



Native Title Newsletter

AIATSIS Native Title Research Unit



May/June 2002

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Contents

News from the Native Title Research Unit	2
Features	
<i>Native Title Business</i> - Travelling Art Exhibition	5
MaMu Canopy Walk	7
Ngarla Pilbara Leadership Training Course	9
Native title in the news	10
Applications	15
Notifications	16
Recent Publications	16
Native Title Research Unit publications	17

The Native Title Newsletter is published on a bi-monthly basis. 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.

STOP PRESS

The Native Title Conference 2002: Outcomes and Possibilities Geraldton 3 -5 September
Registrations close 16 August

The Newsletter is now available in ELECTRONIC format. This will provide a FASTER service for you, and will make possible much greater distribution. If you would like to SUBSCRIBE to the Native Title Newsletter electronically, please send us an email on ntru@aiatsis.gov.au, and you will be helping us provide a better service. Electronic subscription will replace the postal service, please include your postal address so we can cross check our records.

International speakers confirmed

We are delighted to announce that we have two international guests who will give papers at *The Native Title Conference 2002* in Geraldton in September.

Mr Jerald Gomez, senior counsel representing the Orang Asli in the recent *Bukit Tampoi* decision in Malaysia, will be giving a Plenary address. Mr Gomez represented the Orang Asli in their claims for land rights and compensation. The decision in favour of the Orang Asli is seen as a landmark for the recognition of Indigenous peoples' land rights in Malaysia.

Hugh Braker QC is our second international speaker. Mr Braker is a member of the Tse-shaht First Nation of the Nuu-Chah-Nulth Tribal Council in Canada. He has worked extensively on Indigenous issues in British Columbia.

Other Plenary speakers include Geoff Clark, Dr Mick Dodson, Justice Robert French, Prof Marcia Langton, Graeme Neate, Noel Pearson, Daryl Williams, AM QC MP and Hal Wootten AC QC.

For a copy of the brochure and registration form see the web page at - http://www.aiatsis.gov.au/rsrch/ntru/ntru_conferences.htm or telephone 02 6246 1161, or email ntru@aiatsis.gov.au

Workshop on Genealogies

AIATSIS is hosting a workshop on the preparation and use of genealogies, especially in applied social science and Australian Indigenous studies. The workshop is being run by Patrick McConvell (Research Fellow) and Grace Koch (Native Title Research Unit).

For more information see the [Provisional Program](#) or contact Patrick McConvell on [<Patrick.McConvell@aiatsis.gov.au>](mailto:Patrick.McConvell@aiatsis.gov.au).

Treaty website

A website outlining the history of the Treaty campaign was launched on July 3 2002 at the AIATSIS. The treaty website details the account of the struggle by Indigenous Australians for their rights to be recognised in the form of a treaty. The website will be a significant contribution to the contemporary Treaty debate and the future relationship between Indigenous and non-Indigenous Australians.

The website focuses on six areas: the National Aboriginal Conference Proposal for a Treaty of Commitment or Makarrata, the Aboriginal Treaty Committee, the Aboriginal Sovereign Treaty '88 Campaign, the 1981 Senate Standing Committee report *Two Hundred Years Later*, the Burunga Statement, Community Action for Rights, the AIATSIS Seminar Series on Treaty and links to other current debates.

The merger of this important history, as stored in the Institute's collections, and new media technologies has been made possible through an ATSIC funded digitisation program grant. The website marks the beginning of a series of projects which will enable quick comprehensive access for those who wish to learn from history for the benefit of the future.

The website is located at www.aiatsis.gov.au/treaty.htm

Two new Issues Papers

The unit has published two new Issues Papers. The May Issues Paper number 15, 'Preserving culture in Federal Court proceedings: Gender restrictions and anthro-

pological experts' is by Greg McIntyre and Geoffrey Bagshaw. The paper considers how gender restricted evidence in native title claims is often an integral feature required to establish and substantiate connections to country. The authors' argue that the Federal Court has to consider the public interest in respecting the cultural concern of native title claimants. The paper discusses the Federal Court's approach to these issues in two recent cases, *Yarmirr* and *Ward*.

The June Issues Paper, number 16, is by Sir Anthony Mason, AC KBE and is titled 'The international concept of equality of interest in the sea as it affects the conservation of the environment and Indigenous interests.' This paper explores how the claim for collective international exploitation of marine and submarine resources has been associated in more recent times with the concept of the 'common heritage of mankind.' Mason argues that if such a concept is to be used, it would need to be adapted to benefit Indigenous people.

New staff member

We will miss Angela Terrill, Native Title Research and Access Officer, who left at the end of June to take up a grant with the Max Planck Institute on Endangered Languages. She has moved to Nijmegen, in the Netherlands, to work with a team on this exciting project, which is funded for three years.

Grace Koch is the new Research and Access Officer. She has worked AIATSIS since 1975 in the Audiovisual Archives, and has had many positions, including Sound Archivist (Oral History and Music), Manager (Audiovisual Collections) and most recently, in the Audiovisual Access Unit. She has been a Member of AIATSIS since 1982.

Grace's academic background is in musicology, and she has published analyses of Australian Indigenous music jointly with linguists such as Luise Hercus, Paul Black and R.M.W. Dixon as well as a number of encyclopaedia entries on the music of Central Australia, Cape York and the connection

of music with land. The book, *Dyirbal Song Poetry: the oral literature of an Australian rainforest people*, which she co-authored with R.M.W. Dixon, won the 1996/1997 Stanner Prize jointly with the *Bringing Them Home Report*. She has also done work in oral history and was compiler of the book, *Kaytetye Country: an Aboriginal History of the Barrow Creek area*. Grace has lectured on aspects of Aboriginal music and society both nationally and internationally, presenting courses and seminars in Rome, Paris, Vienna, the U.S.A. and Australia.

Grace has been a contract researcher with the Central Land Council for three land claims and the Davenport-Murchison and Hatches Creek Township Native Title Claim. Her work has concentrated on genealogies, women's ritual and songs.

Since 1980 Grace has been active in the International Association of Sound and Audiovisual Archives (IASA), serving as chair of two committees and Editor of the Association and, presently, as interim Secretary of the new Research Archives Committee, which will have a strong focus on the protection of Indigenous intellectual property rights as related to audiovisual materials, which is one of her main areas of interest. In 1999, Grace, along with two Indigenous representatives from Australia, was an invited participant to the Unesco seminar, 'A Global Assessment of the 1989 Recommendation on the Safeguarding of Traditional Culture and Folklore...' That same year, she was funded by the Ford Foundation to present issues of protection of Indigenous intellectual property at a workshop on research archives held in Manesar, India.

Grace looks forward to helping clients, extending networks and increasing her knowledge of native title issues.

Library news

The Library is a vital part of the Institute with a diverse range of material held in its collections.

Services

The Library is open to the general public for study and reference. Contact the Library on 02 6246 1182 or email library@aiatsis.gov.au. A specialist information service is available for those researching family history. The Family History Unit can be contacted on family@aiatsis.gov.au. A freecall service is available for Indigenous clients. The number is 1800 730 129.

The AIATSIS Library contains one of the most comprehensive collections of print materials on Australian Indigenous studies in the world. You can search the catalogue on line at <http://mura.aiatsis.gov.au>. The catalogue includes bibliographic details of all Library materials. Assistance in using the catalogue is only a phone call away.

The Collections

The Library welcomes donations of materials, which match the Library's collection policy and which enhance the research value of its collections. Donors may be entitled to take an income tax deduction by claiming their gift of rare or manuscript materials under the Cultural bequest scheme.

The Library seeks unpublished works, such as personal papers, diaries, field notes and other works relevant to Australian Indigenous studies. Collections of papers of organisations and individuals are welcome additions. Recent collections received include the personal papers of Joe McGinness. Should you wish to donate or deposit material, please contact the Library on +61 2 6246 1182 or email library@aiatsis.gov.au.

Monetary donations are also welcome. The Library is keen to establish an acquisition fund which will build up over time and which will facilitate the purchase of rare and unique materials. Dr Barry Cundy attended the auction of the library of Tom Austen Brown on the Australian Aborigines. One of the items on the Library's wish list was sold for \$63,826 unfortunately not to the Library.

The Library houses rare books and manuscripts in a closed stack area under environmental controlled conditions. They are

protected by an electronic security system, and do not circulate outside the Library. A conservator is on staff to undertake work on collections.

Recently the Library added over 600 manuscript records to the Register of Australian Archives and Manuscripts web site hosted by the National Library of Australia. RAAM provides researchers with a convenient, centralised register of locations for primary research material. It can be accessed at <http://www.nla.gov.au/raam/>

Library staff welcome your enquiries and look forward to you visiting the Library. The Library is open on Monday, Wednesday to Friday.

Research within Archives

Annie Pratten is a Koori woman now based in Adelaide who spent three years at AIATSIS in the mid 1980s as a trainee in film and video. She has just spent two months at AIATSIS listening to audio archives held at AIATSIS. What follows is an account of her research.

Within the Archives Program, work is underway to provide greater access to archival material. A great deal of the Institute's archive materials are only searchable on a specialised 'shadow catalogue' accessible only by AIATSIS staff. This is the case where materials are not documented or access restrictions are unclear. This may occur, for example, when collections of tapes are donated to the archive without further information. Unshadowing the collections often involves considerable work but provides a greater wealth of material that is accessible and often results in materials being searchable by remote clients via the internet. This in turn gives clients a greater understanding of the extent and relevance of material held by the Institute. In the end, this facilitates more efficient service by the Native Title Research and Access Officer.

I have spent the last eight weeks listening to audio archive tapes from a National Parks

and Wildlife Service Survey into Sacred Sites carried out between 1973 and 1983 and doing associated research in order to provide detailed and accurate documentation for part of this extensive collection. These tapes were recorded primarily by Howard Creamer, a non-Aboriginal Anthropologist and several Aboriginal Site Officers, including Ray Kelly, Glen Morris and Trevor Donnelly.

This research and documentation will greatly assist Koori and Goori peoples from the areas complete their native title and personal research. The documentation completed during this two month contract compliments the field notes made by Howard Creamer for sites in Wangkumara, Dhanggatti, Gumbaynggir and Githabul country.

This research is unfortunately long overdue and having been funded for two months has only just begun. In the light of potential native title claims, there are thousands of hours of archival audio tapes in need of such attention in order to provide more culturally appropriate and equitable access. I hope more funding will be found to continue this work.

Reminder of upcoming Treaty conference

ATSIC, AIATSIS and ANTaR are co-hosting the National Treaty Conference to be held from the 27-29 August 2002 at the National Convention Centre, Canberra. The conference aims to inform non-government organisations, bureaucracy, legislature, business and the wider community on the benefits of a concept of a treaty between Aboriginal and Torres Strait Islander peoples and the Commonwealth of Australia.

Over the last year, ATSIC has taken a leading role in pursuing the treaty debate, by delivering a comprehensive education package on the concept of a treaty to the majority of Aboriginal and Torres Strait Islander communities throughout Australia.

Issues that will be discussed at the conference include the sovereignty of the Australian nation; coexistence between Aboriginal peoples, Torres Strait Islander peoples and the Australian community; agreement making; and the economic and social value of a treaty to Australia.

Speakers include Dr David Irvine, leader of the Progressive Unionist Party in the Northern Ireland Assembly, Dr Mick Dodson, Prof Macia Langton, Mr Michael Mansell, Mr Patrick Dodson, Dr Kerryn Phelps and Prof Larissa Behrendt.

FEATURES

***Native Title Business* : Travelling Art Exhibition**

1 July 2002 - 31 October 2005

by Joan Winter

A new national travelling art exhibition examining the links between Indigenous art and native title was launched at the Queensland Museum during NAIDOC week 2002.

Native Title Business is presented by the Gurrang Land Council in Bundaberg, curated

by Joan Winter and will tour around 25 venues throughout Australia by the Regional Galleries Association of Queensland.

The artworks in *Native Title Business* are cultural evidence; community substantiation of the past and the needs of the present, in the face of massive ignorance and misrepresentation of Australia's post contact history and of what native title is, where it has come from, and how it effects Indigenous communities.

This exhibition will do much to promote understanding, communication and reconciliation throughout regional centres of Australia during its three year tour. It does this with humour, invention beauty and acknowledgment.

Works include paintings, prints, photography, mixed media, installation, carving, textiles and ceramics, reflecting the dynamic diversity of contemporary Indigenous arts practice.

Native Title Business is accompanied by extensive information detailing land agreements, current negotiations, past and continuing injustices and issues, coming home/back to country and other success stories. This information was researched and written by the staff in the Native Title Research Unit, AIATSIS.

Artists in all stages of their careers, from more traditional communities to urban based, young and older artists are represented. Artists include Fiona Foley, Michael Anning, Ian Abdulla, Michael Riley, Julie Dowling, Michael Nelson Jagamara, Than-coupie and Bronwyn Bancroft.

The meteoric rise of the Australian contemporary Indigenous visual arts movement had its origins deep in the great Western Desert of the Northern Territory just three years before the first Land Rights legislation was enacted there in 1976. The continuing dynamic change and growth of this extraordinary arts movement has been, and continues to be, bound with Indigenous communities' call for acknowledgment, self determination, social justice and the return of some land and sea rights.

Desert painting first developed as a way to teach the young about country. It soon followed as a way to inform our politicians, law makers and those in the general Australian community of Aboriginal and Torres Strait Islanders peoples' great need to regain something of their loss, and to show that in many communities, great knowledge and connection to country still exists despite separation and removal.

In 1997 members of the Ngurrara Land Claim were asked to prepare a map for their native title claim. Not schooled in cartography, artist members from Mangkaja Arts Centre at Fitzroy Crossing chose to paint their country in a massive 18 x 12 metre canvas, which each member stood on and pointed to when giving evidence. The painting was then taken to Canberra and ceremoniously danced on to remind those sitting in the High Court of the depth of their claim. Some such examples will be presented in *Native Title Business*, for the use of Indigenous artwork in native title claims has become commonplace. It is an invaluable way for our two cultures to meet.

The development and tour of this exhibition was made possible by the Central Queensland University and the Federal Government's national touring exhibitions funding program, Visions of Australia. Visions of Australia aims to provide all Australians, wherever they live with better access to the nation's cultural heritage.

Other funding support has been received from the Aboriginal and Torres Strait Islander fund of the Australia Council, the Federal Government's arts advisory and funding body. The exhibition has also received support from the Besen Family Foundation, National Native Title Tribunal, Aboriginal and Torres Strait Islander Commission, Gambling Machine Community Benefit Fund, Multicultural Affairs Queensland, Commonwealth Regional Arts Fund, and the Gurang Land Council and AIATSIS.

The exhibition will tour venues in Brisbane, Hervey Bay, Gladstone, Rockhampton, Cairns, Townsville, Toowoomba, Noosa, Moree Plains, Port Macquarie, Sydney, Canberra, Wangaratta, Wagga Wagga, Sale, Melbourne, Launceston, Hobart, Horsham, Mildura, Mt Gambier, Port Pirie, Adelaide and more.

Further information

Joan Winter, Curator

Tel: 0427 517 464

Email: baboarts@interworx.com.au

Fiona Marshall, Exhibitions Officer, Regional Galleries Association of Queensland
Tel: 07 3215 0826
Email: exhibitions@rgaq.org.au

Glenis Jay, Marketing Manager, Queensland Museum
Tel: 07 3840 7694
Email: glenis@qm.qld.gov.au

*Itinerary of Native Title Business
2002*

- Queensland Museum
1 July - 11 August
- Hervey Bay Regional Gallery
10 September - 5 October
- Gladstone Regional Art Gallery & Museum
11 October - 2 November
- CQU Rockhampton/Duaringa Shire Gallery, Blackwater (half show)
8 November - 10 December

2003

- Cairns Regional Gallery
31 January - 16 March
- Perc Tucker Regional Gallery Townsville
21 March - 27 April
- Toowoomba Regional Art Gallery
8 May - 15 June
- Noosa Regional Gallery
20 June - 13 July
- Moree Plains Gallery
26 July - 28 August
- Port Macquarie Hastings Regional Gallery
10 September - 19 October
- Boomalli, Sydney
29 October - 30 November
- National Museum of Australia
5 December - 16 February 2004

2004

- The Exhibitions Gallery Wangaratta
20 February - 21 March
- Wagga Wagga Regional Gallery
26 March - 7 May
- Gippsland Art Gallery Sale
14 May - 13 June
- Melbourne Museum
24 June - 7 August
- University Gallery Launceston
13 August - 17 September
- Carnegie Gallery Hobart

20 September - 22 October

- Horsham Regional Gallery
4 November - 9 January 2005
- 2005*
- Mildura Arts Centre
14 January - 27 February
 - Riddoch Gallery Mt Gambier
4 March - 17 April
 - Murray Bridge Regional Art Gallery
22 April - 22 May
 - Port Pirie Regional Art Gallery
28 May - 3 July
 - Walter Nicholas Memorial Gallery
8 July - 14 August
 - Tandanya Adelaide
20 August - 31 October

MaMu Canopy Walk

by Rowan Foley

The development of the MaMu Canopy Walk in the rainforest near Innisfail in North Queensland, will become a major tourism icon based on the MaMu native title applicants' land and culture.

The development of the \$7million MaMu Canopy Walk has involved the signing of an historic Heads of Agreement. The Agreement, written by representatives from the North Queensland Land Council (NQLC), has taken over a year to finalise.

The Heads of Agreement was signed at a traditional ceremony by all the MaMu native title applicants, NQLC, Wet Tropics Management Authority (WTMA), Queensland Parks & Wildlife Service (QP&WS), Johnstone Shire Council (JSC) and the local Member the Hon Warren Pitt signed as a witness on behalf of the State Government on the 24 March 2002.

In summary, the agreement acknowledges and protects the cultural heritage values of the MaMu native title claimants, binds in good faith the JSC to the State Government acceptance of their native title connection report and ensures an economic stream will flow to the MaMu people who will be on the Trust that will own the development.

The cultural heritage, environmental, geo-technical and topographic studies have been completed and the economic feasibility study is very positive. The next step is to advertise for commercial partners and they are already starting to line up.

The Heads of Agreement and Canopy Walk development demonstrates that native title is a positive element and essential component of the Traditional Owner's involvement in regional economic development.

The MaMu Canopy Walk should be completed by the end of 2003 and open for business.

What follows is an extract of the agreement that has been signed. It has been included to provide detail and information for others who may be interested or looking towards forming the same kind of agreements.

*MaMu Canopy Walk - Heads of Agreement'
Preamble*

This 'Heads of Agreement' is a way of getting the different groups to agree to work together in good faith to find answers to issues that can be of benefit to everyone involved. It will not necessarily show the answers to the problems straight away. Rather, it sets out the framework by which the different groups will work together to the best of their ability to come up with answers that are acceptable to all those involved.

It is the intention of this particular agreement to commit the Traditional Owners, the local Native Title Representative Body, relevant government land management agencies, and the Local Government authority to work together in an attempt to develop a Canopy Walk and associated visitor facilities in the Wooroonooran National Park and the immediate area located within the traditional country of MaMu people.

Although looking at the proposal to develop a Canopy Walk and associated visitor facilities

in the area, the Heads of Agreement is actually bigger than this. The agreement is looking to gain an undertaking from the various groups to work through concerns held by MaMu people about how their traditional country is managed for tourism purposes both now and in the future.

*Heads of Agreement
Preliminary*

▪ Native Title area means the area under claim in the MaMu Native Title claim number Q6014/01 in the Federal Court of Australia

1. The JSC, QPWS and WTMA acknowledge and affirm that the MaMu people have a significant interest and responsibility in the area for the planned Canopy Walk development that comes from their traditional law, traditional customs and traditional culture outlining the use, care for and preservation of the land and natural/ cultural resources.
2. The JSC and MaMu people agree to negotiate their respective interests within the native title determination application Q6014/01 in good faith. JSC agrees to be guided by the State's acceptance, for the purpose of mediation, of the MaMu as native title holders for the land and water included within Q6014/01 when negotiating its interests.
3. Subject to clause 8 all parties are committed to investigating the concept of a canopy walk and associated visitor facilities in the region.
4. The MaMu people and the NQLCAC, their Native Title Representative Body, acknowledge and affirm that the QPWS and the WTMA have significant interests due to their statutory responsibilities with respect to the management of the area's natural and cultural values.
5. The parties acknowledge and affirm that the JSC have local government responsibilities and interests in the management of the shire that surrounds Wooroonooran National Park.

¹ For publication purposes, the details of who the agreement is between has been left out. The actual terms of the agreement is considered more relevant.

6. The MaMu Aboriginal Corporation, as representative of the MaMu people, will be included in any Trust, Body or Corporate entity that is established for the effective ownership of the Canopy Walk and associated freehold land.
7. All parties agree to explore options that will ensure the flow on of sustainable economic benefits to the MaMu people through the MaMu Aboriginal Corporation or other appropriate corporate body in relation to the canopy walk and associated visitor facilities.
8. The parties acknowledge that there exist in the Palmerston region areas of significant conservation, heritage and educational value encompassing environmental, historical and cultural features, the protection of which is the responsibility of the MaMu people, Local, State and Federal Governments.
9. All parties are committed to work together in good faith to develop a participatory management regime for the ecologically, economically, socially and culturally sustainable management of the Wooroonooran National Park and surrounding tenures within (and adjoining) the WTWHA, and to develop harmonious relationships amongst all interests in the area that recognises the unique MaMu relationship to their traditional country.
10. Subject to clause 8 all parties are committed to negotiate in good faith a formal management agreement or Indigenous Land Use Agreement (ILUA) or equivalent which establishes co-operative management arrangements designed to protect the native title rights and cultural heritage interests of the MaMu people in the Wooroonooran National Park.
11. The parties agree that such an agreement relating to co-operative management arrangements may include the exclusion of the general public from

culturally sensitive areas or other locations important to Traditional Owners within the Wooroonooran National Park and surrounding WTWHA. There are provisions for restricting access pursuant to the Nature Conservation Act and other relevant legislation will be explored where appropriate.

12. Whilst the parties agree that such an agreement relating to co-operative management arrangements will be consistent with statutory responsibilities of the QPWS/EPA, WTMA and NQLCAC in relation to the protection and presentation of the natural and cultural values of the region, consistent with current Environmental, Cultural Heritage, Protected Area and Native Title legislation, this does not preclude exploring the need for changes in this area.
13. The parties agree that areas of high conservation and cultural value shall be identified by a regional assessment process according to agreed national and international criteria. There shall be an independent review acceptable to all parties in the case of a dispute in relation to the assessment of these values.

All parties agree and acknowledge that there is nothing in this agreement that is intended to impact negatively or lessen the native title rights and interest of the MaMu people.

Ngarla Pilbara Leadership Group Training Course

by Yamatji Land and Sea Council

From the 14 - 17 June 2002, the Yamatji Land and Sea Council organised the Ngarla Pilbara Leadership Group Training Course. The purpose of the course was to provide a group of Ngarla native title claimants with an intensive course in native title and a chance to actually see and visit all of the institutions that are involved in the native title process. It was also hoped that the course would give participants an opportunity to think about and discuss what they wanted out of their native title determination and be

better placed to disseminate their knowledge to the rest of the community.

Specifically the course was designed to provide participants with:

1. a better understanding of native title law and the *Native Title Act 1993* (Cth), with a focus on consent determinations and Indigenous land use agreements;
2. an understanding of the roles and functions of the National Native Title Tribunal (NNTT) and the Federal Court of Australia;
3. the opportunity to participate in discussions about options for corporate and decision making structures for their claim, including participating in a PBC workshop conducted by the NNTT;
4. the opportunity to participate in discussions with other stakeholders/parties regarding possible outcomes for their consent determination;
5. a tour of Parliament House; and
6. a visit to the Perth office of the Yamatji Land and Sea Council that would include a workshop on the operation of the future act regime.

In preparation for the course, the Ngarla claimants participated in a series of workshops at their working group meetings. These workshops were conducted by the Pilbara Native Title Service (PNTS) with the assistance of the NNTT.

The workshops included a viewing of the NNTT video 'Native Title in Brief' and discussions on:

- the native title determination application process,

- native title and land tenure,
- the role of other parties in the native title claim process,
- outcomes of various native title determinations around Australia, in particular the Nharnuwangga, Wajarri and Ngarla Peoples determination,
- issues relating to pastoral leases, and
- the possibilities for social (non-native title) outcomes from consent determinations.

The working group also met with representatives from the Indigenous Land Corporation, the Department of Fisheries and other stakeholders prior to their trip to Perth.

Outcomes

Feedback from the group indicates the course was very productive and worthwhile. The group particularly enjoyed their visits to the Federal Court, the National Native Title Tribunal, Parliament House and the Department of Mineral and Petroleum Resources. Nora Cooke, Ngarla Working Group member and PNTS Steering Committee representative, remarked that the trip had generated a momentum among the working group and that they have a much stronger sense of the task ahead of them with regard to the various players involved in mediation. She also said that a number of the younger claimants have 'stepped up' in their role and now speak from a more informed position and with greater confidence.

NATIVE TITLE IN THE NEWS

National

On the night of the tenth anniversary of the *Mabo* decision, Mr Clark announced a new task force of Indigenous leaders to tackle the "unfinished business" of Indigenous rights. *Courier Mail* 4 June 2002.

The Federal Aboriginal Affairs Minister Phillip Ruddock has claimed that development in the Northern Territory was being stifled by the *NT Aboriginal Land Rights Act*. The Federal Government has promised to streamline the Act by removing barriers to economic development and devolving con-

trol from land councils to more localised bodies. *Kalgoorlie Miner* 23 May 2002

The High Court has reserved its decision on the Yorta Yorta people's native title claim after a two day hearing. Part of the appeal is to test aspects of the common law and the Native Title Act that requires unbroken traditional links for title to be granted. *Shepparton News* 27 May 2002

The Attorney-General Daryl Williams has said that the resolution of native title issues in 2002-3 will cost \$130 million. The Attorney-General said that the funding would be shared between the National Native Title Tribunal, the Aboriginal and Torres Strait Islander Commission and the Attorney General's Department. The aim of the funding is to speed up the process and to support participants. *Advertiser (Adelaide)* 15 May 2002

Radio broadcaster Alan Jones from 2UE has won the final stage of a defamation case over comments he made about a native title claim. *Australian Associated Press* 14 June 2002

Northern Territory

The High Court has rejected 7-0 the claim by 10 individuals, over a 10,000 sq km seabed between Darwin and Melville Island. Director of the Northern Land Council Norman Fry said the council was disappointed but was not defeated on the question of Indigenous sea rights. *Mercury Hobart* 31 May 2002.

On the 17 May 2002 the Attorney-General, Daryl Williams, Acting Minister for Immigration and Multicultural and Indigenous Affairs handed over the deeds of title for the former Urapunga cattle station in the Northern Territory to its traditional owners. The deeds were handed over at a ceremony at Rittarangu community to the Urapunga Aboriginal Land Trust. Urapunga is about

300 km east of Katherine. It is boarded on the southern boundary by the Roper River and to the north and east it joins with land granted to the Arnhem Land Aboriginal Trust. *Media Release Department of Immigration and Multicultural and Indigenous Affairs, Federal Government* 17 May 2002

The Northern Territory has ended nearly 25 years of wrangling over the Kenbi land claim. The claim was lodged by the Northern Land Council on behalf of the Larrakia people in 1977. Chief Minister Clare Martin said the Government would withdraw an appeal against the claim lodged by the former Government last year. *Northern Territory News* 9 May 2002

Western Australia

The Wongatha native title claim will be heard in Kalgoorlie-Boulder between June 17 and August 2. More than 2,000 Aboriginal people are involved in the claim, which stretches over almost 184,000 sq km of the North Eastern Goldfields. The final decision by Justice Kevin Lindgren indicated that he would grant three to four days instead of the requested thirteen at Leonora but that the remainder would be held in Kalgoorlie. *Kalgoorlie Miner* 15 May 2002

The Swan Valley Nyungah Community is seeking a protection order that will block the development of a residential site covering 300 ha of Bushmead Rifle Range on the borders of Swan, Kalamunda and Mundaring. Community elder Robert Bropho said the site was spiritually significant. Co-applicant and elder Kevin Cameron also said that the area contained Aboriginal sites and endangered animals like the short-necked turtle. *Midland Reporter* 25 June 2002

Until the High Court makes a decision on the *Ward* (the Miriuwung-Gajerrong people) case all other claims in the Kimberley have been postponed until it is handed down. *West Australian* 5 June 2002

Dolly Walker the representative of the Ngalia Kutjungkatja claim has written to the GLSC Director Brian Wyatt informing the council that the Ngalia people would represent themselves in court. They are no longer willing to be represented by the Goldfields Land and Sea Council. The Ngalia Kutjungkatja claim covers 65,775 sq km of land north-west of Leonora including unallocated Crown land, pastoral leases, reserves and mining areas. *Kalgoorlie Miner* 18 June 2002

Two of Perth's Aboriginal activists are in dispute regarding a native title claim over Western Australia's capital city Perth. Corrie Bodney and Robert Bropho are both questioning the others right to claim native title. The claim covers a 12,123sq km area extending west of Rottneest to Clackline in the east, Gingin in the north and Mt Cooke in the south. Their cases highlight the difficulties inherent in determining competing native title claims. *Australian* 6 June 2002

The Federal Court in Perth examined evidence put forward by Mr Corrie Bodney on behalf of the Ballaruks People at a directions hearing in early June. The Ballaruks claim did not pass the Tribunal's Registration Test in 1999 and the claimants therefore lost the right to negotiate over the claim area. *Media Release, National Native Title Tribunal* 5 June 2002

An agreement has been signed between Mt Gibson Mining manager director Brian Johnson and the Wajarri Elders Group in Geraldton. Mt Gibson is planning to mine Tallering Peak but there are two native title claims on the area. One is from the Wajarri Elders and the other from Mullewa Wajarri people. Mt Gibson has already signed an agreement with the Mullewa Wajarri people but recognised that the Wajarri Elders also had a legitimate native title claim. Mining looks like it will commence early next year. *Geraldton Guardian* 30 June 2002.

In the Goldfields, representatives of the Ngalia Kutjungkatja native title claimants have called on the Wongatha people to withdraw their overlapping claim, asserting that it is on Ngalia land. The Wongatha people have the first registered claim to be heard before the Federal Court. *Kalgoorlie Miner* 22 May 2002

It is expected that the *Ward* decision to be handed down by the High Court in the coming weeks, will stimulate mineral exploration and mine development. It is hoped that the decision will provide clarity to native title claims and determine whether native title rights include mineral rights and whether granting mining leases extinguished these rights. *Australian Financial Review* 13 June 2002

An agreement signed in Nannup between native title claimants and the mining company Cable Sands has enabled the grant of a State deed to mine titanium. Under the terms of the agreement, the local Boojarah people will be given job opportunities and other compensation in return for access to 126 hectares in Jangardup South. The company estimates the mine will be worth approximately \$330 million however environmental approval is still needed for the mine to go ahead. *West Australian* 23 June 2002

The State government has put together a native title deal worth \$27.5 million in order to progress a full scale industrial development of the Burrup Peninsular in the Pilbara. The deal would recognise the native title claims of three Aboriginal groups, two of which are currently contesting their claims in the Federal Court. The Wong-Goo-Tt-Oo group is in dispute with the Ngaluma Injibandi group, however these two groups must join a third party, Yaburara Mardhudunera to sign and accept the deal. The Wong-Goo-Tt-Oo group have indicated that they will not sign the deal and will wait for the Federal Court decision. *West Australian* 24 May 2002

Three parcels of land were handed back to traditional owners in Cue last week. The 2.9 hectares of land was transferred to the local Thoo Thoo Warninha Aboriginal Corporation who will hold the land in trust for the Aboriginal owners. *Geraldton Guardian* 6 May 2002

The Nharmuwanggam Wajarri and Ngarla people of the Gascoyne region have been told that they need public liability insurance to hunt for kangaroo or carry out any traditional business on a pastoral lease. The Yamatji Land and Sea Council who represents the Nharmuwanggam Wajarri and Ngarla people has said that there is no avenue to appeal because they had signed an out of court agreement. *West Australian* 1 June 2002

Queensland

Justice Ronald Sackville of the Federal Court made an order in early June that native title did not exist in the land known as Castle Hill Holding. The court heard that Noel Kennedy the present occupant of the 23,800 ha property, has had continuous possession since 1952. The property had been under various leases since the 1880's. *Courier Mail* 18 June 2002

A Native Title Studies Centre has been launched in the far north of Queensland by Premier Peter Beattie. The centre will be based at James Cook University in Cairns. Graeme Neate President of the NNTT says the centre will add to the success of Queensland in addressing native title issues. *ABC Online* 4 June 2002

A sea claim, lodged by the Torres Strait Regional Authority (TSRA) in November last year is being tested for registration with the NNTT. The claim covers the eastern, central top western, and near western geographic regions in the Strait. It covers the sea, seabed, subsoil, reef, shoals and sandbanks.

The Torres Strait Regional Authority representing the Buru Waral Kawa people have registered a shared native title claim over four uninhabited Torres Strait Islands – Turnagain Island, Deliverance Island (Warul Kawa), Kerr Islet and Turu Cay. Any person with an interest in the claim has until the 25 September to apply to the District Registrar of the Federal Court to become a party to the application. *Courier Mail* 18 June 2002

BHP Billiton Mitsubishi Alliance's South Blackwater and Blackwater coal mines will continue development and expansion after they finalised an agreement with the Kna-goulu and Ghungalu people of Central Queensland. The traditional owners said that the agreement gives them an opportunity to establish for the first time a sound economic base on which they can build, protect and sustain their culture for generations. *Koori Mail* 26 June 2002

The Alluna Land Trust is now the legal owner of the Alluna Aboriginal Reserve. The Queensland Government granted freehold title over the land to its traditional owners at celebrations that were held in Cairns in late June. The handover of the 16.83 hectare parcel of land in Bungalow, is the outcome of seven years of hard work and negotiation between the Indigenous community and State government agencies. *Cairns Post* 24 June 2002

The Mount Isa Mines company is expected to start exploration this season after an Indigenous Land Use Agreement was registered between the Kalkadoon people and the State Government. The ILUA has lifted the restriction on about 60 mining exploration permits for the Mount Isa area. Kalkadoon solicitor Sean Sexton said the agreement showed the fruits of reaching agreement rather than litigation. *North West Star* 20 May 2002

The native title claim on an area of land in Broadsound and Livingstone shires is progressing. The claim by the Southern Barada and Kabalbara people is for 881.4 sq km of land about a 103 km north west of Rockhampton. The National Native Title Tribunal are calling for interested groups to become party to the application. *Daily Mercury (Mackay)* 21 June 2002

The Queensland government has signed an agreement with two native title groups and the mining company Enx Togara Pty Ltd. Plans to develop a thermal coal mine in the Bowen Basin have begun. The Togara Agreement follows successful negotiations with the Kangoulu and Ghungala peoples. The agreement sets out how the Indigenous people and the government will coexist during the 35 year life of the project. It also addresses protection of cultural heritage issues and provides employment, training and business opportunities for the areas traditional owners. *Morning Bulletin (Rockhampton)* 19 June 2002

New South Wales

The Native Title Registrar has accepted the application for registration by the Bigamul people for native title in the Moonie region between St George, Dalby and the New South Wales-Queensland border. The claim spans an area of 24,000sq km. Any person who believes they have an interest in the claim has until 28 August to apply to the District registrar. *Chronicle (Toowoomba)* 16 May 2002

The NNTT placed advertisements in late June inviting people who wish to become a party to the application of native title in the Lake Cowal area to do so. The Wiradjuri people lodged the claim asking for their traditional rights to be recognised over the 2,637 ha located approximately 35 km north – north-east of West Wyalong. People with interest have until 9 October to apply to the District Registrar of the Federal Court in Sydney. *West Wyalong Advocate* 28 June 2002

A new native title service in NSW called The New South Wales Native Title Service (NSWNTS) has been endorsed by the ATSI NSW State Authority Committee. The NSWNTS has opened offices in Sydney, Coffs Harbour and Dubbo with a fourth office opening soon in the south of the State. Three NSW ATSI Commissioners will be included on the management board as well as Aboriginal people nominated from across the State. *Koori Mail* 26 June 2002.

Victoria

A native title claim is in doubt because the distribution of compensation, which is part of the agreement, is being questioned by claimants. The native title agreement over a Geelong region was to be ratified (if there were no objections) on July 3, with the Wathaurong clan descendants, State Government and Gas Net Australia (Operations) reaching a deal over the claim on a 20-metre wide gas pipeline corridor between Lara and Birregurra. Trevor Edwards who is the Wathaurong Aboriginal Cooperative Chief Executive Officer said he would object to the agreement because the \$150,000 compensation that had been put into a trust by the Mirimbiak Nations Aboriginal Corporation was going to a particular family. Mr Edwards believes the money should be shared and used for community benefit. *Geelong Independent* 7 June 2002

Two new claims in Wimmera have been accepted by the NNTT. They are the fourth and fifth claims to be made in the Wimmera. The fourth was made by the Yupagalk people, and was approved by the Native Title Registrar in July 2000. The Yupagalk application for native title rights is for Crown land in a 6,447 sq km area north of Horsham. The Registrar also accepted a claim by the Wotjobaluk people in June 1999. The Wotjobaluk application is for rights in two areas totaling 213 sq km west and south east of Stawell. The NNTT is calling for stakeholders in the areas to reg-

ister for negotiations. *Wimmera Mail Times* 17 May 2002

Federal Court and thus the NNTT has been unable to begin the process of mediation. *Hamilton Spectator*. 7 May 2002

Members of the Gunditjmarra native title claimant group are frustrated at what they see as a lack of communication about their native title claim. They are concerned about the delay in entering into a mediation process. The Gunditjmarra native title claim covers 20,360 sq km and runs from the South Australian border to the Shaw River in the south and the Grampians in the north. NNTT state manager Tony Shelley has said that the delay is due to the high number of interested parties being registered by the

South Australia

Councils across South Australia and Victoria will meet to hear about the Gourditch - Mara People's native title claim. The meetings are so that councils in the claim area can meet the NNTT member who will be mediating the claim. *Wimmera Mail Times* 12 June 2002

APPLICATIONS

The National Native Title Tribunal posts summaries of registration test decisions on <www.nntt.gov.au>. The following decisions are listed for March-April. The first number following the name is the NNTT Application Number, the second is that of the Federal Court. If an 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.

Howard River East TQ	DC99/9-2 D6009/99 Not Accepted	Koolpinyah Central	DC02/6 D6007/02 Accepted
Mirning People	WC95/13-2 WG6016/98 Accepted	Widjabul Aboriginal People	NC01/7 NC6019/2001 Accepted
Koinjmal People	QC01/4 Q6004/01 Accepted	Mimaga Wajaar Traditional Custodians Wunurah Claim	NC01/1 N6007/01 Not Accepted
Kudjala People # 4	QC02/18 Q6015/02 Accepted	Bidjara #2	QC97/23-2 QG6133/98 Not Accepted
Sundown Point	TC00/01 T6001/00 Not Accepted	Dry River	DC02/8 D6009/02 Accepted
Kokotha Munta	SC99/3-2 S6003/99 Not Accepted	Dangalaba #3	DC96/3 DG6012/98 Not Accepted
Rosewood	DC02/5 D6006/02 Accepted	Dangalaba #1	DC96/1 DG6010/98 Not Accepted
Barada Barna Kabalbara and Yetimarla	QC97/59-2 QG6224/98 Accepted	Dinah Beach	DC96/2 DG6011/98 Not Accepted

APPLICATIONS CURRENTLY IN NOTIFICATION

Closing date	Application no	Application name
28 August 2002	VC99/5	Wotjobaluk, VIC
25 September 2002	NN02/2	Gosford City Council, NSW
	QC00/4	Southern Barada and Kabalbara People, QLD
	QC01/23	Buru & Warul Kawa, QLD
	QC01/28	Gunggari People # 2, QLD
	QC97/23	Bidjara #2, QLD
9 October 2002	NC02/3	Wiradjuri Council of Elders, NSW
23 October 2002	QC01/25	Barada Barna Kabalbara & Yetimarla People #4, QLD
	QC01/4	Koinjmal People, QLD

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 PUBLICATIONS

Language and Native Title

Edited by

John Henderson and David Nash

Aboriginal Studies Press, Canberra, 2002.

Language matters have been increasingly recognised as an important part of native title claims. This volume has its origin in the workshop *Linguistic Issues in Native Title Claims* held at the University of Western Australia on 2 October 1999. This workshop provided an opportunity to draw together the linguistic matters arising in the various claims up to that time.

Language is only one aspect of native title, but it is a significant one where a considerable body of expertise and knowledge can be utilised. This book contributes to the body of work that considers the complex interplay of relations within native title and provides a space for considering the importance of language.

Articles in this volume include: 'Linguistic Evidence in Native Title Cases in Australia' by Jeanie Bell; 'Country and the Word: Linguistic Evidence in the Croker Sea Claim' by Nicholas Evans; 'Linguistics and the Yorta Yorta Native Title Claim' by Heather Bowe; 'The Language of the Peak Hill Aboriginal People: A Linguistic Report in a Native Title Claim' by Tasmin Donaldson; 'Labels, Language and Native Title Groups: The Miriung-Gajerrong Case' by Greg McIntyre & Kim Doohan; 'Historical Linguistic Geography of South East Western Australia' by David Nash; 'Language Ownership: A Key Issue for Native Title' by Michael Walsh; 'Can Lexicostatistics Contribute an Absolute Time -Scale to Discussions of Continuity of Occupation in Native Title Determinations?' by Barry Alpher; 'Linguistic Stratiography and Native Title: The Case of Ethnonyms' by Patrick McConvell; 'Making Your Skin Fit Properly: Displaced Equivalence in 'Skin' Systems in the Barkly' by Gavan Breen and;

'Linguists in Native Title' by John Henderson.

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- No 15: *Preserving Culture in Federal Court Proceedings: Gender Restrictions and Anthropological Experts* by Greg McIntyre and Geoffrey Bagshaw
- No 14: *"Like Something Out of Kafka": The Relationship between the roles of the National Native Title Tribunal and the Federal Court in the development of Native Title Practice* by Susan Phillips
- No 13: *Recent Developments in Native Title Law and Practice: Issues for the High Court* by John Basten
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- No 2: *Claimant Group Descriptions: Beyond the Strictures of the Registration Test* by Jocelyn Grace
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Discussion papers

Discussion papers are published in concert with AIATSIS Research Section and are available from the Research Section on telephone 02 6246 1157.

No 10: *The Community Game: Aboriginal Self-Definition at the Local Level* by Frances Peters-Little

No 11: *Negotiating Major Project Agreements: The 'Cape York Model'* by Ciaran O'Faircheallaigh

Monographs

The following NTRU publications are available from the Institute's Bookshop; telephone (02) 6261 4285 for prices.

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.

Land, Rights, Laws: Issues of Native Title, Volume 1, Issues Papers Numbers 1 through 30, Regional Agreements Papers Numbers 1 through 7, 1994-1999 with contents and index.

Regional Agreements: Key Issues in Australia - Volume 2, Case Studies, edited by Mary Edmunds, 1999.

A Guide to Overseas Precedents of Relevance to Native Title, by Shaunnagh Dorsett and Lee Godden. AIATSIS, Canberra, 1998.

Web Resources

Sea Rights Resource Page: Croker Island and Native Title Offshore

http://www.aiatsis.gov.au/rsrch/ntru/news_and_notes/

The High Court decision on *Commonwealth v Yarmirr, Yarmirr v Northern Territory* was handed down on 11 October 2001. This web page presents recent papers about the case, as well as other relevant materials on native title and sea rights issues.

Limits and Possibilities of a Treaty Process in Australia

<http://www.aiatsis.gov.au/rsrch/seminars.htm>

This series explores some of the issues surrounding the proposal for a national treaty. The issues include current proposals, past obstacles, issues for Indigenous representation, political and philosophical questions, national identity, reconciliation, belonging, public law implications, and comparisons with other countries.

ABOUT THE NATIVE TITLE RESEARCH UNIT

The Native Title Research Unit identifies pressing research needs arising from the recognition of native title, conducts relevant research projects to address these needs, and disseminates the results of this research. In particular, we publish this newsletter, the Issues Papers series and publications arising from research projects. The NTRU organises and participates in conferences, seminars and workshops on native title and social justice matters. We aim to maintain research links with others working in the field.

The NTRU also fields requests for library searches and materials from the AIATSIS collections for clients involved in native title claims and assists the Institute Library in maintaining collections on native title.

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For previous editions of this Newsletter click on the native title research unit link at <www.aiatsis.gov.au>.

Native Title Research Unit
Australian Institute of Aboriginal and Torres Strait Islander Studies
GPO Box 553 Canberra ACT 2601
Telephone 02 6246 1161
Facsimile 02 6249 1046
ntru@aiatsis.gov.au