

Launching of ILUA D.V.D.

**the Hon. Mr Michael Atkinson,
Attorney-General for South Australia**

The Hon. Trevor Griffin

Ms Wendy Campagna, Executive Director of the L.G.A., representing

Mr Rick Wilkinson, District Council of Yorke Peninsula

Mr Parry Agius, of the Aboriginal Legal Rights Movement (A.L.R.M.)

Ms Sharon Middlin, State Manager N.N.T.T.

Especially welcome are those representatives of the Narungga people who are here today, and their official representative for today's event, Ms Lesley Wanganeen

I welcome the opportunity to speak at the launch of the Narungga D.V.D. I am particularly pleased to be able to make these comments in the presence of my predecessor, the Hon. Trevor Griffin, because it gives me the opportunity to recognise the important role he played in the State's adoption of the policy of negotiating Indigenous Land Use Agreements, or ILUA's, as a means of resolving native title disputes.

Agreement making rather than litigation has been the lynchpin of the State-wide Indigenous Land Use Agreement (ILUA) policy in South Australia since 1999.

In a ceremonial sitting to celebrate the life and mourn the death of Brad Selway, I told the Federal Court, and I am pleased to be able to repeat it here, that the State-wide Indigenous Land Use Agreement strategy was a direct result of the foresight and energy of Brad Selway. As the then South Australian Solicitor-General, Brad devised the concept of settling native title claims on a State-wide basis and set up a government team for that purpose.

He convinced my predecessor, the then Attorney-General, the Honourable Trevor Griffin, to obtain Cabinet backing and funding for the initiative. I acknowledge the former Attorney's wisdom in accepting this advice and putting it into effect. He talked to the representative body in South Australia, the Aboriginal Legal Rights Movement (A.L.R.M.) and other peak bodies, including the South Australian Farmers Federation (SAFF) and the Chamber of Mines and Energy (SACOME) and persuaded them to participate in the process.

Eight years after the Solicitor-General first formulated the concept of "area agreements", the other parties in the native title cauldron are arriving at the conclusion he reached then; that it is counterproductive to litigate cases about native title. The matters in issue in such cases are much better resolved by agreement rather than litigation.

The policy was adopted by the incoming Labor Government in 2002 and has developed since that time into an influential forum known as "the Main-table" at which sit representatives of the Government, A.L.R.M., SAFF, SACOME, the commercial fishing industry and the Local Government Association (L.G.A.). The Main-table has developed template agreements and manages ILUA negotiations across the State.

A great deal of work has been done, particularly by the Aboriginal Legal Rights Movement, to build the capacity of native title claim groups to participate. The building of capacity and relationships

has proved to be essential for the success of native title negotiations on the ground. This work has been assisted by the congress of native title management committees, which was formed in 2000.

The Main-table parties first developed mineral exploration templates that were tested in on-the-ground negotiations in the far north of South Australia in late 2002. These negotiations, which concluded in 2003, resulted in two indigenous land use agreements being registered over an area of 150,000 sq km of the State.

After this success, other template agreements were developed and tested on the ground, including the pastoral sector.

The Friday before last, I was in Canberra for a national meeting of Native Title Ministers, convened by the Commonwealth Attorney-General, the Hon. Phillip Ruddock. The meeting served as an illustration of how well the policy of negotiation has served South Australia and how far ahead of the other States we are as a result of that sensible bi-partisan approach.

The Narungga local government ILUA was negotiated virtually from a blank piece of paper and now forms the basis of a template that is being considered for adoption by other councils. Further work has seen the development of an ILUA specifically to assist development in outback towns by indigenous and non-indigenous people alike. Currently fishing and aquaculture negotiations are

underway, which will result in the development of a template for that industry sector.

Negotiation also prompts changes to the law. Amendments have been made to the Pastoral Land Management and Conservation Act to recognise the terms of an ILUA granting pastoral access to a particular claimant group and providing other benefits, including changes to occupiers' liability. Amendments have also been made to the National Parks and Wildlife Act to enable national parks and conservation parks to be co-managed by the State and Aboriginal groups. Under these new arrangements the so-called Unnamed Conservation Park on the Western Australian/South Australian border was resumed and constituted as Aboriginal freehold under the Maralinga/Tjarutja Land Rights Act 1984. Subsequently, the land was reconstituted as a national park with a board constituted by a majority of Aboriginal people from the Maralinga/Tjarutja community. Co-management arrangements of this kind are likely to be used in other parts of the State, in particular where native title claim groups have the capacity and interest to be involved in park management.

Negotiations are now focused on particular claim areas where matters in issue are being dealt with sector by sector, ultimately leading to the settlement of a claim, either by ILUA/s and consent determination, or ILUA/s and withdrawal of claim where appropriate.

The sustainability of ILUAs is also under scrutiny, with non-native outcomes including education, training and employment and regional development now topics for discussion in negotiations.

On the 10th December 2004, the Main-table parties adopted a State-wide negotiations strategic plan. The plan provides a framework for negotiating indigenous land use agreements in a coordinated manner across South Australia.

I should also mention the development of the State's consent determination policy. This was achieved over the course of about 12 months of discussions between the State and the representative body, A.L.R.M.

The essential feature of the policy is the preparation of a native title report by a claim group. The native title report will provide evidence in the form of at least one report by an anthropologist, and possibly additional reports by archaeologists, historians, linguists or other specialists. Affidavits, video and sound recordings, or other primary evidence, may accompany the report. Subject to a court order, the State will not make a native title report available to any other party, or the public, without the express permission of the native title claim group. The State will assess the native title report and then prepare and publish a position paper, which will be released to the claimants and to the other parties, to explain the stance the State is taking in any particular case.

Once again, I congratulate the parties. The D.V.D. illustrates what can be done and what has to be done to bring native title questions to finality, while recognising the human and social dimension of in the process.