be difficult for groups, and YMAC assists by arranging meetings, research, mediations, on-country trips and site visits, and anything else that will help Traditional Owners reach an agreement about overlaps. This may mean changing claim boundaries for the sake of finalising the native title claim. These talks should not be rushed and often take a long time to settle.

Title take so long?

Discussions within a group over issues such as membership of the native title claim can also take time to work out.

Mediation

If the State accepts that a claim group has native title based on their Connection Report, then all parties will work to settle native title by agreement (consent), rather than going to court. This usually involves discussions about land use, compensation, land tenure, extinguishment, and the recognition of native title rights and interests. Everyone affected by the native title determination can choose to be a part of this mediation process. This always includes the State Government and the native title claim group, and can also include farmers, pastoralists, commercial fishers, mining lease holders, and local governments. Reaching agreement with all of these groups can take time to work through.

Trial

If agreement by mediation can't be reached, the native title claim can go to trial in the court.

There is a lot of work that needs to go into preparing for the trial, and only so many experts and qualified professionals who are available to do it. Preparation for a trial is very involved because it means proving the group's connection to country to a judge. The elders and experts who give Connection Evidence need to be prepared to be cross-examined by the lawyers for the State, which can be difficult for many people.

Once the trial actually begins, it will usually take place in several places on country and in Perth. The judge then needs to consider all of the evidence and make a decision. This can take many months or years.

If the Native Title party or the State thinks the judge made the wrong decision, they can appeal to a higher Court to review the decision. This can mean another trial, and can add several months or years on to the process of getting native title.

Resourcing

In all stages, the limited amount of funding and people to do the work plays a part. As a not-for-profit organisation, YMAC relies on the funding we receive from the Commonwealth

Government for native title work. There are many hard decisions that have to be made along the way, for example, if one claim is sent to trial, there will be less funding for other claims that year. There is also the consideration of other matters, like mining agreements or negotiations for other development on country. It is essential for communities to reach their aspirations for the future that YMAC properly resource negotiations. Trying to get the right balance for mining negotiations and native title recognition is a challenge for every native title group.

What we've achieved

In the last 7 years, YMAC has proudly represented the Ngarluma, Yinjibarndi, Thudgari, Ngarla, and Nyangumarta people to get their native title rights recognised by the Federal Court. YMAC has also represented the Badimia and the Banjima native title claimants through full trials in the Federal Court, for which we are waiting the Court's decision.

YMAC has also successfully represented the Ngarla people in a Federal Court hearing over an overlap with the Warran Native Title claim, as well as a landmark Federal Court appeal over the Mt. Goldsworthy leases in the Pilbara.

YMAC is currently working on preparing for Preservation Evidence hearings for the Jurruru, the Kariyarra, and possibly other native title claims in 2013.

Additional funding in recent years from the Commonwealth Government for connection research in the Pilbara has meant that YMAC has been able to make a lot of progress on Pilbara native title claims. This has also allowed us to do more Connection work in the Yamatji region, and YMAC is now entering into a period of intensive research for those Yamatji claims that have not already submitted Connection Reports.

In the last 5 years, YMAC has completed and submitted Connection Reports to the State Government for the Wajarri Yamatji, Ngarlawangga, Njamal, Kariyarra, Banjima, Puutu Kunti Kurrama and Pinikura (PKKP), Kurama and Marthudunera (K&M), Jurruru and Yinhawangka native title claims.

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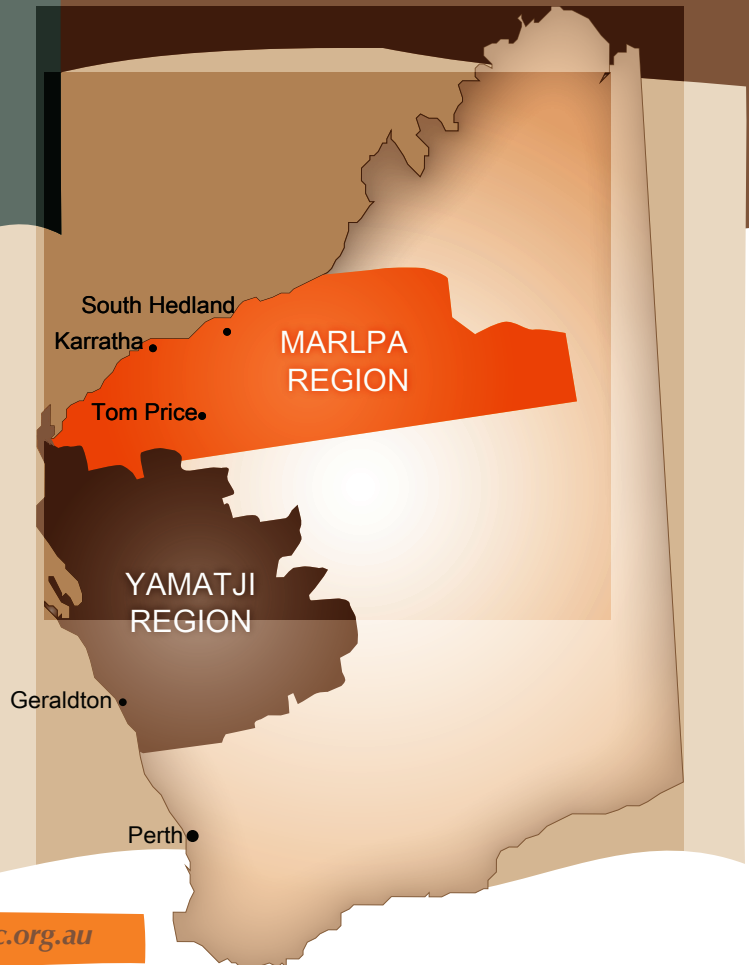
ABOUT US

YMAC News is produced by the Yamatji Marlpa Aboriginal Corporation (YMAC).

We are the native title representative body for native title claims in the Murchison, Gascoyne and Pilbara regions of Western Australia.

We work with Yamatji and Marlpa (Pilbara) Aboriginal people to pursue:

- Recognition and acceptance of Yamatji and Marlpa culture in country
- A strong future for Yamatji and Marlpa people and country



Send your questions, ideas, letters or photos to editor@ymac.org.au

MEMBERSHIP

YMAC membership is open to all adult (18+ years) Yamatji and Marlpa people. Our membership also includes people who live in other areas but who have a traditional connection to Yamatji or Marlpa country.

CONTACT US

GERALDTON

171 Marine Tce Geraldton WA
PO Box 2119 Geraldton WA 6531
T: 08 9965 6222 **F:** 08 9964 5646

SOUTH HEDLAND

3 Brand Street South Hedland WA
PO Box 2252 South Hedland WA 6722
T: (08) 9172 5433 **F:** (08) 9140 1277

SERVICES

Our work includes:

- Providing legal representation and research to assist with native title claims
- Negotiating land use agreements
- Heritage protection services
- Community, economic and environmental projects

KARRATHA

Unit 4/5, 26-32 DeGrey Place Karratha WA
PO Box 825 Karratha WA 6714
T: (08) 9144 2866 **F:** (08) 9144 2795

TOM PRICE

Shop 2, 973 Central Road Tom Price WA
PO Box 27 Tom Price WA 6751
T: (08) 9188 1722 **F:** (08) 9188 1996

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PERTH

Level 2, 16 St Georges Terrace, Perth WA
PO Box 3072, 249 Hay St, East Perth WA 6892
T: (08) 9268 7000 **F:** (08) 9225 4633

www.ymac.org.au

FREECALL: 1300 7 12345
ICN 2001



Yamatji Marlpa
ABORIGINAL CORPORATION