

Native Title Newsletter

Jul/Aug 2005

No. 4/2005

WHAT'S NEW WITH THE NTRU!

NTRU is seeking project partners for the 2005-2006 research program-see page 17 for details

The AGD has announced a package of native title reform measures-see page 2 [Breaking News](#) for more information

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The Native Title Newsletter is published every second month. The newsletter includes a summary of native title as reported in the press. Although the summary canvasses media from around Australia, it is not intended to be an exhaustive review of developments.

The Native Title Newsletter also includes contributions from people involved in native title research and processes. Views expressed in the contributions are those of the authors and do not necessarily reflect the views of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

The Newsletter is also available in ELECTRONIC format.

This will provide a **FASTER** service for you, makes possible much greater distribution, is better for the environment and allows you to use the **active hyperlinks** contained in each issue. Back issues are available at <http://www.aiatsis.gov.au/rsrch/ntru/publications/newsletters.html> If you would like to SUBSCRIBE to the Native Title Newsletter electronically, please send an email to ntru@aiatsis.gov.au and you will be helping us provide a better service. Electronic subscription will replace the postal service so please include your postal address so we can cross check our records.





BREAKING NEWS

A-G Announces reforms to Native Title System

On September 7 2005, Attorney-General The Hon. Phillip Ruddock announced a package of proposed reforms to the native title system as the “increasing number of native title determinations and agreements demonstrate that (although) the system is working...the current framework is still too costly and too time-consuming”. The proposed reforms will address all aspects of the system and are “focused upon measures that encourage the resolution of native title issues through agreement making in preference to litigation wherever, possible”.

“The six interconnected aspects to the reforms include:

- Measures to improve the effectiveness of Native Title Representative Bodies
- Amending the guidelines of the native title respondents’ financial assistance program
- Preparation of exposure draft legislation for consultation on possible technical amendments to the Native Title Act to improve existing processes for native title litigation and negotiation
- An independent review of the claims resolution processes to consider how the NNTT and the Federal Court can work more effectively in managing and resolving native title claims
- An examination of current structures and processes of Prescribed Bodies Corporate (PBCs), including targeted consultation with relevant stakeholders
- Increased dialogue and consultation with the State and Territory Governments to promote and encourage more transparent practices in the resolution of native title issues” (Attorney-General media release 7/9/05).

The National Native Title Tribunal has welcomed “moves to increase transparency in the native title system and encourages participants to contribute to the reform process by being involved in the upcoming consultation processes”. Details of the consultation process will be announced later this year.

The Mineral’s Council of Australia have expressed their support for the reforms process: MCA Chief Executive Mitchell H Hooke said: “The Government’s approach is consistent with the reform platform advocated by the Minerals Council of Australia. We are intent on improving the efficiency and operability of the native title system without diminishing the rights of Indigenous peoples to the mutual benefit of all parties” (MCA Press Release 7 Sep 2005).

Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma also welcomed the reforms. “This not only includes funding, but also capacity building for these organisations...The native title system could function more effectively if NTRBs, NTSs and PBCs were better equipped to do their work”.

The Goldfields Land and Sea Council have also responded favorably to the announcement, in particular welcoming “the opportunity for addressing long-standing concerns about low-level funding provided to native title representative bodies...” “Previous amendments to the Native Title Act (Wik amendments 1998) gave precedence to the concerns of pastoralists and miners. It is now time for the rights and concerns of Indigenous people to be given due consideration. We look forward to participating in the review,” GLASAC CEO Brian Wyatt said” (GLSC Media Release 8/9/05).

The Consultation Process

The consultation process is different for each of the six aspects of the reforms:

- An announcement about NTRB reform will be made by Senator Vanstone later in 2005
- Key stakeholders will be consulted by government in relation to assistance to respondents in native title claims
- Comprehensive consultations with stakeholders regarding the proposed technical amendments to the Act will include public circulation of the exposure draft legislation for comment and will provide an opportunity for interested parties to provide the Government with additional suggestions for amendment

- 
- Independent consultants will be engaged to undertake the Claims Resolution Review and the Review will involve appropriate consultations with native title stakeholders
 - The Government will undertake consultation on the functions and governance model of PBCs with a range of stakeholders including existing PBCs, NTRBs, State and Territory governments and industry bodies. The consultations will be facilitated by a steering committee comprising the Office of Indigenous Policy Coordination, the Office of the Registrar of Aboriginal Corporations, and the Attorney-General's Department
 - The Attorney-General convened a meeting of all State and Territory ministers with responsibility for native title on 16 September 2005 and promoted the

benefits of positive and transparent behaviours by other jurisdictions. In addition the Native Title Consultative Forum, convened by the AGD three times a year, will continue to give all stakeholders an opportunity to share experiences and discuss challenges and opportunities for the native title system.

(Information about the Consultation Process from "Practical reforms to deliver better outcomes in native title", AGD, 7 Sep 2005).

For more information, the Attorney-General's media release and briefing document can be found by visiting the [Attorney-General's Department](http://www.ag.gov.au/nativetitlesystemreform) website at <http://www.ag.gov.au/nativetitlesystemreform>

FEATURE

De Rose v State of South Australia (no 2) [2005] FCACF 110

Martin Dore, Principal Legal Officer

North Queensland Land Council

Background

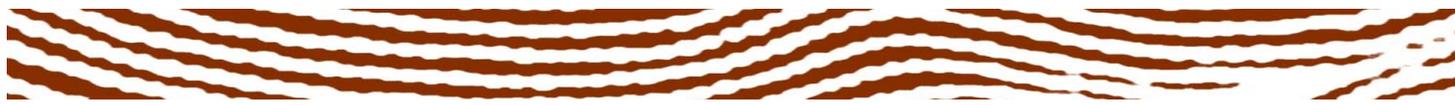
The full Court of the Federal Court, comprising Wilcox Sackville and Merkel J handed down a determination in the De Rose Hill native title claim on 8 June 2005 in which non-exclusive native title was found to exist except in the area of improvements.

The claim by senior traditional owner Peter De Rose and others was over the De Rose Hill pastoral station in the far north of SA which consists of three separate pastoral leases. The respondent parties were the State of SA and the Fullers (and their private company) as holders of the pastoral leases.

The original decision by O'Loughlin J dismissed the claim after a trial lasting 68 days. The traditional owners had all left the station property, the last to leave being Mr Peter De Rose in 1978. The evidence of the Traditional Owners was that they were in effect forced off the station, sometimes at gunpoint, by Mr Fuller and that the traditional owners were scared to go

back to the station. It was this loss of physical connection leading to a failure to live up to the responsibilities under traditional law and custom of a *Nguraritja* (traditional custodian with respect to certain sites) that was focused on by the trial judge.

The Federal Court found that the trial judge had made errors of law and allowed the appeal on 16 December 2003 (De Rose appeal #1). A sad fact noted in the judgement was that of the twelve original applicants, two died before the trial and three more died after the judgement on appeal in December 2003. As O'Loughlin J had retired and the appeal court invited further submissions from the parties and proceeded to deliver the decision rather than send the matter back to the trial judge. During this process the native title applicants and the State had agreed what the determination should be assuming the Court was satisfied that Native Title did exist. With one exception this was also agreed by the respondent pastoralist.



The Court looked at all the evidence given at trial and the findings of fact made by the trial judge. Some findings could not stand as the trial judge had looked at the wrong question while some findings contradicted others. The trial judge was found to have made two fundamental errors:

1) In finding that the TO's were not part of social communal or political organisation on or near the claim area and making this a reason to dismiss the claim. The appeal court ruled that it was clear that it was the applicants' claim that the normative society they relied upon was the Western Desert Bloc. There was ample evidence of the continuity of this society since sovereignty and the adherence by that society to traditional laws and customs; and

2) In failing to ask whether the applicants had retained a connection to the area by the traditional laws and customs of the Western Desert Bloc. The judge placed too much weight on the failure (as he saw it) of the applicants to discharge their obligations under traditional law and custom and had failed to consider the effect of such failure *under the traditional laws and customs of the Western Desert Bloc*.

Arguments over the requirement of section 223(1)(a) NTA

Section 223(1) of the NTA provides:

The expression native title or native title rights and interests means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:

(a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and

(b) the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters;

The applicants argued that all they needed to show was that at least one of them had acknowledged and observed the traditional laws

and customs of the Western Desert Bloc. That is that they acknowledged and observed the "right conferring rules" i.e. the rules that determine and identify who from time to time were *Nguraritja*.

The respondent pastoralists argued this was not enough and that it needed to be shown that at least one of the applicants had actually discharged the duties and responsibilities of the traditional laws and customs of *Nguraritja*.

The Court said that :

s 223(1)(a) of the NTA requires a native title claimant community or group to establish that they have rights and interests possessed under the traditional laws acknowledged and the traditional customs observed by that community or group. This proposition does not mean, however, that a claim to communal or group native title rights and interests can succeed only if every member of the claimant community or group has acknowledged and observed the relevant traditional laws and customs. It is a question of fact and degree as to whether the definition of native title rights and interest in s 223(1) is satisfied.

The Court also noted that:

it would read too much into s 223(1)(a) to require the claimants to show a continuing physical connection to the land. 'Connection' is dealt with in s 223(1)(b) and, as the High Court made clear in Ward (HC), at [64], par (b) is not directed to how Aboriginal peoples use or occupy land or water. It is directed to whether the peoples have a connection to land or water by the traditional laws acknowledged and the traditional customs observed by them. It is possible for Aboriginal peoples to acknowledge and observe traditional laws and customs throughout periods during which...they have not maintained a physical connection with the claim area.

The respondent pastoralists conceded that if section 223(1)(a) was satisfied so too was section 223(1)(b) which deals with connection. The Court agreed and noted that the rights and responsibilities of a *Nguraritja* under traditional law specified by the trial judge were sufficient to show a connection to the claimed land.

As to the argument that because the applicants



had not for a period of time actually discharged the responsibilities of *Nguraritja* native title had been lost the Court said:

contrary to the Fullers' submissions, s 223(1)(a) does not necessarily require claimants to establish that they have continuously discharged their responsibilities, under traditional laws and customs, to safeguard land or waters. Of course, the traditional laws and customs may provide that the holders of native title lose their rights and interests if they fail to discharge particular responsibilities. But s 223(1)(a) does not impose an independent requirement to that effect.

The Court compared the failure to fulfil traditional responsibility to lapses in the wider Australian community by persons holding certain religious beliefs and noted that their failure to live up to those beliefs did not necessarily mean those beliefs had been abandoned. The Court said:

it is one thing to find that a person had not lived up to his or her religious or ethnical responsibilities. It is another to find that the person does not regard himself or herself as bound by the rules imposing and defining those responsibilities. Their 'default' may continue for a long time, yet they may continue to acknowledge and accept the binding force of the rules imposing the unfulfilled responsibilities.

The appeal Court concluded that there was ample evidence to show that the Western Desert Bloc had a system of traditional laws and customs that remained acknowledged and that

the failure to visit sacred or secret sites for a period of time, even a lengthy period was not sufficient to counteract the affirmative evidence of acknowledgement and observance of traditional laws and customs.

Extinguishment issues & comment

The Court found that the right to make improvements, granted under the terms of the pastoral leases, did extinguish native title but only once that right was exercised.

The Court determined that:

In the circumstances of the present case, the 'operation of a grant of (the right to conduct and use improvements)' should be regarded, in effect, as subject to a condition precedent. The grant of the right could become operative in relation to a particular area of the leasehold land only when the right was exercised. The grant of the right could have an extinguishing effect only when the right was exercised, since it was only then that the precise area or areas of land affected by the right could be identified.

This produces a common sense result. However, a 'condition precedent' is something which must happen before the right comes into being. It is somewhat twisted logic to say that a condition that precedes the operation of a grant of a right is the exercise of that right.

10 June 05

WHAT'S NEW

Legislation

The Attorney-General has announced a series of proposed reforms to the Native Title Act. The reforms include: an overview of the native title system; a review of Native Title Representative Bodies; a review of assistance to respondents in native title claims; technical amendments to the native title act; a review of claims resolution processes; a review of Prescribed Bodies Corporate (PBCS) and consultation with State and Territory governments.

More information can be found by visiting the [Attorney-General's Department](http://www.ag.gov.au/nativetitlesystemreform) website at <http://www.ag.gov.au/nativetitlesystemreform>

The High Court of Australia has adopted new procedural rules. The [High Court Rules 2004](#) were notified in a Special Gazette on 14 October 2004 and comprise five chapters which are organised by subject matter. The Rules came into effect on 1 January 2005. Text of the new rules is available at: http://www.austlii.edu.au/au/legis/cth/consol_reg/hcr2004170/

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Administration

The Native Title Registrar has released a revised application form for use in lodging an application for [registration of an Indigenous Land Use Agreement](#). It is available from the Tribunal's website in both PDF and RTF versions. You can find the new form at:

<http://www.nntt.gov.au/ilua/Apply.html>

Australian Case Law

Australian Securities & Investments Commission v Rich and Ors. NSWCA 152

The NSW Court of Appeal overturned a decision made by Austin J in respect of expert evidence on 20 May 2005. The court held that for expert evidence to be admissible it need only disclose the facts and reasoning process used by the expert rather than the true factual basis upon which the experts evidence was formed. Additionally, the Court found that the probative value of expert evidence needs to be assessed when the Court is exercising discretionary powers to exclude evidence.

International Case Law

R. v. Marshall; R. v. Bernard, 2005 SCC 43

The Supreme Court of British Columbia released it's reasons in Musqueam Indian Band et al v City of Richmond et al on July 18 2005. In their reasons the Court clearly indicate that the 'duty to consult and where appropriate accomodate' is engaged where the Crown or it's agent has knowledge of the potential existence of Aboriginal title on land affected by a dealing that may adversely affect that title and that where that Crown has failed to discharge their duty and the damages are economically compensable the appropriate remedy is economic compensation to the First Nation.

Publications

The Department of Land and Water Australia have published an online report titled '*Aboriginal Management and Planning for Country: respecting and sharing traditional knowledge*' by view the report go to:

http://www.lwa.gov.au/downloads/publications_pdf/PK040789.pdf

Native Title Hot Spots issue no. 15 is now available. This publication is generated by the National Native Title Tribunal every two months. This issue includes summaries of the Ngaanyatjarra Lands, De Rose Hill and Bardi Jawi determinations.

It may be accessed at:

http://www.nntt.gov.au/metacard/files/HotSpots/Hot_Spots_Number_15.pdf

Indigenous Housing In Remote Australia— 'Housing tenure and Indigenous Australians in remote and settled areas: Discussion Paper 275' by W. Sanders is now available for purchase or free download in PDF format. [22 August 2005] It may be accessed at:

<http://www.anu.edu.au/caepr/>

[The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples](#) was launched by Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma and Mr Jim Birch, Chief Executive Officer of the Department of Health in South Australia in Adelaide on the 26th July 2005. A major joint report produced by the Australian Bureau of Statistics (ABS) and the Australian Institute of Health and Welfare (AIHW) it shows the health of Aboriginal and Torres Strait Islander peoples remains poor compared to the rest of the Australian population.

[Australia's National Framework For Human Rights - National Action Plan](#) co-ordinated by a steering committee composed of officers from the Attorney-General's Department (Michael Cook, Kathy Leigh, Matt Minogue, Suesan Sellick, Matt Hall, Harriet Spinks and Julia Gallucio) and the Department of Foreign Affairs and Trade (Mark Napier and Gerry McGuire) was posted on the Attorney-General's website 29 August 2005.

'Social justice and human rights – Utilising Indigenous socio-economic data in policy development' a speech given by Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma at the CAEPR Indigenous Socioeconomic Outcomes conference is now available for download in PDF format. [23 August 2005] It may be accessed at <http://www.anu.edu.au/caepr/>

[Overcoming Indigenous Disadvantage: Key Indicators 2005](#) was released by the Productivity



Commission on 12 July 2005 and can be downloaded from the [OIPC website](http://www.oipc.gov.au/) at <http://www.oipc.gov.au/>

[Australia's Identified Mineral Resources 2005](#) can be downloaded from the [Geoscience website](#). The information in this publication is used to formulate Government policy, and provide industry, the investment sector and the general community with an informed understanding of Australia's known mineral resources and exploration activity.

Focus: Native Title – September 2005: Recent native title decisions In brief: Allens Arthur Robinson's Senior Associate Robyn Glindemann and Lawyers Kate Barrett and Penny Creswell look at some of the issues raised in four recent decisions relating to native title.

- [Four rulings on native title](#)
- [Bardi Jawi native title claim in Western Australia](#)
- [Should native title claimants be treated as private land holders for the purposes of granting entry permits to mark out tenements?](#)
- ['Partial' extinguishment of the right-to-control access](#)
- [Native title over the De Rose station](#)

Seminars & Workshops

Series 2 of the Centre for Aboriginal Economic Policy Research (CAEPR) seminar series commences from July to September 2005. When? Wednesdays 12.30 to 2.00pm, unless otherwise noted.

Where? CAEPR Seminar Room GO58, Ground Floor, Hanna Neumann Bldg #21, The Australian National University, Canberra.

Enquiries: Centre Administrator on (02)6125 0587 or email: admin.caepr@anu.edu.au A number of the topics involve native title matters. For more information go to:

<http://www.anu.edu.au/caepr/events.php>

AIATSIS Seminar Series. The next seminar will be presented by:

Mr Kim Scott, Writer and Miles Franklin Literary Award Winner

When:

Monday 26 Sep 2005, 12.30pm - 2.00pm

Where:

Mabo Room

AIATSIS Building, Acton Peninsula

Reconciling the Past. Amnesty International and the Coalition of Peoples are hosting a workshop: [Healing Without Violence](#). Using the model of reconciliation and forgiveness as tools for healing, this workshop will equip you with practical skills and knowledge to deal with issues of violence. Dr Gobodo-Madikizela's skills in facilitating encounters between victims of violence and perpetrators will help us understand the processes involved in providing solutions to the issues of inter-generational violence. Pg 7

Thursday 9am-5pm November 17 \$325

Dr Gobodo-Madikizela

In Her Own Voice

Wednesday 6-7.30pm November 16 \$35

Unwaged \$20

Justice Michael Kirby's address will be followed by a panel of high profile speakers including the Chief Justice of Western Australia, Hon Chief Justice Malcolm, Patron Coalition of Peoples, Hon Fred Chaney, Reconciliation Australia and Marlene Jackamarra-Carnamah, Chairperson Coalition of Peoples.

Monday 5-7pm October 24 \$35 at the University of Western Australia. For more information visit: <http://www.equity.uwa.edu.au/welcome?f=87045>

National Centre for Indigenous Studies at the ANU will host a talk:

Title: Palm Island - Something is Very Wrong

Speaker: Andrew Boe

When: 6 - 7 pm Wednesday 28 September 2005

Where: Law Lecture Theatre, Faculty of Law, Fellows Road, ANU

Colloquium

The Curtin University of Technology held a one-day colloquium titled 'A New Backyard Blitz? – Enactments of Australian Sovereignty Post 2001'. For more information visit: <http://humanities.curtin.edu.au/sovereignty/>

Conferences

[W.E.H. Stanner: Anthropologist and Public Intellectual](#)

Thursday 24 - Friday 25 November 2005

Coombs Lecture Theatre

The Australian Institute of Aboriginal and Torres Strait Islander Studies together with The Australian National University present this two-



day symposium to mark the centenary of the birth of W.E.H. Stanner (1905-1981).
REGISTRATIONS ARE NOW OPEN For more information or to register visit the website:
<http://www.anu.edu.au/culture/stanner>

Aboriginal Placenames Old and New

1 October, 2005

Organised by the Asia-Pacific Institute for Toponymy, Macquarie University
Geoscience Offices, Canberra, ACT

For more information visit URL:

<http://www.anps.mq.edu.au/currentactivities5.html>

6th National Men's Health Conference

incorporating the 4th National Aboriginal & Torres Strait Islander Male Health Convention will be held on 10-12 October 2005 at the RACV Club, 501 Bourke St, Melbourne.

For more information visit:

<http://www.regocentre.com/nmh2005/>

NSW Aboriginal Health Research Conference

18 & 19 October 2005, Sydney The conference is an initiative of the [Coalition for Research to Improve Aboriginal Health \(CRIAHA\)](#)(pdf) and is the first of its kind to showcase research in Aboriginal health specific to New South Wales.

AAS Annual Conference Fundamentalisms and Their Alternatives: Anthropological Responses and Responsibilities The 2005 conference will be held at the University of Adelaide from 27-30 September. Details can be found on the [2005 AAS conference web page](#) at:
<http://www.arts.adelaide.edu.au/socialsciences/anthro/aasac2005/>

The Gathering: An Alliance of Elders, Healers and Wisdomkeepers 08 Sep 2005 Big Bear CA

The Uses and Abuses of Archaeology for Indigenous Populations 08 Nov 2005 Rangataua, Tauranga New Zealand

Culture Fix 25 Nov 2005 Sydney Australia

World Indigenous Peoples Conference on Education (WIPCE) 27 Nov 2005 Waikato New Zealand

Family & Community Strengths Conference - Evidence driving Practice 05 Dec 2005 Newcastle Australia

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Sharing the Fish - Allocation Issues in Fisheries Management 26 Feb 2006 Fremantle Australia

Community Development in a 'Global Risk Society' 20 Apr 2006 Melbourne Australia

Opportunities

The Australian Sociological Association is calling for papers and presentations for a special Issue of the Journal of Sociology. For more information including submission requirements, go to:

<http://www.crcah.org.au/resource/Indigenous%20Call%20for%20papers.doc>

Call for Papers: Appreciating and Promoting Indigenous Knowledge Systems and Practices in Local Governance: Phase II Local Government Academy. The Phillipines. For more information you may contact Ms. Jean T. de Pano (Project Officer) at jean_depano@yahoo.com

Rio Tinto NTRB Scholarships for 2006

The two scholarships offered cover all the expenses involved in undertaking a one-year Masters in Mining Law and Policy at the University of Dundee, Scotland (approximately \$55,000) and are open to any Australian resident with a law degree. The successful candidates will commit to work within the Native Title Representative Body system for a minimum period of two years. Closing date for the scholarships is Wednesday 21 September 2005. For more information visit <http://www.dundee.ac.uk/cepmlp/main/html/academic/FT-LLM-Min%20Law%20and%20Pol.php>

Call for Papers & Presentations
Indigenous Australia: Beyond the Margins/Beyond Marginality
A Special Issue of the Journal of Sociology (Journal of The Australian Sociological Association)

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Submissions should be sent by 20 December 2005 to:

Jul/Aug 2005

NATIVE TITLE IN THE NEWS

National

19-Aug-05 Ruddock wants native title blackball removed In a significant change to native title, the Howard government is preparing to override any objections by land councils to enable individual Aborigines to gain housing and commercial leases on community land. National Centre for Indigenous Studies director Mick Dodson said the mooted changes "violate() racial discrimination conventions and just about every other human-rights accord. No other land-owner in the country is required to give you a lease...This is outrageous stuff and it saddens me that the idea has been put to government by blackfellas" i.e. the National Indigenous Council. Australian Financial Review, pg 27

29-Aug-05 Business to win in red-tape reform. The Federal Government is conducting a "stock take" of all it's laws and regulations including native title laws to repeal unnecessary red tape and address a "regulatory blow out" that is costing business billions of dollars a year and constraining economic growth. Alice Springs News, pg 6; 01-Sep-05 Alice Springs News, pg 19

New South Wales

08-Jul-05 After ten years of negotiations and hard work, the Saltwater people of the Manning Valley signed an ILUA on the 30 June 2005. The claim was originally lodged by Mrs Davis Hurst in 1995 on behalf of the traditional owners. The agreement covers 14 acres of land including the region's most significant traditional camping ground. Manning River Times, pg 7. 08-Jul-05. Kattang/Saltwater People ILUA: NI2002/001.

12-Aug-05 New gold mine in Lake Cowal NSW region. The Cowal Gold Project have negotiated a native title agreement with the Wirajuri community, including awarding tertiary scholarships and varying mining related apprenticeships and conducting heritage management with the Wirajuri community by

recording and collecting artefacts before any digging starts. Mining Chronicle, pg 48

19-Aug-05 Historic land bill on track Representatives of the Yuin people, National Parks and Wildlife Service, conservation groups, lawyers and land owners have thrashed out the details of an agreement that will see the deeds of two south coast national parks, Gulaga and Biamanga, handed back to traditional owners. Colin Markham introduced a private members bill 11 years ago proposing the hand back of five national parks. Since retired Mr Marham said "when this legislation was passed it was innovative and groundbreaking and the other states have now followed suit...I am really pleased it is still on track". Illawarra Mercury, pg 12

21-Aug-05 NSW/SA Native title compensation case A Barkandij woman, Dorothy Lawson, is suing the State of NSW for compensation for the extinguishment of her native title rights in 1922. The case is the result of the Federal Court ruling in the case of Lake Victoria that native title had been extinguished in 1922 when the state of NSW sold the land to South Australia. She argues that the government's failure to advise people at the time that their rights had been extinguished put it in breach of the Aborigines Protection Act Alice Springs News, pg 9

30-Aug-05 ALRA(NSW) claim lodged over 43 lots in the Collina Stage 10 development in East Griffith. A claim has been lodged by NSWALC over 43 lots in the Collina Stage 10 development in East Griffith. It will not affect the 39 lots already sold. NSWALC lodged the claim after becoming aware that the land, which was previously a dedicated reserve, had become available under the terms of the Land Rights Act. Alice Springs News, pg 23

31-Aug-05 Native title agreement to be registered. The native title agreement over Saltwater will be registered shortly after years of negotiations between Elders and various agencies. The agreement is currently being



advertised. Native title agreement advertised. Alice Springs News, pg 26. NC95/4 NSD6013/98; NC95/5; NSD6014/98. Case Manger: Dianne Drake

Northern Territory

01-Aug-05 Sacred sites access agreed. The Northern Territory Government has recently had their appeal over the Davenport Murchison native title claim determination dismissed by the full Federal Court. The appeal involving 1120 sq km of land south-east of Tennant Creek challenged Justice Mansfield's original 2004 decision on 55 separate grounds. The Alyawarr, Kaytetye, Warumungu and Wakay claimant groups were found to hold communal rights over the determination area rather than individual group rights. Appeal dismissed Northern Territory News, pg 6. Davenport/Murchison: DC95/3 & D6002/98

03-Aug-05 National Parks transfer to traditional owners. Agreements to transfer two national parks in the Katherine region to native title have been registered with the Native Title Tribunal. The agreement covers the Flora River National Park (78 sq km) and the Gregory National Park (9804 sq km) along with two hectares of Gregory Tree's Historical Reserve and pockets of land near Humpty Doo. ILUAs registered. DI2004/020 Case Manager: Annie Cowley. This matter appears to have just be lodged with the NNTT. Katherine Times, pg 3

17-Aug-05 Native Title decision sets course. The Federal Court has handed down a decision in which it recognised the ownership of the applicants in most of the 1120 sq kms where the government plans to create the Davenport Ranges National Park. Alice Springs News, pg 3

24-Aug-05 National Parks transfer to traditional owners Many of the transfer of National Parks to Indigenous ownership deals remain secret. The Ward and Davenport Ranges decisions have raised questions as to why the government is prepared to hand National Parks to traditional owners who could probably only claim limited native title rights to these areas. Alice Springs News, pg 8

06-Sep-05 Traditional owners may lose veto rights Traditional owner may lose the right to

veto development on their lands as part of a reforms package proposed for the ALRA (NT) Act. The reforms will be considered later this year. Proposed changes to the ALRA(NT) to be considered by Federal Government. Alice Springs News, pg 24

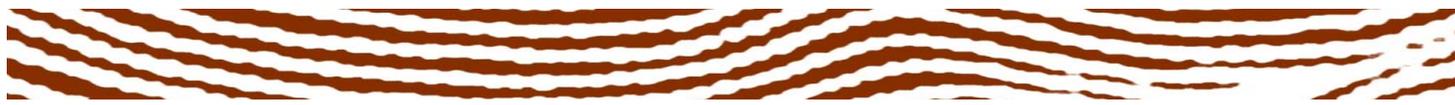
Queensland

07-Jul-05 The Gurambilbarra people have lodged a native title claim in the Townsville region. The claim brings together some former Bindal families and most Wulgurukaba families in the district. The Principal Legal Officer to the Central Queensland Land Council Dr Cecilia O'Brien said the new Townsville claim covered an area from Mount Elliot to Bluewater and west to the foot of Herveys Range. The claim is expected to be registered in less than a month. Townsville Bulletin, pg 38.. Gurambilbarra People: QC05/9 & QUD97/05.

26-Jul-05. The Manbarra people from the North Queensland Aboriginal community of Palm Island have recently signed an ILUA. This will be the first step towards the development of an Aboriginal owned and operated sea sponge farm. The agreement allows access to the Manbarra peoples' land and waters for harvesting of sponges. The venture is expected to create about 30 jobs for local Indigenous people. Daily Advertiser, pg 6. QI2003/052 Coolgaree Bay Sea Sponge ILUA.

07-Aug-05 Veterans refuse to leave Pandanus Park after government begins negotiations with native title claimants. Vietnam veterans refuse to leave Pandanus Park, Cape York, despite government insistence that they have no right to be there and that traditional owners will be entitled to evict them if the native title claim over the area is successfully negotiated. Sunday Mail, pg 52

18-Aug-05 Elders sign land deal. Descendants of the Lama Lama people arrived at Cooktown for a ceremony handing over almost 1000ha of lands traditionally known as Rindoparr next to the Lakefield National Park in far north Queensland. Lama Lama Elder, Sunlight Bassini said "I am very happy today. Our old people used this land before our time, right up to 50 years ago our people were still there until white people bought the place to run cattle. It's taken a long time to get it back". Cairns



Post, pg 10; 26-Aug-05 Alice Springs News, pg 15; 31-Aug-05 Alice Springs News, pg 21

19-Aug-05 CQALC accused of denying natural justice by excluded claimant Jenny Pryor claims that her family should be included in any Bindal native title claim and the Central Queensland Aboriginal Land Council has done insufficient research into the Magnetic Island claim. "My family has been denied natural justice as part of adequate access to or involvement in the research process behind the new claim" said Ms Pryor. Townsville Bulletin, pg 13. QC99/21 QUD6020/9 Please note that this claim has been struck-out and is no longer active.

24-Aug-05 ILUA at Palm Island. An ILUA between the Manbarra people and Coolgaree CDEP could see the world's first sea sponge farm owned and operated by Indigenous people open at Palm Island. The ILUA ensures that the sponge farm, if developed, will respect the cultural heritage values of the traditional owners. Alice Springs News, pg 12

Queensland-Torres Strait

16-Aug-05 More claims to follow Torres title success. Torres Strait leaders will fight for exclusive possession of six islands in their region following the grant of four sperate claims over eight uninhabited islands by the Federal Court on the 15/8/05. Torres Strait Regional Authority chairman Toshie Kris said that the court recognition helped strengthen the community's cultural identity. Chief Justice Michael Black made orders recognising the native title rights of the Porumalgal, Masigalgal, Saibai, Dauan, Mabuiag, Baldulgal and lama groups. Cairns Post, pg 5; The Age, pg 6; Fraser Coast Chronicle, pg 14; Gladstone Observer, pg 10; Gympie Times, pg 6; Herald Sun, pg 23; Northern Territory News, pg 9; Queensland Times, pg 12; Townsville Bulletin, pg 4; Daily News, pg 5; North West Star, pg5; Daily Examiner, pg 10; Adelaide Advertiser, pg 24 http://www.nntt.gov.au/ntdetermination/bydate_index.html

24-Aug-05 Native title hearing via video link-up. Native title proceedings which recognised more than 25 uninhabited islands, islets and cays in the Torres Strait were made during an historic determination hearing via video link between Queensland Government representatives in Brisbane, claimant representatives in Thursday

Island and the Federal Court in Melbourne. Alice Springs News, pg 17; Alice Springs News, pg 10

24-Aug-05 Jim Akee argues that the Sea Claim should proceed as a case in the International Court. Jim Akee argues that the Torres Strait Sea Claim should be moved from the Australian to the International Court system as any determination under the will not recognise TSI traditional owners rights to exclude commercial fishers from their waters. Alice Springs News, pg 18 QC01/42 QUD6040/01 Case manager: Gary Lui

South Australia

04-Aug-05 SA ILUA signed for Faraway Hill. The Ngadjuri people and the McBride Pastoral Company signed an Indigenous Land Use Agreement allowing them to share 45,000hectares of land on the Faraway Hill sheep station in north east SA. A.L.R.M. Native Title Unit executive officer, Parry Agius said he was delighted that the Ngadjuri people and the McBride family had been able to reach an agreement. "Negotiated agreements offer the best outcomes for all parties, not just the native-title claimants," he said. "They also offer an opportunity to build strong and lasting relationships, which further ensures that the agreements will run properly on the ground." The decision of McBride Pastoral Company and the Aboriginal Legal Rights Movement to negotiate an agreement at Faraway Hill represents a "victory for commonsense" and will avoid years of litigation. National Indigenous Times, pg 10; Government of South Australia Media Release (22-Jul-05); Stock Journal, pg 10 SI2005/005 Case Manager: Monica Khouri

09-Aug-05 Miners and traditional owners sign ILUA. Stellar Resources, a Melbourne based mining company, have signed an ILUA in relation to multiple tenements in the Antakarinja native title claim area near Cooper Pedy and Arkaroola. Adelaide Advertiser, pg 40 SI2003/007 Registered & SI2004/003 NTDA 95/7 Case Manager Monica Khouri

10-Aug-05 ILUA signed for Faraway Hill. The agreement signed over historic sheep station, Faraway Hill, is the latest ILUA to be signed as part of a progressive program of agreements being made across the South Australia. Koori Mail, pg 9



14-Aug-05 Miners and traditional owners sign ILUA. The ILUA between Stellar Resources and the Antakarinja people over land near Cooper Pedy was welcomed as a triumph of cooperation and goodwill by the SA Chamber of Mines and Energy. Negotiations continue with Indigenous groups in the Gawler Ranges and Far West Coast to deliver state-wide coverage. Independent Weekly, pg 15

18-Aug-05 SA Amendments to State-wide ILUAs promoted by the Local Government Association. Coorong District Council has supported advice from SA Minister for Environment & Heritage, Native Title Unit Rosemary Craddock regarding the need to amend the State-wide Indigenous Land Use Agreements, being promoted by the Local Government Association. Alice Springs News, pg 5

24-Aug-05 Native title representatives meet in South Australia. The heads of Native Title Representative Bodies met in Adelaide to discuss various native title matters. Among the topics discussed was how the bodies could combine and share resources to promote greater efficiency. Alice Springs News, pg 13

25-Aug-05 Historic property to enter into Pastoral Indigenous Land Use Agreement. After 18 months of negotiations, the Faraway Hill sheep station has become the subject of an ILUA between the McBride Pastoral Company and the Ngadjuri traditional owners. The agreement sets out grazing arrangements and Aboriginal Heritage management arrangements. Alice Springs News, pg 20

Tasmania

Nil

Victoria

03-Aug-05 ILUA in Victoria. Victoria's first native title agreement is one step closer with the advertising of an Indigenous Land Use Agreement between the Wimmera's Aboriginal community and the state and federal governments. The agreement includes the Wotjobaluk, Jaadwa, Jadawadjali, Wegaia and Jupagult people taking responsibility for unused Crown Land in three areas: about 10 hectares surrounding the Ranch Billabong on the

Wimmera River near Dimboola, about 10 hectares at Goruya on the Yarriambiack Creek and about 10 hectares near Antwerp. The land will revert to freehold status, with the Aboriginal people paying rates on the land to the relevant council. ILUA advertised Wimmera Mail Times, pg 7. VI2004/008

Case Manager: Chris Loorham (Vic-Tas Registry) Related Native Title Determination Applications (NTDA): VC99/5, VC95/2, VC99/8

12-Aug-05 Yarriambiack farmers not affected by Native Title. Yarriambiack Shire farmers have been assured by the Yarriambiack Shire Council and the NNTT that they won't be affected by the Wotjobaluk Native Title Agreement which encompasses more than 35,000km of Wimmera territory. Native title agreement reached. Warracknabeal Herald, pg 3 VC99/8 VID6009/98 & VC99/5 VID6005/99 Case Manager: Ian Campbell-Fraser

17-Aug-05 Hearing on quarry site continues. The Mt Shamrock quarry hearing will continue despite the traditional owners of the site refusing to give consent to disturb it. Alice Springs News, pg 4

Western Australia

The Pilki people from the Central Desert of Western Australia currently have their claim in notification. The application covers about 24,400 sq km of land in the Great Victoria Desert and is located about 210 km south of Warburton and 320 km east of Leonora. Local government shires include Laverton and Menzies. Any person or organisation with an interest in the claim area has until 09 November 2005 to respond in writing to the Federal Court. NNTT Media Release. 27-Jul-05. Pilki People: WC02/3 & WAD6002/02.

The Ngarla people of Port Hedland currently have their native title claim in notification. The claim titled Ngarla 2 supersedes their previous application and is around 525 sq km larger. The claim is located approximately 14 km east of Port Hedland and covers parts of the De Grey, Strelley and Pippingarra pastoral leases. It also extends over the coast close to Little Turtle Island in the north. Any person or organisation with an interest in the claim area has until 09 November 2005 to respond in writing to the



Federal Court. NNTT Media Release. 27-Jul-05.
Ngarla #2: WC05/2 & WAD77/05.

11-Aug-05 Interim decision handed down by Federal Court in relation to Rubibi 1. Justice Merkel has found that native title rights rest with the wider Yawuru community, not with any particular Yawuru clan group and that the Yawuru community is a recognisable group with continuing connection to the land. Interim decision handed down Broome Advertiser, pg 3 Case Manager Sandra Barkla

12-Aug-05 Cooperation is key to claims. Native title claims over mining at Jacks Hills took only three months to negotiate due to cooperation between Murchison Metals and Ngoonooru Wadjari and Wajarri elders groups. In principle native title agreement reached. Geraldton Guardian, pg 4 Ngoonooru WC00/12 WAD6003/98 Wajarri WC01/3 WAD6042/99 Case Manager: Trish Sinclair-Jones. For Future Act Matters in WA contact Angela Murphy or Alan Toogood

13-Aug-05 Pilbara traditional owners seek to have native title agreement annulled. Fortescue Metals was left embarrassed when, only hours after it announced the signing of a key native title agreement for its iron ore tenements in the Pilbara, Nyiyaparli native title claimants said that they want the agreement annulled on the basis that they did not have legal representation and that language difficulties meant that the signatories had not been able to give their informed consent to the agreement. Herald Sun, pg 92. WC99/4 WAD6280/98 Case Manager: Gerry Putland

15-Aug-05 Pilbara traditional owners seek to have native title agreement annulled. Pilbara Native Title Services have accused the Fortescue Metal's Group of 'unconscionable conduct' over a land access agreement. Nyiyaparli native title claimants have said that the agreement that they signed was not the agreement that they thought they were signing. They approached Pilbara Native Title Services to clarify the meaning of the agreement within 24 hours of signing and now want the agreement torn up. The Age, pg 3; Australian Financial Review, pg 5

16-Aug-05 Fortescue seek to enforce Pilbara agreement Fortescue Metals Group would seek to enforce a controversial native title access agreement despite attempts by Indigenous signatories to have the agreement annulled and accusations by Pilbara Native Title Services that FMG's actions had been 'unconscionable'. PNTS executive director Simon Hawkins said "Fortescue's compensation levels are significantly less than the industry standard...I can't say how much we are asking, but their offer is many times less." WES/6 "WAD226/06 quarrel with the Nyiyaparli, just PTNS" said Fortescue's executive director of operations Graham Rowley "Where's the \$80,000 we have given them? If they rejected the agreement they should have handed that money back". The Australian, pg 22; Australian Financial Review, pg 8

17-Aug-05 Fortescue to pay fee to elders. Fortescue Metals intends to pay the \$320,000 balance of a signing fee to six Nyiyaparli elders under the access agreement signed by the parties. Pilbara Native Title Services said it had instructed FMG not to pay the balance because the agreement should be terminated. Nyiyaparli Elder Raymond Drage said "This is not just about compensation; this is about protecting our country and our heritage". Fortescue director Graeme Rowley said that the 100 page deal negotiated with pins had been whittled down to 5 pages so that the Nyiyaparli signatories could easily understand it while PNTS director Simon Hawkins said that there were significant differences between the two versions, including a provision that any new equity partner would have to honour the agreed payment scheme. Australian, pg 26; Sydney Morning Herald, pg 27; North West Telegraph, pg ; Pilbara News, pg 5

17-Aug-05 Titles group seeks probe of FMG deal. Pilbara Native Title Services have appealed to market regulators to investigate the tactics used to secure a land-access agreement with Nyiyaparli native title claimants. West Australian, pg 5; Age, pg 4; Warrnambool Standard, pg 8 (18 Aug 2005)

18-Aug-05 FMG signs land agreement. Fortescue Metals Group has announced the signing of a major land access agreement across most of its Chichester Range iron ore

project site with the Niyaparli native title claimants to the area. Business News, pg 20

WC99/14

WAD6017/96

Case Manager: Sharon Reynolds

18-Aug-05 Fortescue row leads to court action
Fortescue Metals is suing the Pilbara Native Title Services' legal advisor James Fitzgerald and Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation for defamation after PNTS claimed the key signatories to a native title agreement had not understood the agreement and called on the Australian Stock Exchange and Australian Securities and Investment Commission to investigate the matter. Fortescue director Graeme Rowley said "We are reacting to the PNTS' defamatory statements. The comments are outrageous and we must protect our reputation". On-going Age, pg ; West Australian, pg 45; Sydney Morning Herald, pg 21(19 Aug 2005)

02-Sep-05 Native title agreement reached.
Murcison Metals and traditional owners, the Wajarri and Ngoonooru Wadjari peoples, have finalised the terms of a native title agreement. Yamatji Land and Sea Council Executive Director Simon Hawkins said that the mining company was open about its plans for the area and the claimant group responded well to this. "The traditional owners of the land are happy with the outcome and it's safe to say there is a high level of trust in Murchison Metals at this stage. When mining companies come to negotiations with full information, it makes the process considerably easier". While the terms of the agreement are confidential, it will provide benefits to the Ngoonooru Wadjari and Wadjari people over the life of the Jack Hills project. Mining company and traditional owners finalise terms of agreement Alice Springs News, pg 25; The Guardian, Geraldton WA - Friday (12/8/05)

19-Aug-05 Fortescue in court. Niyaparli native title claimants filed a Federal Court writ to void their land agreement with Fortescue Metals Group. On-going Age, pg 4; Canberra Times, pg 9; Australian, pg 24; Courier Mail, pg 36; Herald Sun, pg 45; West Australian, pg 48

03-Sep-05 Negotiations to proceed over mining in the Pilbara. Iron ore drilling will begin in the Pilbara once AusQuest have negotiated an agreement with native title claimants. Mining company to negotiate with native title claimants. Alice Springs News, pg 22

31-Aug-05 Indigenous Centre opens at Roebourne. A \$1.4 million cultural precinct centre has opened in Roebourne. It is a project of the Ngarluma Yindjibarndi Foundation, formed as part of a native title agreement with mining company Woodside. Alice Springs News, pg 14

APPLICATIONS LODGED

The National Native Title Tribunal posts summaries on their website of applications that are lodged with them, www.nntt.gov.au. The following applications were lodged in July/August 2005.

Claimant Applications

Application date	Application name	Decision date	State/ Terr.	Decision	Tribunal file no.	Federal Court file no.
17/08/2005	Bar Barrum People #2	19/07/2005	QLD	Accepted	QC01/17-3	QUD6015/01
17/08/2005	Bar Barrum People #3	21/07/2005	QLD	Accepted	QC01/18-3	QUD6017/01
17/08/2005	Bar Barrum People #7	28/07/2005	QLD	Accepted	QC01/35-2	QUD6033/01

REGISTRATION TEST DECISIONS

The National Native Title Tribunal posts summaries of registration test decisions at www.nntt.gov.au. The following decisions are listed for July/August 2005. Pg 14 application has not been accepted, this does not mean that native title does not exist. The applicant may still pursue the application for the determination of native title. If an application does not pass the registration test, the applicant may seek a review of the decision in the Federal Court or re-submit the application.

Decision Date	Application Name	State/Territory	Tribunal File No.	Federal Court File No.	Decision
19/07/2005	Bar Barrum People #2	QLD	QC01/17-3	QUD6015/01	Accepted
20/07/2005	Ngarla #2	WA	WC05/2-1	WAD77/05	Accepted
21/07/2005	Bar Barrum People #3	QLD	QC01/18-3	QUD6017/01	Accepted
28/07/2005	Bar Barrum People #7	QLD	QC01/35-2	QUD6033/01	Accepted
28/07/2005	Mayala	WA	WC98/39-2	WAD6255/98	Accepted
19/08/2005	Budina People	WA	WC04/5-1	WAD131/04	Accepted
26/08/2005	Mandingabay Yidinji People #1	QLD	QC99/40-2	QUD6015/98	Not Accepted
31/08/2005	Irrwanyere Mt Dare Native Title Claim	SA	SC05/1-1	SAD66/05	Not Accepted

APPLICATIONS CURRENTLY IN NOTIFICATION

Notification closing date	Application name	Tribunal file no.
17/08/2005	The Hon Bob Debus MP, Minister for the Environment for the State of New South Wales	NN05/9
31/08/2005	Widi Binyardi	WC04/8
31/08/2005	Amanqu People	WC04/2
31/08/2005	South West Glen Helen	DC05/1
31/08/2005	West Ban Ban #2	DC04/5
31/08/2005	McKinlay River	DC04/4
31/08/2005	Edith River	DC04/3
14/09/2005	Gangalidda & Garawa People #2	QC05/3
28/09/2005	Wotjobaluk	VC99/8
28/09/2005	Olkola People #2	QC04/12
28/09/2005	Western Yalanji #7	QC05/1
26/10/2005	Ngarla #2	WC05/2
9/11/2005	Pilki People	WC02/3
23/11/2005	The Council of the City of Shoalhaven	NN05/10
23/11/2005	Ballardong People	WC00/7
23/11/2005	Ngarlawangga People	WC05/3
6/12/2005	Illawarra Local Aboriginal Land Council	NN05/11
20/12/2005	Dennis and Susan Hunt	NN05/8 /8
20/12/2005	William Garry Allen, Martin De Launey and Lynette Syme	NC05/1 05/1



For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or www.nntt.gov.au.

RECENT ADDITIONS TO THE AIATSI COLLECTION CATALOGUES

The following list contains newly catalogued items that have just become available on [Mura](http://mura.aiatsis.gov.au), the AIATSI on-line catalogue. Some entries have web addresses and you will be able to have access immediately to them. Please check Mura at <http://mura.aiatsis.gov.au/> for more information on each entry, including annotations.

Audiovisual Materials:

The South West Aboriginal Land and Sea Council has lodged their audio tape collection recorded from 1985-2001 with the Audiovisual Archive. Also a collection of videos documenting the life of Victoria Archibald were filmed at Kempsey this year by staff of the Audiovisual Archive.

PRINT MATERIALS:

The Library Digitisation Project has produced CDs of the Dawn web site and banners, and colour masters of WA Government Gazettes.

Native Title – Archaeology

Gunn, R. G. (Robert George) and E. Webb, Thoo Thoo Warninha Aboriginal Corporation 'Art and archaeology on Coodardy, Austin Downs and Noonie pastoral leases, west of Cue, W.A. 2003.' Report on AIATSI Grant.

History – exploration and accounts

Labillardière, Jacques-Julien Houtou de, 1755-1834

Atlas pour servir à la relation du voyage à la recherche de La Pérouse fait par ordre de l'Assemblée Constituante, pendant les années 1791, 1792, et pendant la 1^{ère}. et 2^{ème}. année de la République Française.

Paris : Chez H. J. Jansen, 1800.

Bond, G. (George), fl. 1798-1799, J. Renard, Johnson, R.

A brief account of the colony of Port-Jackson in New South Wales : its native inhabitants, productions, &c.

Ivanhoe, Vic. : Edition Renard, 2005.

Tench, Watkin, 1758 or 9-1833, G. Nicol, J. Sewell

A complete account of the settlement at Port Jackson, in New South Wales : including an

accurate description of the situation of the colony; of the natives; and of its natural productions / taken on the spot, by Captain Watkin Tench ...

London : 1793.

Native Title – Mediation and Agreements

ATNS [electronic resource] : *Agreements, Treaties and Negotiated Settlements Project* [Melbourne] : Indigenous Studies Program, University of Melbourne, c2004.

ELECTRONIC ACCESS ONLY

<http://www.atns.net.au/>

Langton, Marcia, and L. Palmer

'Modern agreement making and Indigenous people in Australia: issues and trends.' In *Australian Indigenous Law Reporter*, Vol. 8, no. 1 (2003), p. 1-31.

Native Title – Anthropology

Finlayson, Julie Dianne

'Evidence-based policy? Anthropology's challenge post-ATSIC.' In *Australian Journal of Anthropology* Vol.15, no.3 (2004), p.316-320.

Native Title – Legal issues

Milnes, Peter and Belo Consulting

From myths to policy : Aboriginal legislation in Western Australia. Perth, Australia : Belco Consulting, 2005.

New South Wales. Law Reform Commission, Australian Law Reform Commission, Victorian Law Reform Commission..

Review of the Uniform Evidence Acts.

Sydney : Australian Law Reform Commission, c2005.

Land rights: case studies

Pearson, Noel

'The High Court's abandonment of 'The Time-Honoured Methodology of the Common Law' in its interpretation of native title in Mirriuwung Gajerrong and Yorta Yorta.' In *Australian Indigenous Law Reporter*, Vol. 8, no. 2 (2003), p. 1-10.



Indexes, directories and guides:

Nepean Family History Society.

Gulgong General Cemetery and smaller private cemeteries.

[Emu Plains, N.S.W.] : The Society, [1990?].

Nepean Family History Society.

Mudgee General Cemetery Volume 3, Anglican Section.

St. Marys, N.S.W. : Nepean Family History Society, [198-]

Nepean Family History Society.

St Thomas' Church of England Mulgoa : monumental inscriptions and burial register records.

[Emu Plains, N.S.W.] : Nepean Family History Society Inc., 1997.

Historical studies

Kabaila, Peter Rimas

High country footprints : Aboriginal pathways and movement in the high country of southeastern Australia, recognising the ancient paths beside modern highways.

Canberra, A.C.T. : Pirion Publishing, 2005.

Kabaila, Peter Rimas

Griffith heritage : a thematic history of Griffith based on a community heritage study prepared for Griffith City Council and NSW Heritage Office.

Canberra : Pirion Pub., distributed by Black Mountain Projects, 2005.

Hooper, Shaun Boree and New South Wales. National Parks and Wildlife Service

Mapping country : assisting the Aboriginal community to tell their story of the Greater Blue Mountains World Heritage Area.

Glenbrook, N.S.W. : National Parks and Wildlife Service, c2005.

Economics and policy

Altman, Jon C., and Oxfam, Australia

Land rights and development reform in remote Australia.

Fitzroy, Vic. : Oxfam Australia, 2005.

Intellectual property

Anderson, Jane

The production of Indigenous knowledge in intellectual property law [electronic resource]. 2003.

ELECTRONIC ACCESS ONLY

<http://www.library.unsw.edu.au/~thesis/adt-NUN/public/adt-NUN20050207.144548/>

Government reports – Land Claims

Australia. Office of the Aboriginal Land Commissioner and Australia. Dept. of Immigration and Multicultural and Indigenous Affairs. Northern Territory. Office of the Administrator.

Upper Roper River land claims comprising Mataranka Area (NT Portion 916) land claim (claim no. 129); Western Roper River (bed and banks) land claim (claim no. 141), Roper Valley area land claim (claim no. 164) and Elsey Region land claim (claim no. 245) : report and recommendations of the Acting Aboriginal Land Commissioner H.W. Olney to the Minister for Immigration and Multicultural and Indigenous Affairs and to the Administrator of the Northern Territory.

Canberra : Dept. of Immigration and Multicultural and Indigenous Affairs, 2004

NEWS FROM THE NATIVE TITLE RESEARCH UNIT

Call for Contributors

Got a burning issue? Then why not write a paper and have it published in our Issue Paper series. The NTRU Issues Papers series is an occasional multi-disciplinary series of short papers by native title researchers and practitioners. The papers are subject to peer review and are available free of charge in hard copy or via our website. NTRU is currently

seeking expressions of interest by authors who wish to publish in our issues papers series.

Contact the editor at:

craig.greene@aiatsis.gov.au

Call for Project Partners

The NTRU has developed an exciting and ambitious research program for 2005/2006. We



are seeking partners for the following upcoming projects:

Benchmarking outcomes

There is a need to map the 'drivers' within the native title system, the competing objectives and outcomes sought by each of the actors and the indicators of 'success'. There is a need to define and measure, and monitor and benchmark the quality as well as the quantity of outcomes, including the rights and interests recognised and exercisable over native title determination areas, the agreements reached over future acts and ILUAs and evaluate their implementation.

Alternative settlements

New forms of outcomes are likely to result from proposed alternative settlements, particularly in south-eastern and south-western Australia, involving the resolution of claims through agreements that may or may not involve a determination of native title. There are risks and opportunities associated with these new settlement alternatives that should be the subject of considered discussion throughout the sector, including the role of the Court and the Australian Government in supporting agreements, models, benchmarks and security of agreements and ensuring that settlements are a fair recognition of the rights and interests of native title groups.

Changes to Federal Court practice.

Interventions and innovation in Federal Court practice have been trialled in 2004-05, with a review of case management practices currently underway. These changes will have an impact on the role of the National Native Title Tribunal, movement between litigation and mediation, with concomitant implications for NTRB research and case management practice and current funding models for NTRBs.

Connection requirements

Related to interventions and drivers in the native title system is the growing role of State government connection frameworks in driving processes and, in particular, determining the case management practices of NTRBs/claimant groups. It is necessary to critically engage with the State government policies on this matter to ensure that while respondent parties' needs are met the processes do not translate into procedural bottlenecks for the efficient recognition of native title.

The impact of native title on Indigenous communities

There is a growing understanding among all actors in the native title system that consideration must be given to the impact of native title processes on the communities and individuals. While the Indigenous Facilitation and Mediation project deals specifically with the role and impact of dispute in native title processes, there is a need for further work in this area.

Country management

A role in natural resource management and land use planning, including joint management of protected areas, are amongst key outcomes sought by native title claimants. Management of complex land holdings and engagement with state government land management regimes are therefore among the emerging challenges for native title holding groups.

We will provide updates on these and other new projects in the Newsletter. If you, or your organisation wish to participate in any of these projects, we are looking to establish funding partnerships and research networks. Please contact Diana McCarthy on 02 6261 4249 or at diana.mccarthy@aiatsis.gov.au and register your interest.

Research Activities

- Grace Koch presented a paper on ethics and audiovisual archives at the International Association of Sound and Audiovisual Archives (IASA) Conference held in Barcelona from 10-15/09/05. She will also serve as Secretary for the IASA Research Branch.
- Lara Wiseman conducted a six month review of information and update of the NTRU website
- Diana McCarthy and Mick Dodson prepared a paper on the privatisation of Indigenous lands debate. This paper was presented to the Papua New Guinea Land and Development Symposium 23 Aug 2005.
- Glen Kelly organised and hosted a workshop on the threats to the transmission of



traditional knowledge as part of a project with DEH from 16-18 August 2005, contributing to a report for the UN Convention on Biological Diversity.

- Lisa Strelein conducted a research trip in Victoria 12-22 Jul 2005, visiting the Federal Court, Native Title Services Victoria (including presenting a half day seminar), meeting with University of Melbourne partners in the ARC linkage projects on Agreement implementation and outcomes, and visited Gunditjmarra and Yorta Yorta communities.
- Dr Strelein completed a draft of a case study on the Murray and Lower Darling Rivers Indigenous Nations engagement with the Murray Darling Basin Commission, co-authored with Yorta Yorta researcher Monica Morgan and PhD student Jessica Weir.
- Dr Bradfield submitted an article accepted for publication by *Balay* on the British Columbia treaty process (with Mark McMillan of Jumbunna).
- Dr Bradfield submitted an article to the *Journal of Australian Indigenous Issues* titled 'The political context in which we find ourselves': Linking the practical and the symbolic in Indigenous affairs'.

Indigenous Facilitation and Mediation Project (IFaMP) Update

Indigenous mediation practitioners workshop

The Indigenous Facilitation and Mediation Project (IFaMP) will be holding a workshop on 4th and 5th October for Indigenous mediators and facilitators. They will discuss issues around the establishment of a national network of Indigenous mediators and facilitators and the areas in which they might be involved including native title and shared responsibility and regional participation agreements.

Training Resource Guide

A draft training framework for NTRBs in decision-making and conflict management which sets out the range of existing training products, pathways and providers has been prepared and is being refined by Capital Careers who won the tender in a selective tender process.

Staffing

Expected vacancy - APS 5 Research Assistant, contract (mid October to 30 June 2006).

Contact Toni Bauman on 02 6246 1195 or Toni.Bauman@aiatsis.gov.au

Check the IFaMP Web Site

The following additions can now be accessed on the IFaMP website under the *Research and Publications* section. Feedback or comments are most welcome and can be sent to ifamp@aiatsis.gov.au

Kingham, F., T. Bauman and M. Black. 2005. *Report on Proceedings of Workshop of Native Title Mediators 15 and 16 March 2005*. Indigenous Facilitation and Mediation Project, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Indigenous Mediation and Facilitation Project. 2005. *Issues associated with the establishment, maintenance and distribution of a list of Indigenous mediators and facilitators*. Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

IFaMP Reports are now available in hard copy as well as on the *Research and Publications* section of the website. Email ifamp@aiatsis.gov.au if you would like to order copies of the following:

Bauman, T. and R. Williams. 2004. *Report on Native Title Representative Body Workshops: Directions, Priorities and Challenges*. Report No. 2. Indigenous Facilitation and Mediation Project, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies: Canberra.

Williams, R. 2005. *Native Title Mediation Practice: The Commonalities, the Challenges, the Contradictions: A Survey of Native Title Mediators*. Report No. 3. Indigenous Facilitation and Mediation Project. Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies: Canberra.



Brockwell, S., K. Eggerking, R. Morphy and T. Bauman. 2005. *Culture, Conflict Management and Native Title: An Emerging Bibliography*. Report No. 4. Indigenous

Facilitation and Mediation Project. Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies: Canberra.

NATIVE TITLE RESEARCH UNIT PUBLICATIONS

Land, Rights, Laws: Issues of Native Title

The Native Title Research Unit Issues Papers are available through the native title link at www.aiatsis.gov.au or are available, at no cost, from the NTRU. Receive copies through our electronic service, email ntru@aiatsis.gov.au, or phone 02 6246 1161 to join our mailing list.

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Monographs

The following NTRU publications are published by Aboriginal Studies Press and are available from the AIATSIS Bookshop located at AIATSIS, Lawson Crescent, Acton Peninsula, Canberra, or telephone 02-6246 1186 for prices and to order.



Unfinished Constitutional Business? Rethinking Indigenous Self-determination

Barbara Ann Hocking (editor) Aboriginal Studies Press, Canberra, ACT, 2005.

Treaty: Let's get it right! Aboriginal Studies Press, Canberra, ACT, 2003.

Through the Smoky Mirror: History and Native Title edited by Mandy Paul and Geoffrey Gray, Aboriginal Studies Press, Canberra, ACT, 2003.

Language in Native Title edited by John Henderson and David Nash, Aboriginal Studies Press, Canberra, ACT, 2002.

Native Title in the New Millennium edited by Bryan Keon-Cohen, proceedings of the Native Title Representative Bodies Legal Conference 16-20 April 2000: Melbourne, Victoria, 2001, includes CD.

A Guide to Australian Legislation Relevant to Native Title two vols, lists of Acts summarised, 2000.

Native Title in Perspective: Selected Papers from the Native Title Research Unit 1998–2000 edited by Lisa Strelein and Kado Muir.

Earlier publications dating back to 1994 are listed on the Native Title Research Unit's website at <<http://www.aiatsis.gov.au/rsrch/ntru/index.html>>, go to the Native Title Research Unit and then click on 'Publications'.



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AIATSIS acknowledges the funding support of the OIPC - Native Title and Land Rights Centre. For previous editions of this Newsletter, click on the Native Title Research Unit link at www.aiatsis.gov.au

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