

Montara oil spill class action

On 3 August 2016 Maurice Blackburn filed a class action in the Federal Court of Australia arising out of a major blowout at the Montara Wellhead Platform. Under the class action, compensation is sought for financial loss and property damage suffered by Indonesian seaweed farmers alleged to have been caused by the Montara Wellhead Platform oil spill.

The class action is brought against the company that operated the Montara Wellhead Platform, PTTEP Australasia (Ashmore Cartier) Pty Ltd ('PTTEPAA'), a subsidiary of PTT Exploration and Production Public Company Limited.

The lead applicant in the class action is Mr Daniel Sanda, a seaweed farmer from Rote Island, Indonesia, who alleges that his seaweed crops were destroyed by oil from the Montara Wellhead Platform reaching the coastal waters of his island. Mr Sanda brings the action on behalf of approximately 15,000 seaweed farmers whose crops were destroyed in similar circumstances.

The action is being funded by Harbour Fund II, L.P.

[View in Bahasa](#)

What was the Montara oil spill?

The Montara Wellhead Platform is located in Australian waters approximately 685 kilometres west of Darwin, 630 kilometres northeast of Broome, 250 kilometres southeast of Indonesia, and within the offshore area of the Territory of Ashmore and Cartier Islands.

On 21 August 2009, a blowout occurred at the H1 Well, causing the uncontrolled release of oil and gas into the Timor Sea for 74 days until 3 November 2009. Despite PTTEPAA's estimation that the volume of oil leaked was just 400 barrels per day, Geoscience Australia estimated that the blowout could have been 2,000 barrels of oil per day. The modest estimate of Geoscience Australia would equate to a total volume of around 148,000 barrels, or 23,532,000 litres.

The Montara oil spill was one of the largest in Australian history. 184,000 litres of oil-dispersing chemicals were used in the clean-up effort. Of the six different chemicals applied, two are known to increase oil's toxicity to marine life.

Seaweed farming in Nusa Tenggara Timur, Indonesia

Nusa Tenggara Timur (NTT) is one of 34 provinces on the Indonesian archipelago. Historically, NTT has been one of Indonesia's poorest provinces. However, from around the year 2000, seaweed farming developed as a profitable alternative to traditional fishing and agriculture, promising to greatly improve the economy and quality of life in NTT. Seaweed was even termed 'green gold', such was the improvement in the standard of living as a result of its cultivation. In the years prior to the Montara oil spill, Indonesians in NTT who had previously been subsistence farmers found themselves able to send their children to university in Jakarta and Bali, construct homes, and buy expensive items such as cars and motorboats.

In September and October 2009, seaweed farmers in NTT began to observe oil in and around their farms. Soon after, entire crops were destroyed, including the cuttings farmers would have used to plant the next harvest. Farmers persisted in their attempts to grow seaweed but many have still not reached the level of production that they enjoyed prior to the oil spill.

The Commission of Inquiry

In 2010 the Commonwealth Government held a Commission of Inquiry into the spill. The Commission described the most likely causes of the blowout as arising from ‘systematic’ errors of a ‘more deep seated kind’. The Commission concluded that PTTEPAA’s actions did not come within a ‘bull’s roar’ of sensible oilfield practice.

The Commission said further, “[t]he Blowout was not a reflection of one unfortunate incident, or of bad luck,” instead “[PTTEP AA’s] systems and processes were so deficient and its key personnel so lacking in basic competence, that the Blowout can properly be said to have been an event waiting to occur.” It further noted that “PTTEPAA did not seek to properly inform itself as to the circumstances and the causes of the Blowout. The information that it provided to the regulators was consequently incomplete and apt to mislead.”

The Commission recommended that the then-Minister for Resources and Energy, Martin Ferguson, review PTTEPAA’s operating licence at the Montara Oilfield. The Minister declined to issue a ‘show cause’ notice, which may have resulted in the cancellation of PTTEPAA’s licence. PTTEPAA ultimately pleaded guilty to four breaches of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) and was fined \$510,000. However, PTTEPAA continues to operate at Montara to this day.

Status of the case

The Montara Class Action was filed in the Federal Court of Australia on 3 August 2016. A Further Amended Statement of Claim and Further Amended Originating Application were filed on 28 July 2017. On 14 August 2017, an Amended Defence was filed by PTTEPAA.

On 20 October 2016 a hearing was held before Justice Griffiths. The hearing concerned a procedural question as to whether group members in the class action had “commenced” a proceeding for the purpose of section 44 of the Limitation Act (NT) and therefore requested an extension of the limitation period pursuant to that Act. On 24 January 2017 Justice Griffiths handed down his judgment in favour of group members in the proceeding. [Access the decision here.](#)

On 1 August 2017 a hearing was held before Justice Yates. The hearing concerned Mr Sanda’s application to extend his limitation period in the proceeding so that he could continue with his claim in the Federal Court. On 15 November 2017 judgment was given in favour of Mr Sanda. This means that Mr Sanda can continue with his claim against PTTEPAA. [Access the decision here.](#)

Mr Sanda and PTTEPAA have filed lay and expert evidence in the proceeding, and the hearing of Mr Sanda and group members’ evidence took place in June-July 2019. The matter has been set down for further hearing before Justice Yates for the periods 21 October 2019 to 1 November 2019 and 2 December 2019 to 13 December 2019 for expert evidence in the proceeding.

On 28 May 2019 a hearing was held before Justice Yates which considered whether the evidence of Mr Sanda’s seaweed industry expert, Dr Iain Neish, could be admitted as evidence in Mr Sanda’s proceeding. The evidence included a survey conducted in 2018 regarding the decline in seaweed farming in Rote Ndao and Kupang following the Montara oil spill. On 12 November 2019, Justice Yates delivered judgment in Mr Sanda’s favour, admitting the majority of Dr Neish’s expert evidence including the 2018 survey. [Access the decision here.](#)

Between 17 June and 13 December 2019 a number of hearings were held at the Federal Court, Sydney. Justice Yates heard from Mr Sanda and other local seaweed farmers, as well as a range of experts, about the alleged arrival of oil from the Montara oil spill in the Rote Ndao and Kupang regions, and the ensuing impact on the seaweed farming community. Mr Sanda presented evidence from leading experts in oceanography, satellite imagery analysis, chemistry and toxicology, in support of his case.

The hearings in this matter have now concluded. It is expected that Justice Yates will deliver judgment sometime in 2020.

Resources & links

- [Further amended originating application](#)
- [Further amended statement of claim](#)
- [Amended defence](#)
- [Court orders](#)

News

- [Montara oil spill victims win more time to file class action claim](#)