



Native Title Newsletter

AIATSIS Native Title Research Unit

May/June 2004

No. 3/2004

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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, and will make possible much greater distribution. 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, please include your postal address so we can cross check our records. The same service is also available for the Issues Papers series.
ISSN 1447-722X

Native Title Conference 2004

The Native Title Research Unit of AIATSIS and the Aboriginal Legal Rights Movement (SA) Native Title Unit convened the fifth annual national Native Title Conference in Adelaide at the Stamford Grand Hotel, Glenelg on Thursday and Friday the 3^d and 4th of June. The conference theme was *Building Relationships: It's the people that matter, it's the people that make it work*.

Main plenary sessions included the Mabo lecture, introduced by Mrs Bonita Mabo and this year delivered by Professor John Borrows who is a member of the Chippewa of the Nawash First Nation in Ontario, Canada. Other keynote speakers included Professor Erica-Irene Daes, the UN Special Rapporteur on Indigenous Peoples and the Attorney-General Philip Ruddock.

Pre-conference workshops, for native title representative body (NTRB) delegates only, were held on Wednesday the 2nd June. NTRB staff and executives participated in legal and research strategic thinking, knowledge and skills-based workshops.

An Indigenous Youth Forum and Indigenous Talking Circles were convened by representatives from native title groups, community elders and native title practitioners to share experiences.

The conference was opened with a Greeting Ceremony hosted by Kurna Elders and the Kurna Native Title Committee followed by a performance from the Paitya Dance Group. The conference closed with a formal dinner on Friday night and Caroll Karpany's band Nukunya and local Indigenous guest artists provided the evening's live entertainment.

This year four hundred and fifty six delegates registered. Forty three speakers presented papers, convened workshops and reported on projects and emerging issues in native title. The conference was strongly supported by

staff and council of the native title representative bodies, native title claimants and holders, their legal counsel, native title practitioners such as anthropologists, government institutions and departments, politicians, Federal Court judges and academics.

The major sponsor of the conference and pre-conference workshops was the Aboriginal and Torres Strait Islander Services (ATSIS).

AIATSIS Seminars

In the first half of 2004, a series of seminars on the topic of *Regionalism, Indigenous Governance and Decision Making* was convened by Dr Stuart Bradfield of the NTRU as part of the Institute's ongoing series of seminars.

The seminar series explored the way understandings of 'regionalisation' impact upon Indigenous peoples and influence the way they govern themselves and make decisions. It investigated the way different groups sought to increase control over their own lives and their regions, the barriers to this control, and possibilities for increasing control in the future.

The seminar series looked at both the theory and practice of diverse themes surrounding 'regionalism' by looking at a number of case studies of Indigenous regional organisation, as well as including papers which investigated the idea of the 'regional', and what it means for Indigenous peoples and organisations.

A number of options for web based or other publication are currently being explored. The publication will include some or all of the following papers given in the seminar series:

Living traditions: the resurgence of Indigenous law,

Professor John Borrows, International Indigenous Visiting Fellow, AIATSIS, and Professor and Law Foundation Chair in Aboriginal Justice, University of Victoria, Canada;

Native title – achievement, despite the odds,
Mr Brian Wyatt, CEO, Goldfields Land and Sea Council;

Regionalism and Indigenous governance: challenges for policy makers,

Senator Kerry O'Brien, Shadow Minister for Reconciliation and Indigenous Affairs;

Mid-passage towards self-determination: a regional and community perspective,

Mr Sam Jeffries, Chairman, Murdi Paaki Regional Council;

Prospects for regionalism in Indigenous community governance,

Dr Will Sanders, Fellow, CAEPR;

Societies, communities, groups and individuals in native title claims and determinations,

Mr Robert Blowes, Barrister at Law;

Traditional owners and 'community-country' Anangu: distinctions and dilemmas,

Dr Sarah Holcombe, Post-Doctoral Fellow, CAEPR;

Native Title in the deserts of WA - Progress, proof, policy, PBCs, and the Future,

Mr Bill Lawrie, Manager, Native Title Unit, Ngaanyatjarra Land Council;

Leadership and authority in the Harvard studies and Australian Aboriginal communities,

Dr Patrick Sullivan, A/g Deputy Director of Research, AIATSIS.

If you or your organisation may also be interested in contributing to a collection on Regionalism and Indigenous Governance please contact Stuart Bradfield on (02) 6261 4223, or stuart.bradfield@aiatsis.gov.au

FEATURES

Indigenous Facilitation and Mediation Project (IFaMP)

IFaMP web site

The web site for the Indigenous Facilitation and Mediation Project (IFaMP) was launched at the Native Title Conference 2004 by the AIATSIS Principle, Mr. Steve Larkin. It is available at: www.aiatsis.gov.au/ifamp and provides comprehensive research materials on Indigenous facilitation and mediation. Please contact us with comments or additional materials to add to the site.

Native Title Representative Body Workshops for 2004

Four workshops sponsored by the National Native Title Tribunal (NNTT) with representatives from Native Title Representative Bodies (NTRBs) were held in May and June 2004.

The workshops were aimed at assisting NTRBs to reflect upon decision-making and conflict management processes and at identifying training needs.

Workshops were held at:

- Bundaberg (Gurang Land Council Aboriginal Corporation/Central Queensland Land Council Aboriginal Corporation) 10-11 May 2004;
- Cairns (North Queensland Land Council/Torres Strait Regional Authority) 13-14 May 2004;
- Perth (Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation) 24-25 May 2004; and
- Adelaide (NTRB CEOs Workshop) 1 June 2004, prior to the Native Title Conference in Adelaide. Findings and issues from the previous four workshops were presented to the CEOs who provided advice about future directions for the Project.

Individual workshop reports have been forwarded to each NTRB for comment. A final summary report with analysis of the issues and future directions is in preparation.

Recommendations from the CEO Workshop included the following:

1. As a result of Native Title Representative Body (NTRB) workshops a number of training areas and priorities were identified.

Those training areas and priorities including native title information provision and others dealing with conflict and facilitation should be reviewed and further analysed with a view to developing recommendations that should be referred to the AIATSIS Indigenous Facilitation and Mediation (IFaMP) Project Reference Group.

The issue of training for managing meetings should be looked at separately and recommendations developed. The Project Reference Group should act in consultation with the CEOs of NTRBs after the final review by CEOs.

2. IFaMP should formalise a request to the National Native Title Tribunal (NNTT) to pilot their mediation training with NTRBs and to have it formally evaluated for use by NTRBs by IFaMP. NTRBs to be involved include the Aboriginal Legal Rights Movement (ALRM), Cape York Land Council (CYLC), and Native Title Services Victoria (NTSV).

3. IFaMP should investigate community justice mediation programs and other training opportunities for evaluation and possible implementation in the NTRB context.

4. That the CEOs endorse in principle the concept of a pilot facilitation training of Indigenous people based on the core elements identified in Indigenous Facilitation and Mediation Project (IFaMP) Recommendations. The endorsement is to be referred to the IFaMP Project Reference Group for implementation and supervision.

5. The CEOs present at the IFaMP forum on 1 June 2004 recommend that the NTRB workshop process as outlined in the flyer is concluded. Based on the IFaMP recommendation, the project will move into a new phase. Any further NTRB workshops will be based on the ongoing identification of new issues by IFaMP and ratified by the Project Reference Group.

New South Wales Attorney General's Department, Community Justice Centres Workshop at the Native Title Conference 2004

The IFaMP team coordinated a workshop with the New South Wales Attorney-General's Department Community Justice Centres (CJC) at the pre-conference NTRB workshop at the Native Title Conference, held on 2 June 2004 in Adelaide. The "Community Justice Mediation Models and Native Title" workshop was facilitated by Sarah Mills and Bill Prichard.

Staff and representatives of NTRBs at the workshop recognized the need for fair, inclusive and transparent decision-making processes on which Indigenous people can confidently rely and which build on local skills in decision and conflict management processes.

They also recognized that many of the disputes between native title groups were 'community' disputes often between individuals, and that they could benefit from the kinds of mediation practices employed in the community justice sector.

The Workshop recommended that the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) looks at:

- Establishing regional panels of nationally accredited Aboriginal and Torres Strait Islander facilitators and mediators under a national network, with the aim of dealing with community issues, which would have an immediate impact on native title outcomes.
- Examining funding options for independent mediation and facilitation services for Aboriginal and Torres Strait Islander communities, for example pilot projects and 'whole of government' approaches.
- Assisting in setting up and convening a working group of NTRB representatives to follow up, promote and develop facilitation and mediation services.

The Workshop also recommended that:

- The National Native Title Tribunal (NNTT) and the Federal Court need to employ Aboriginal and Torres Strait Islander

mediators and facilitators. This will make a significant difference in addressing what is seen to be a power imbalance created by Indigenous people having to deal with imposed 'whitefella' processes, which are highly complex and place Indigenous people at a significant disadvantage.

Survey of Native Title Mediation Practitioners

Rhiân Williams reported on the recent survey of native title mediation practitioners in the mediation session at the Native Title Conference Adelaide on 3 June 2004 (see last newsletter for further details about the survey).

Major findings include that:

- There is wide diversity in the practice and approach of mediators surveyed, for example, those surveyed saw lawyers taking highly adversarial stances as having the most negative impact on the mediation process; and
- The majority of mediators surveyed were supportive of national standards for mediation and some form of rational regulation of mediators.

The rich and comprehensive data obtained from the survey is being further analysed and revisions will also take into account comments from the recent NTRB workshops. A final report is being prepared and will be publicly available when completed.

The Alyawarr, Kaytetye, Warumungu, Wakay Native Title Claim Group v Northern Territory of Australia [2004] FCA 472

Summary by Grace Koch

The Alyawarr, Kaytetye, Warumungu, Wakay Native Title Claim Group v Northern Territory of Australia [2004] FCA 472 was handed down by Mansfield J. in Alice Springs on 23 April. The claim was first lodged on 20 November 1995 with the National Native Title Tribunal and was accepted by the Tribunal on 31 May 1996. The application was not lodged with the Federal Court until 20 May 1998 because it had been opposed. After a number of further stops and starts, the application was amended

and finally accepted for registration with the Federal Court on 17 January 2000. For ease of reference in this article, the claim shall be referred to as the Davenport Murchison Claim.

The claim area comprises two separate areas of land lying to the east of the Stuart Highway and south-east of Tennant Creek. The principal claim area consists of the land in Northern Territory Portions 4386 (1,120 sq. kilometres) and 4387 (5 hectares 7800 sq. metres). The latter Portion includes the proposed town site of Hatches Creek which was once an active wolfram mining centre from 1919 up until the end of World War II. A large part of the claim is included in the proposed Davenport Ranges National Park for camping and tourism purposes.

Several interesting aspects to the Davenport Murchison Claim make the determination worth reading in its entirety. First, of the seven land holding groups, six had been recognised as traditional owners of nearby areas of land in four claims under the *Aboriginal Land Rights (Northern Territory) Act 1976* ('NT Land Rights Act').¹ Some of the claimants were also involved in additional successful claims under that Act to estates to the west of this area. In the Davenport Murchison Claim, Mansfield J recognised the strength of the 'site specific' nature of the spiritual beliefs and practises as held by the claimants, citing a number of their compelling testimonies.

Next, the composition of the native title holding group comprises not only members having the usual descent criteria from grandparents on both sides and/or by adoption or birthplace affiliation, but also their spouses. This finding takes into account the strongly-knit community of claimants whose spouses are often knowledgeable leaders from

¹ See reports for *Alyawarr and Kaititja Land Claim Report* (Report No 30 November 1978) of the Aboriginal Land Commissioner, Justice Toohey; *Warumungu Land Claim* (Report No 31, 8 July 1998) of the Aboriginal Land Commissioner, Justice Maurice; *McLaren Creek Land Claim* (Report No 32, 28 February 1990) of the Aboriginal Land Commissioner, Justice Olney, and *Wakaya/Alyawarre Land Claim* (Report No 34, 8 May 1990) of the Aboriginal Land Commissioner, Justice Olney.

neighbouring estates who know and participate in the songs, dances and ceremonies for the claim area.

Furthermore, the geographical position of the claim is of interest. It surrounds the Annurete Aboriginal Land Trust (ALT), which was established after the previously-mentioned Wākaya/Alyawarre Claim. Also the claim area is bounded by four pastoral stations, each of which contains land grants made by the NT Land Rights Act. Because of the strong evidence of traditional ownership by these groups, the claim could have been registered either as under that Act or as a native title claim, as the application was first made in 1995 before the close of lodgement for claims under the NT Land Rights Act.

Since 1881, the land under this claim had been part of 20 different pastoral leases, all of which had preserved certain rights to Aboriginal people. These include the statutory rights to enter and to be on the land, to have access to water sources, to erect shelters and to live on the land, and the right to obtain food. Therefore, the claimants and their ancestors had not been excluded from the claim area at any time and had maintained their knowledge of sites and the beliefs associated with them to the present day. Such knowledge was strongly demonstrated even though most claimants did not reside on the land under claim.

The position of the Town of Hatches Creek within the claim area raises some significant issues. Mansfield J found that for Hatches Creek, native title rights and interests were found to be exclusive of the rights and interests of others, except for certain rights of access as specified by Northern Territory or Commonwealth law.

This decision follows on from several earlier findings. First of all, Olney J stated in the Wākaya/Alyawarr claim that, although there was a strong case for including Hatches Creek in the Annurete ALT, it could not be claimed under the NT Land Rights Act because that Act excluded any land considered to be alienated. Towns were alienated Crown land; therefore Hatches Creek could not be claimed

at that time in spite of the strong connection evidence given by the claimants. Under the Native Title Act, however, native title rights of the claimants could be recognised. Secondly, Mansfield J found evidence that the claimants occupied Hatches Creek at the time the application was lodged in the sense that they engaged in hunting and other activities consistent with cultural practices. Finally, Hatches Creek is the only part of the claim that is not within the proposed Davenport Ranges National Park. For the rest of the claim, native title rights were not found to be exclusive of the rights of others, such as those held by the Conservation Land Corporation and the Parks and Wildlife Commission (NT).

This finding of non-exclusive rights for the land outside Hatches Creek rested upon the granting of Crown Lease Perpetual No 1117 which covers the area of the proposed Davenport Ranges National Park. The judgement held that the rights and interests conferred by or arising from that lease prevail over native title rights, but native title itself has not been extinguished. Mansfield J recognised that a number of public works such as roads, barbecues and interpretive panels and shelters had been established on the lease area and discussed the status of each at length.

The findings of native title rights over the claim area are most encouraging to all who worked to prepare the claim; however, the Aboriginal Corporation to be set up by this coming August will have much work to do in dealing with issues arising concerning the proposed Davenport Ranges National Park. It is a tragedy that so many of the most important traditional owners have died and cannot impart their wisdom when it is much needed.

NATIVE TITLE IN THE NEWS

Northern Territory

A native title decision on behalf of the Alyawarr, Kaytetye, Waramungu and Wakay people over 1143 sq km of land near Tennant Creek has been handed down by the Federal Court. The native title claimant groups now have exclusive rights to the land and non-exclusive rights to two blocks of land in the proposed Davenport Murchison National Park. Northern Territory News, pg 7. 05 May 04. Alyawarr, Kaytetye, Waramunga and Wakay People.

A native title agreement has been signed between the Northern Territory Government and the Lhere Artepe Aboriginal Corporation which will free up land for urban development. The land includes 20 hectares in the Larapinta Valley region. The signing took place at a ceremony in Alice Springs recently. Koori Mail, General News. 05 May 04. Lhere Artepe Aboriginal Corporation.

Jabiluka traditional owners have signed an historic agreement with resource giant Rio Tinto's Energy Resources of Australia (ERA). The agreement will hopefully end their long struggle in relation to a uranium mine. The landmark deal gives the Jabiluka people the right to veto future developments of the site in the heart of Kakadu National Park. It was voted unanimously at the Northern Land Council's last full council meeting (Jabiluka's representatives) to ratify the agreement with the mine owner. Koori Mail, pg 18. 05 May 04. Jabiluka People.

Merlin Energy has signed an agreement with the Central Land Council, acting on behalf of the traditional land owners in the region. The agreement will make way for petroleum exploration in the Pedirka Basin, near the Northern Territory and South Australian border. The permit is the sixth petroleum exploration permit in the Territory, but the

first involving an ILUA. Northern Territory News, pg 6. 11 Jun 04.

Final submissions in the Larrakia native title claim, which covers much of Darwin, are expected to take more than a week to be heard in the Darwin Federal Court. The long-running claim, lodged in 1996, was the first of its kind over an Australian capital city. The land claimed includes vacant crown land, nature reserves, beaches, mangroves and Territory and local government land. Northern Territory News, pg 4. 23 Jun 04. Larrakia People.

Queensland

The family of Neville Bonner has registered a native title claim for the Jagera Aboriginal group. It is over 6000 sq km of land stretching from Moreton Bay to the foot of the Toowoomba Range. The claim also covers land from the Port of Brisbane through Ipswich north towards Esk, south to Boonah and west to the Toowoomba range. Queensland Times (Ipswich), pg 1. 06 May 04. Jagera People.

The Kombumerri group have recently been paid approximately \$1 million dollars in native title compensation for the Gold Coast Convention site. The traditional owners renegotiated a land agreement with Jupiters Limited. The money has since gone into a special trust fund, to be administered by the Kalwun Land Corporation. Gold Coast Bulletin, pg 9. 06 May 04. Kombumerri group.

A third ILUA involving two groups of traditional owners in the North-West of Queensland has been registered with the National Native Title Tribunal. The Kalkadoon and Indjilandji/Dithannoi Peoples Backlog Exploration Permit Project ILUA's have already been registered with the NNTT. Lawyer for the Kalkadoon people, Sean Sexton, said the joint land use agreement was quite rare, as it

involves different Indigenous groups working together for overlapping areas of land. North West Star (Mt Isa), Pg 3. 07 May 04. Kalkadood & Indjilandji/Dithannoi People's Backlog Exploration Permit.

State Minister for Natural Resources Stephen Robertson and Labor member for Cook Jason O'Brien recently visited a number of Torres Strait Islands. Stephen Robertson stated he was committed to resolving the ongoing native title issues in the Torres Strait. Boigu Island Council Chairman and traditional owner Don Banu, told the Torres News that it was now up to the State Labor Government to back up their words with action. Torres News (Thursday Island), pg 1. 12 May 04.

The Yam Island group has rejected a proposal from the State Government. The proposal promised to ensure native title recognition only for land located outside the villages of the respective islands. The proposal was opposed by Yam representatives with many calling for full recognition only. Torres New (Thursday Island), pg 1. 19 May 04. Yam Island group.

The Mitakoodi People recently received the deeds to a parcel of land from the State Development Minister and Mount Isa MP Tony McGrady at an official ceremony. The ceremony was the official recognition of an ILUA between the State Government and the Cloncurry Shire Council. The area involves 37.17 hectares of land, which Mitakoodi elder Pearl Connelly said may be used to build a cultural centre in the near future. North-West Star (Mt Isa), Pg 3. 31 May 04. Mitakoodi People. Australia's Mining Monthly, pg 9. N.D May 04. Budjiti and Mardigan People

The Cook Shire Council has appointed a negotiating team to deal with native title determination applications. The Council's native title negotiating team includes Mayor Bob

Sullivan, CEO Mark Pitt and the relevant divisional councillor for each application among others. Claims within the shire include Yalanji, Wik, Lamalama, Northern Kaanju and Yiahn and Kalpowar. Cooktown Local News, pg 9. 26 May 04.

An ILUA covering the opal mining district of Yowah in south-east Queensland has been registered with the National Native Title Tribunal. The small-scale mining ILUA will provide for the granting of up to 58 existing mining leases in the opal field. The agreement comes after more than two years of negotiations between Yowah Opal Mining Community Services, the Budjiti and Mardigan People, the Queensland South Representative Body and the Queensland Government.

Two North Queensland pastoralists have recently made agreements with native title claimants in order to avoid court proceedings. The two pastoralists from grazing properties near Georgetown in Far North Queensland signed the Memorandums of Understanding (MOU) with the local Ewamian People. These two signings have taken the total number of MOUs in the region to seven. Cairns Post, pg 5. 08 Jun 04. Ewamian People.

Five new native title claims have been lodged with the National Native Title Tribunal over areas in North Queensland. The claims cover four separate land areas near the bauxite-mining town of Weipa on the west of Cape York Peninsula. The claims involve Crown land which has been leased by mining company Comalco. People with an interest in the claim areas can register for meetings with the Indigenous peoples by contacting the Tribunal. Courier Mail, pg 6. 18 Jun 04. Warraber-algal People, Porumalgal and Iama Peoples, Angkamuthi People, Mapoon People, Weipa Peninsula People, Thanakwithi People.

South Australia

An historic agreement has been signed as a result of nine native title claimant groups coming together to discuss disputes over boundaries. These nine groups have now been made into three. These groups include local claimants from the Barngarla, Far West Coast and Mirning native title groups. The agreement will allow ILUA's to be made with mining companies, pastoralists and other land owners. Port Lincoln Times, Pg 4. 27 May 04.

South Australia's first ILUA that deals with mining exploration has been registered with the National Native Title Tribunal, making way for exploration site clearances and the protection of Indigenous heritage. The agreement, which was signed last December after months of negotiations between the Antakirinja native title claimants, Antakirinja Land Management Aboriginal Corporation, SA Chamber of Mines and Energy (SACOME), ALRM and the South Australian Government covers an area of 41,156 sq kms. Koori Mail, pg 56. 02 Jun 04. Antakirinja group.

Victoria

The Yorta Yorta Nation and the Victorian Government have entered an unprecedented co-operative management agreement that will allow the Yorta Yorta to have a say in the management of their traditional lands. The agreement covers Barmah State Park, Barmah State Forest, Kow Swamp and specific parcels of land along the Murray and Goulburn Rivers. The in-principle agreement, which was reached outside of the native title process, is a first in Victoria, Attorney-General Rob Hulls commenting that the agreement was a significant step towards reconciliation and an example of what can be achieved through negotiated outcomes. Shepparton News, pg 4. 03 May 04. Yorta Yorta Nation. Yorta Yorta group.

The Yorta Yorta people and the Victorian Government have reached an in-principle agreement. The agreement allows joint management of traditional lands and waters including the Barmah State Park, Barmah State Forest, Kow Swamp and some public land along the Murray and Goulburn Rivers. The agreement has been welcomed by Troy Austin, the ATSIC Commissioner for Victoria. Sunraysia Daily (Mildura), pg 7. 22 May 04.

There continues to be delays in talks between the State Government and the Yorta Yorta Nation over plans for the new Murray River crossing project at Echuca-Moama. The project is worth approximately \$34 million. Member for Rodney, Noel Maughan, said little progress had been made since the Victorian planning minister approved the western option 14 months ago. He also called on the State Government to indicate when the new bridge would be built. Riverine Herald, pg 1. 04 Jun 04. Yorta Yorta People.

The Gournditch-mara native title claim, currently before the Federal Court, has been adjourned to an unspecified date. The claim which involves 20,350 km of south-west Victorian land and coastal waters has been in mediation since July 1999. Warrnambool Standard, pg 5. 10 Jun 04. Gournditch-mara People.

The Bendigo Council will start acknowledging the region's traditional Aboriginal owners from next financial year in council meetings and official ceremonies. The Council unanimously voted to acknowledge the region as Jaara Country, the traditional land of people of the Dja Dja Wurrung language. Jaara country stretches from Woodend to Kow Swamp, across to Lake Buloke and the Pyrenees Ranges. Bendigo Advertiser, pg 3. 16 Jun 04. Jaara People.

Western Australia

Member for Kimberley Carol Martin has said the lack of funding from the Federal Gov-

ernment will jeopardise the Bardi Jawi native title application. She further stated the State Government and Kimberley Land Council had reached substantial agreement and were prepared to settle the matter by consent determination. The Bardi Jawi claim covers 5348 sq km around Lombadina and One Arm Point, with a land component of 1037 sq km. Koori Mail, pg 7. 05 May 04. Bardi Jawi People.

An agreement has been reached between the Widji People and the Golden Mile Loophole Railways Society. Railway's spokesman Ian Worth said the group was about to sign a memorandum of agreement after three months of negotiation over a 5km long, 10 metre wide strip of land east of Kalgoorlie-Boulder. Mr Worth further added that the land in question was critical to development of the railway. Kalgoorlie Miner, pg 6. 12 May 04. Widji People.

Closing statements for the long running Wongatha native title claim are scheduled to be heard by the Federal Court on 08 June 04. Goldfields Land and Sea Council legal and native title manager Bertus De Villiers said yesterday the statements would encapsulate all evidence presented during the claim since early 2001. The Wongatha claim covers about 160,000 sq kms reaching from north of Leonora to near Kalgoorlie-Boulder. Kalgoorlie Miner, pg 5. 21 May 04. Wongatha claim.

The National Native Title Tribunal has reported that several different native title land claims in the northern Goldfields have been made into one in an attempt to speed up negotiations. NNTT WA State manager An-

drew Jagers said the Ngaanyatjarra Lands Native Title claim has replaced the Gibson Desert, Baker Lake, Irrunytju-Papulankutja, Tingarri Tjina, Tjirrkali Kanpa and Warburton-Mantamaru claims. The Ngaanyatjarra claimants wish to have legal recognition of their native title rights and interests over a 187,700 sq km area near Warburton. 500km north-east of Laverton, extending east to the Western Australian border. Kalgoorlie Miner, pg 5. 21 May 04. Ngaanyatjarra Lands Native Title claim.

The Federal Government has issued a non-claimant application over the Wongatha native title claim, because the judicial process was in danger of failing, according to the Attorney-General's department. A spokesperson for the department stated the Commonwealth had identified some deficiencies in the Wongatha claim, and there was a danger the Federal Court may not have been able to reach a decision. The non-claimant application effectively forces the judiciary to make a ruling over the claim. The long-running Wongatha claim covers more than 160,000 sq km, from Leinster in the north and stretches east, deep into the Great Victoria Desert. Kalgoorlie Miner, pg 6. 12 Jun 04. Wongatha claim.

A native title claim over large areas of land and sea in the Kimberley region will be sent back to the courts although a settlement has been reached between the parties. Attorney-General Philip Ruddock rejected the agreement, saying evidence surrounding the claim does not support a finding that the Bardi and Jawi People are part of a single shared system of traditional law and customs. Australian, Regional Changes, pg 4. 21 Jun 04. Bardi and Jawi People.

APPLICATIONS LODGED

The National Native Title Tribunal posts summaries of applications that are lodged with them, on their website, <www.nntt.gov.au>. The following lodgements are listed for May/June 2004.

Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
14/05/04	Kurnai	VIC	VC04/1	V624/04
25/05/04	Gangalidda and Garawa Peoples	QLD	QC04/5	Q84/04
25/05/04	Jindare	NT	DC04/2	NTD 9/04
27/05/04	Wangan & Jagalingou Peoples	QLD	QC04/6	Q85/04
09/06/04	Miriuwung Gajerrong #4	WA	WC04/4	W124/04
18/06/04	Budina People	WA	WC04/5	W131/04

Non-Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
11/05/04	Hasting Council	NSW	NN04/1	N713/04
21/05/04	Anthony Bernard Kelly MLC Minister assisting for Natural Resources (Lands) for the State of New South Wales as the State Minister under the NTAct1993 (Cth).	NSW	NN04/2	N837/04
03/06/04	Anthony Bernard Kelly MLC Minister assisting for Natural Resources (Lands) for the State of New South Wales as the State Minister under the NTAct1993 (Cth).	NSW	NN04/3	N903/04
09/06/04	Wongatha Non- Claimant	WA	WN04/2	W123/04

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 May to June. If an application has not been accepted, this does not mean that native title does not exist. The applicants 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
11/05/04	The Ngaanyatjarra Lands Native Title Claim	WA	WC04/3	W6004/04	Not Accepted
11/05/04	Adnyamathanha	SA	SC99/1	SG6001/98	Accepted
20/05/04	Combined Dulabed and Malanbarra Yidinji Claim	QLD	QC01/14	Q6012/01	Not Accepted
27/05/04	Warrabergal, Porumalg and Iama Peoples	QLD	QC03/16	Q6015/03	Accepted
02/06/04	Town of Newcastle Waters	NT	DC04/1	NTD3/04	Accepted
04/06/04	Jirrbal People #2 – Reserves	QLD	QC04/3	Q41/04	Accepted
10/06/04	Jirrbal People #3	QLD	QC04/4	Q42/04	Accepted
15/06/04	Wonnarua People	NSW	NC02/7-2	N6008/02	Accepted
25/06/04	Jindare	NT	DC04/2	NTD9/04	Jindare

APPLICATIONS CURRENTLY IN NOTIFICATION

Closing Date	Application Number	Application Name
06/07/04	QC01/31	Wik and Wik Way People
04/08/04	DC03/3	Town of Borroloola
04/08/04	NC03/2	Glenda & Rebecca Chalker
04/08/04	DC03/8	Alcoota
04/08/04	DC03/7	Glen Helen
04/08/04	DC03/6	Deepwater
04/08/04	DC03/5	Molly Hill
04/08/04	DC02/35	Tanumbirini
04/08/04	QC02/16	Kooma People #3
04/08/04	DC02/25	Town of Mataranka
18/08/04	QC03/15	Jagera People #2

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 AIATSIS COLLECTION CATALOGUES

The following selected items relating to native title have just become available on Mura, the AIATSIS on-line catalogue.

AUDIOVISUAL MATERIALS:

Photographic collections:

BEER.M1.CD The James Beer collection: Mission portraits and community activities at Groote Eylandt and East Arnhem Land (1942-1945), photographs taken by Fred Gray (digitised images)
GREEN.C9.BW Group portraits at Mullewa (1950's-1970's), deposited by Charmaine Green (black and white photos)
HAMILTON.A1.BW Ceremonial dance and community scenes at Maningrida (1958) deposited by Annette Hamilton (black and white photos)
LAURIDSEN.J1.CS Ceremonies at Dagaragu (1984), deposited by Jan Lauridsen (colour slides)

Video items:

LV2173 Church Missionary Society videos of life at Ngukurr (1948-1961)
LV0291 Expedition by Charles Melville to Musgrave Ranges, Ernabella and Lake Eyre (1953-1955)
LV0295 Stories told at Yindindi, Kakadu area, by Bill Neidjie (no date)

Recorded sound collection:

RAYNES_C01 Oral history interviews prepared for the Mistake Creek Land Claim (1993)

LIBRARY MATERIALS:

Several new articles from the AIATSIS Native Title Research Unit have become available online; consult the AIATSIS website (<http://www.aiatsis.gov.au>) for further details. For the items listed below, please check Mura for more information on each entry, including annotations.

Indigenous rights: Overseas

Asch, Michael
Post-Calder Canada's judiciary struggles to reconfigure native rights

In *Cultural Survival Quarterly*. Vol. 28, no. 1 (Spring 2004), p. 6-8 ill.
De Costa, Ravindra Noel John
New relationships, old certainties : Australia's reconciliation and treaty-making in British Colombia. Thesis submitted to Swinburne University of Technology. Institute for Social Research. 2002

Glindemann, Robyn, et. al
Aboriginal rights in Canada : the evolution of a third order of government. In *AMPLA year-book*; 2002

Government reports and Native Title cases: Australia and States

Bartlett, Richard H.
The denial of native title to the resource provinces of the Burrup Peninsula and the Pilbara : Daniel v State [of] Western Australia
In *Australian Resources and Energy Law Journal*; Vol. 22, 2003 : p. [453]-467

Gunn, Libby
De Rose V State of South Australia. In *Indigenous Law Bulletin* Vol.5 no.30 (February 2004)

Seidel, Peter
Native title: the struggle for justice for the Yorta Yorta Nation. In *Alternative Law Journal*. Vol. 29 no. 2, (April 2004), p. 70-74 & p 96

Indexes, directories and guides:

National Native Title Tribunal
Understanding native title from a geospatial perspective [electronic resource] : workshop proceedings, 22 September 2003. [Canberra] : National Native Title Tribunal, 2003.

National Native Title Tribunal (Australia)
Native title stories [videorecording] : rights, recognition, relationships [Perth, W.A.] : National Native Title Tribunal, 2004.

Native Title – Legal issues

Brennan, Sean
Native title in the High Court of Australia a decade after Mabo
In *Public law review*; Vol. 14, 2003 : p. 209-218

Byrne, Jo-Anne
Indigenous witnesses and the Native Title Act 1993 (Cth)
In *National Native Title Tribunal occasional papers series* ; no. 2 2003

Edwards, Robin
Native title : dead capital?
In *Singapore Journal of Legal studies* ; 2003 : p. 80-115

Fitzpatrick, Peter, 1941-
"No higher duty" : Mabo and the failure of legal foundation
In *Law and critique*; Vol. 13, 2002 : p. 233-252

French, Robert Shenton, 1947-
A moment of change - personal reflections on the National Native Title Tribunal 1994-
In *Melbourne University Law Review* ; Vol. 18, 2003

Howden, Kristin
The common law doctrine of extinguishment - more than a pragmatic compromise
In *Australian property law journal* ; Vol. 8 no. 3 Apr 2001 : p. 206-218

Secher, Ulla
Native title - an exception to indefeasibility and a ground for invoking the deferred indefeasibility theory. In *James Cook University Law Review* ; Vol. 7, 2000 : p.[17]-73

Strelein, Lisa
Native title offshore : Commonwealth v. Yarmirr; Yarmirr v. NT. In *James Cook University Law Review* ; Vol. 7, 2000 : p.[17]-73

Tehan, Maureen
A hope disillusioned, an opportunity lost? : reflections on common law native title and ten years of the Native Title
In *Melbourne University Law Review*; Vol. 19 2003

<http://www.austlii.edu.au/au/journals/MULR/2003/19.html>

Native Title - Archaeology

Harrison, Rodney
Australia's iron age : Aboriginal post-contact metal artefacts from Old Lamboo Station, Southeast Kimberley, Western Australia. In *Australasian Historical Archaeology*; Vol. 20, 2002 : p. 67-76

Harrison, Rodney
Kimberley Points and colonial preference : new insights into the chronology of pressure flaked points from the southeast Kimberley, Western Australia In *Archaeology in Oceania* ; Vol. 38, 2004 : p. 1-11

Harrison, Rodney
Shared histories and the archaeology of the pastoral industry in Australia
In *After Captain Cook: the archaeology of the recent Indigenous past in Australia*. R. Harrison and C. Williamson (eds) 2002 Sydney University
Archaeological Methods series 8

National Native Title Tribunal (Australia). Research Unit
First peoples of the River Murray and Mallee Region : Southeast : South Australia. Perth : National Native Title Tribunal, 2004

Williamson, Christine
"Too many Captain Cooks"? : an archaeology of Aboriginal Australia after 1788
In *After Captain Cook: the Archaeology of the Recent Indigenous Past in Australia*. R. Harrison and C. Williamson (eds). Sydney University
Archaeological Methods Series 8; p. 2-13

Land acquisition and land management

Clarke, P. A. (Philip Allan)
Twentieth-century Aboriginal harvesting practices in the rural landscape of the Lower Murray, South Australia

In *Records of the South Australian Museum*
Vol.36, no.1 (Dec.2003),
p.[83]-107, ill, map

Native Title – Anthropological issues

Ellemor, Heidi
White skin, black heart? : the politics of be-
longing and Native Title in
Australia
In *Social & cultural geography*; Vol. 4, no. 2 June
2003

Trigger, David S. and Gareth Griffiths, eds.
*Disputed territories : land, culture and identity in set-
tler societies*. Hong Kong : Hong Kong Univer-
sity Press, 2003.

Native Title - Mediation

Neate, Graeme J.
*Against all odds : the mediation of native title agree-
ments in Australia /*
by Graeme Neate; Craig Jones; Geoff Clark
Paper presented to the Second Asia Pacific
Mediation Forum 19-22 November 2003, Sin-
gapore

Neate, Graeme J.
*Negotiating native title : making enduring agreements
for a sustainable industry*. Paper presented to
'Value through Sustainable development' 2003
Sustainability Conference, Minerals Council of
Australia, Brisbane 12 November 2003.
Electronic access:
<http://www.nntt.gov.au/metacard/files/negotiating/making%20enduring%20agreements.pdf>.

History – exploration and accounts

Oxley, John, 1783-1828.
Journals of two expeditions into the interior
of New South Wales,
undertaken by order of the British Govern-
ment in the years 1817-18
London : Murray, 1820

History and Native Title practice

Koch, Grace
Voices of the past speaking to the future:
audiovisual documents and proof of native
title in Australia. In *International Association of
Sound and Audiovisual Archives Journal*, No 22
(January 2004) pp 20-31.

Pryor, Jenny
The past and future of land rights and Native
Title
In *Balayi* Vol.4, (2002), p.59-62

Self government

Shaw, Glenn
Native Title, sovereignty and treaty - do they
mix
In *Balayi* Vol.4, (2002), p.63-71

Economics and policy

Stacey, Brian
Who bears the costs of native title representa-
tive bodies' (NTRBs) capacity
building?
In *Journal of Indigenous policy*, Issue 2, (2002),
p.112-115

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.

Volume 2

- No. 27 *Practical Reconciliation, Practical Re-Colonisation?*
Prof. John Borrows
- No. 26 *Agreeing to Terms: What is a 'Comprehensive' Agreement?*
Dr Stuart Bradfield
- No. 25 *Native Title and Agreement Making in the Mining Industry: Focusing on Outcomes for Indigenous Peoples*
Professor Ciaran O'Faircheallaigh
- No. 24 *Beyond Yorta Yorta*
John Basten QC
- No. 23 *'Indigenous Pueblo Culture and Tradition in the Justice System: Maintaining Indigenous Language, Thought and Law in Judicial review'*
Christine Zuni Cruz
- No. 22 *'Abandonment' or Maintenance of Country? A Critical Examination of Mobility Patterns and Implications for Native Title*
Peter Veth

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.

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 <www.aiatsis.gov.au>, go to the Native Title Research Unit and then click on the 'Previous Publications' link. Orders are subject to availability.

ABOUT THE NATIVE TITLE RESEARCH UNIT

AIATSIS acknowledges the funding support of the ATSIC 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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