



# Native Title Newsletter

May/June 2006

No. 3/2006

## Contents

<a href="#">Breaking News</a> .....	2
<a href="#">Claimant Comment</a> .....	3
<a href="#">Feature</a> .....	3
<a href="#">What's New with the NTRU</a> .....	6
<a href="#">What's New</a> .....	9
<a href="#">Native Title in the News</a> .....	18
<a href="#">Applications Lodged with the NNTT</a> .....	34
<a href="#">Registration Test Decisions</a> .....	34
<a href="#">Notifications</a> .....	34
<a href="#">ILUAs</a> .....	35
<a href="#">Determinations</a> .....	36
<a href="#">Featured Native Title items in the AIATSIS catalogues</a> .....	36

## WHAT'S NEW WITH THE NTRU!

Check out the photo gallery and papers from the Native Title conference at

<http://ntru.aiatsis.gov.au/>

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.



## **BREAKING NEWS**

### **Victory at Human Rights Council**

In voting on the adoption of the Declaration on the Rights of Indigenous Peoples, thirty countries voted in favour, two voted against, twelve abstained and three were absent [Australia was not part of the vote]. Those who voted for the adoption were nine Asian countries, four African countries, four Eastern European and other states, seven from Latin America and the Caribbean. Having been adopted by the Human Rights Council, the Resolution will now go to the United Nations General Assembly which will decide on its adoption. The draft resolution to be voted on by the General Assembly reads:

The United Nations Declaration on the Rights of Indigenous Peoples says indigenous peoples have the right to full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so chose, in the political, economic, social and cultural life of the state.

Canada and the Russian Federation voted against the resolution in the Human Rights Council. Paul Meyer (Canada) acknowledged 'the important role that Canada, as well as other indigenous organizations, had played in the process of the drafting of the Declaration on the Rights of Indigenous Peoples'...and 'some other countries and a few indigenous representatives noted in their statements difficulties with a process where all parties had not discussed proposed language on several key issues'...' Canada had a long and proud tradition of not only supporting but also actively advocating Aboriginal and treaty rights at home and was fully committed to working internationally on indigenous issues. Regrettably, however, Canada would vote against the resolution'.

Similarly, Alexey Akzhigitov (Russian Federation) noted that '... the text did not enjoy genuine consensus, and had not been agreed on by all sides. Its adoption would set a negative precedent, and in this context Russia could not support the draft declaration in this form and in the procedure that had been used, and would vote against it. However, this did not mean that Russia was against a continuation of a discussion of the issue, and would work for international cooperation in the protection of the rights of indigenous persons'.

Adele Wildschut of the Indigenous Peoples Caucus, said 'on adoption of the Declaration on the Rights of Indigenous Peoples that ...the repeated demands for the distinction of the distinct status of the indigenous peoples had at last been addressed, after substantive debate with positions that had been consistent with international law...The true legacy of the declaration would be the way in which the lives of the indigenous peoples would be affected on a daily basis. It was the implementation of the declaration at the community level which would have the greatest impact.'

This information is from Victoria Tauli Corpuz, Chairperson, United Nations (UN) Permanent Forum on Indigenous Issues, Executive Director, Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education), Convenor, Asian Women's Network. Available at: [www.un.org/esa/socdev/unpfi](http://www.un.org/esa/socdev/unpfi)

[Back to contents](#)



## **FEATURE**

### **Applying Relational Databases in Native Title Research** by James Rose, Anthropologist, NSW Native Title Services Limited.

*This is an abridged version of a paper given at the recent 2006 Native Title Conference in Darwin.*

#### **Motivations**

Anthropology applied as expert evidence to Native Title matters is increasingly coming under two immediate and concrete pressures:

On the one hand the Federal Court, the National Native Title Tribunal and Crown Solicitors are demanding more explicit, more systematic and more transparent anthropological reports. On the other hand, Aboriginal communities filing as applicants to Native Title claims are demanding greater access to and more control of data that is collected *from* them and more accountability from the researchers that are collecting it.

Both these pressures refer to the management of two distinct aspects of anthropological reports: the data and the analysis.

In the case of the court, judgements such as those handed down in *Neowarra v Western Australia*, *Gumana v Northern Territory*, *Jango v Northern Territory*, and of course, *Risk v Northern Territory* (to name just a few) have all highlighted an increasingly specific demand that anthropological reports distinguish more clearly between the facts documented by anthropologists and the opinions that they subsequently formulate in relation to those facts. There are also increasingly specific demands that the opinions themselves be more *transparent* in their formulation; that the line of reasoning be explicitly documented and explained so that its validity can be assessed. Justice Mansfield in his recent summary of the anthropological evidence submitted in *Risk v Northern Territory* (2006 FCA 404), suggests that there may be inherent differences between natural science and social science because of the dependence of natural science upon 'reliable methods' for establishing facts (para 471). He also acknowledges that 'in the context of expert anthropological reports, the line between opinion and the fact on which it is based is not always clear' (para 472). Similarly he acknowledges that 'it is part of the Federal Court's responsibility in hearing native title cases to establish the relative 'primacy' of such evidence (para 468) and to 'accommodate uncertainty' (para 473) where possible. However he is adamant that 'time and effort is

not inappropriately wasted on trying to identify from a poorly constructed report the facts or premises underlying the opinions expressed in it' (para 473).

With regard to native title claimants themselves, the day-to-day experience of anthropologists frequently reveals a strong interest that families' contribution to anthropological reports not disappear into the ether of drafts and NTRB archives. In my own experience families lodging claims want the facilities to access that data in the form it was collected and to control its distribution. In fact, this is often the explicit condition that families set for participating in anthropological research.

Under the *Native Title Act 1993* and the *Evidence Act 1995*, the independence of anthropologists acting as expert witnesses depends upon the independence of their analysis, based, as is commonly quoted, on our 'training, study and experience'. According to the law this independence cannot be based on the will of claimants at whom that training, study and experience is directed. This independence is not affected, however, by any provision of access to data collected from the claimants if they want it.

#### **The project**

The NSWNTS Research Unit has taken an apparently novel approach to addressing these two sets of demands. Using specialised software we have developed a system for sorting and interrelating data collected in the course of research so that its utilisation in analysis can be explicitly tracked. This in turn allows us to lay out the steps we take in analysis. Recipients of subsequent reports such as the Crown, Tribunal and Federal Court can make clear and informed assessments of whether the analyses meet the requirements of the relevant legislation. Because the data is so specifically and explicitly indexed and cross-referenced in this system, Claimants are able to see which data has been collected and which has been used or not. This in turn allows them to make informed judgements about the release of certain information and also to access collected data in the Research Unit archives in the future. Indeed, a significant non-native title outcome of research conducted in this way is that it remains functionally accessible to claimants and their descendants long into the future.

#### **How is the data organised?**

The NSWNTS Research Unit database is organised according to the well-tested



hypothesis that social activity occurs in space and time. In seeking to demonstrate the presence or absence of a system of land tenure, we thus divide the social activity of regional communities into registers of space and time. The third register, of social activity itself, is a function of recorded concrete interaction between groups and individuals. We thus have three categories of data: temporal, spatial and social.

A relational database operates on the basis of one or more relationships between a series of registers. The definition of the relationships will produce a network whose manifestation will be highly consistent and independently testable. In the case of a social network, the definition of the relationships between its constituent registers of space, time and social interaction, will be similarly manifest. This allows us to ask:

- at what times are people documented?
- at what places are people documented?
- what relationships are documented between people?

Because of this consistency and transparency we are now able to begin establishing in a consistent and analytically transparent way, the absence or presence of a systematic and continuous land tenure. The interrelated registers of the database are also known as tables containing rows and columns. Each row or entry in the table manifests as a record of one person in one place at one time. Categories of data become fields which index an individual's location in space-time together with one instance of the social relations they were engaged in at that point. The database can scan and index all individuals and all locations in any collection of data provided to it. The NSWNTS Research Unit has submitted to its database over 1000 publicly available birth, death and marriage certificates, state records and literature and journal references. The database has in turn identified over 9000 individuals, 1500 locations and tens of thousands of instances of social interaction, manifest in an ongoing social network stretching over 75,000 sq km and 160 years. And that is mostly for one language group.

Let's go to an individual example of the database in action. The name of a man who we will refer to as 'HD' is listed in police tracker records at Wee Waa in 1980. This man also turns up as a father on a marriage certificate in Cuttabri in 1881. There is no guarantee that manual research would identify this fact.

However because the relationship between marriage certificates and tracker records has been defined in terms of matching personal names, the database automatically links the two documents, creates a new record for the man named 'HD', and lists the records in which he appears. It also lists the places, dates and events which 'HD' was associated with in the two records. If we scan through *all* available records we see that 'HD' is listed on eight other records in association with three other dates and locations, including Pilliga in 1855, Glencoe in 1903 and Cuttabri Mission in 1904.

Another important example comes from the assessment of social relationships. For instance, 'HD' is listed as a father on a marriage certificate, and we subsequently know the name of his daughter, son-in-law and wife. But the database also discovers via the relationships defined that 'HD' is listed on his own death certificate as passing away in Pilliga in 1917. The database can scan both kinds of certificate for all 'HD's' filial relations and thus identify his wife, children, parents, siblings and grandparents. It automatically constructs a nuclear genealogy for 'HD' which can then be combined with other nuclear genealogies to map an extensive network of filial kin across time and space. In this way, the database sifts through thousands of documents turning up literally thousands of names and places in seconds. These can then be sorted spatially into regional maps, temporally into descent groups and socially into networks of communities. In states such as NSW, where documentary evidence of Aboriginal people is very deep temporally, the application of a relational database simultaneously cuts research time and produces quantities of information with a precision that cannot be achieved by manual sorting.

#### ***The subsequent analysis***

Research reports built on this data have two particular strengths. Firstly, they can identify, from complex state records, the movements, names and social relations of individuals, and support analytical opinions derived from these facts. A striking example is the mapping of localised patterns of movement allowing the visualisation of very clear constellations of movement. Secondly, when claimants ask what documents we have discovered that concern their community and ancestors, we are able to tell them immediately and in detail. We are also able to say definitively whether that information has been used and whether or not it may be of any use to their claim.



### **Demonstrating systematic and continuing land tenure**

The demonstration of the existence or absence of a systematic and continuing form of land tenure requires an order of analysis significantly higher than the mere calculations performed by a database. The NSWNTS Research Unit database *can* however highlight correlations between patterns in the data and contemporary assertions of claimants. A common anthropological hypothesis is that Aboriginal land tenure comprises a system of production and distribution of knowledge and authority. These often have material manifestations in the spatial organisation of families and communities: pronounced patterns of movement established through the documentation of hundreds of individuals quickly shows collective preferences for particular locations. It might be asked: are these preferences symptomatic of an invasion-era land tenure system or a completely new form of tenure? If the records document continuity in the pattern and a strong conservatism in selection extending back to the commencement of records, then we have a strong indication that the pattern *is* invasion-era and thus an expression of traditional land tenure. The subsequent investigative task would then be to establish correlations between this tendency in the record and what claimants say. If claimants articulate a systematic index of the places for which their families and community are traditionally responsible as owners, custodians or caretakers, then we have a basis on which to make a comparison.

Again, the path of analysis is clearly and specifically documented. We have an index of references to every single record on which the analysis is based, together with copies of the documents themselves, and an analytical method that can be reproduced and tested on the same data under independent conditions.

[Back to contents](#)

## **WHAT'S NEW WITH THE NTRU**

### **Staffing**

Jessica Weir has completed her work at the NTRU and will now return to complete her PhD studies at the Centre for Resources and Environmental Studies at The Australian National University. Jessica's PhD engages with the recognition of the cultural identity of the traditional owner in the management of water in the Murray Darling Basin.

Angela Philp (Research Officer – publications) and Amy Williams (Administrative Assistant) both had their part time contracts extended with the NTRU, while NTRU positions are advertised. Tran Tran had her contract extended as an employee until 31st July.

Juliet Badics, a law student from Flinders University in South Australia, has joined the NTRU on a four week internship, which was organised through the Aurora Native Title Internship Program. She is currently updating and further developing NTRU's research resource pages.

### **Congratulations!**

There has been a recent baby boom in our ranks. Lara Wiseman welcomed Zoe Olivia on 27 April, Donna Oxenham and Glen Kelly welcomed Tahlia Rose on 30 May, and Krysti Guest welcomed Polly Jennifer Jean on 3 July. Mothers and babies doing well.

### **Networks and collaboration**

In conjunction with the Library, Grace Koch met with a working group to prepare Web resources in Australian Indigenous languages. She is helping to edit the recent on-line exhibition of wordlists of E.M.Curr.

### **Reconciliation Australia Governance Exchange, USA and Canada 26 May – 13 June 2006**

Visiting Research Fellow and Manager of IFaMP, Toni Bauman, participated in a two week governance study tour to the USA and Canada sponsored by the Kellogg Foundation. It was organized by Reconciliation Australia in partnership with the Native Nations Institute for Leadership, Management and Policy (NNI) of the University of Arizona. It entailed travel to Arizona, British Colombia and New Mexico to meet with representatives from a number of First Nations. She also met with members of the Native Dispute Resolution Network, which is located within the US Institute for Environmental Conflict Resolution.

### **Research Activities**

#### **Connection Requirements Project**

Tran Tran has incorporated final electronic submissions for the state connections requirements project which has received a positive response from interested parties in the native title sector. Tran is now completing the



final draft Report for the project for publication through the NTRU.

### **Indigenous Facilitation and Mediation Project (IFaMP)**

After 3 years IFaMP is coming to a close. The project team has been busy with the final publications and project round-up.

#### **Training Resource Guide**

IFaMP's Training Resource Guide - *Finding Training Solutions in Indigenous Decision-Making and Conflict Management – A Resource Guide for Native Title Representative Bodies* – has been completed.

Produced in collaboration with Capital Careers Pty Ltd. and funding from the Office of Indigenous Policy Coordination, the Training Resource Guide was developed with the aim of providing Native Title Representative Bodies, Land Councils and Native Title Services (collectively called 'NTRBs') with useful, easy to read, up-to-date information on training in areas relating to decision-making and dispute management.

The Training Resource Guide sets out existing training pathways in the Vocational and Education Training sector and provides details of around 80 training providers, many of whom can customise training to requirements. The Training Resource Guide is built around twenty essential training modules which IFaMP identified in a series of workshops with Native Title Representative Bodies in 2003 and 2004, including facilitation and mediation, communication, presentation, debriefing and negotiation skills, managing meetings, dealing with difficult people and behaviours, mapping conflict, team building, relationship building exercises, managing technical experts and third parties in mediation and facilitation, group dynamics and cross-cultural communication

**The Training Resource Guide** comprises two Parts:

*Part One includes information on:* nationally accredited training and the Australian Qualifications Framework

organisations to contact to obtain advice about training  
possible sources of funding for training programs  
the Commonwealth Government's New Apprenticeship (traineeship) program

nationally accredited qualifications that best fit with the twenty priority training areas relating to Indigenous decision-making and dispute management processes.

*Part Two contains information on:*

the names of Registered Training Organisations which deliver nationally accredited qualifications containing units relevant to Indigenous decision-making and dispute management processes  
details and contacts of a range of training providers who may offer training related to the twenty key training priority areas identified by IFaMP and who could possibly partner with an RTO to offer full qualifications.

The Guide will be of considerable value not only to NTRBs but also to other organisations and Government Departments working in Indigenous Affairs, for whom Indigenous decision-making and dispute management is core business.

The Guide is located on the IFaMP website under Latest Updates, and Research and Publications.

#### **Conference Presentations**

Toni Bauman made a PowerPoint presentation of lessons learnt to date from a pilot mediation process being undertaken in Katherine at the National Mediation Conference in Hobart, 3-5 May 2006 entitled 'Waiting for Mary: Process issues in facilitating Indigenous decision-making and managing disputes in an agreement making process.' She presented a revised version of the presentation at the Native Title Conference in Darwin later that month.

IFaMP also ran a workshop for the NTRB Day at the Native Title Conference, within the stream on Training and Development Strategies. A free discussion was held on the establishment of a proposed supported national network of Indigenous facilitators and mediators and the use by NTRBs of IFaMP's Indigenous facilitators and mediators email list. Margarita Escartin from Gurang Land Council spoke of the benefits in using the list to obtain a consultant. Alison Murphy of NTSV and Austin Sweeney of CLC spoke in support of the recent IFaMP pilot training they had received.

#### **Final Project Seminar**

A final seminar of IFaMP findings, recommendations and follow-up implementation



issues was held on 11 July at AIATSIS. The Training Resource Guide was launched at this seminar.

### **Best practice and system analysis – priority projects 2006 – 2009**

The activities of this group require:

- identification of trends and priorities for research and analysis emerging from the recognition and protection of native title
- independent assessment of the impact of practice, policy and legal developments
- recommendations for policy development and improved practice
- collection of data and case study research designed to inform policy development
- solicited research and analysis from native title practitioners and experts
- publication and dissemination of a range of publications to improve knowledge and understanding of native title

### **NTRU Research in 2006 – 2009:**

The NTRU has finalised its 3 year research priorities and determined new projects beginning in July 2006. These new projects include:

- **Prescribed Bodies Corporate** – PBCs are of ongoing policy interest to government and native title claimants/holders. There is no network and little coordinated information about the structure and activities of PBCs. This project will include the development of resources and toolkits for PBCs seeking to access funding and development opportunities and an analysis of the accessibility of such programs and the feasibility of reliance on external/program funding.
- **Taxation, Trusts and the Distribution of Benefits** – the vexed issue of best practice in structuring agreements for taxation, creation of trusts and distribution of benefits from native title remains virtually undocumented. At this early stage it is unlikely that 'best practice' can be clearly identified, however, some good practice examples and invaluable sharing of information and experience will be of significant value.
- **The role of applicants, authorisation and Indigenous decision-making** -

the role of applicants in the native title system is a pivotal one. However, the power and responsibilities held by applicants is managed and exercised differently across native title groups. This project will examine current appointment and management practices and review some of the difficulties that have arisen in the exercise of applicants' powers, including complaints and legal challenges to authorisation. The project will examine examples of Indigenous decision-making structures, both traditional and contemporary, that have led to successful outcomes in authorisation/claim management, agreement-making and implementation, and intro-Indigenous dispute resolution. The outcomes will include recommendations for policy and, if appropriate, legislative reform as well as the identification of best practice.

- **Connection Requirements – stage 2** – the first stage of the project investigated available policy material and gathered qualitative information from the diversity of perspectives affected by the state connection requirements. The data about 'perceptions' now needs to be tested against actual examples of connection reports and state responses.

If you are interested in contributing papers or expertise or wish to partner in these projects please contact us at [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)

### **Workshops**

**ARC - Implementation of Agreements with Indigenous People - Linkage Partners workshop** was held at AIATSIS on 26 June 2006, with people attending from the University of Melbourne, OIPC, The ANU, and Rio Tinto. Following the workshop a meeting of the ARC research team was held on Tuesday 27 June 2006.

### **Databases and management of connection material, 29-30 June at AIATSIS**

On 29-30 June a workshop was held on databases and access issues for representatives of NTRBs throughout Australia. Although all NTRBs were contacted, positive responses came from 13, who sent 23 delegates to the workshop. A grant from OIPC enabled one airfare to be paid for each NTRB



and accommodation for all delegates to be covered.

The workshop arose from the second working session of NTRB representatives at the Darwin conference, which focused on two demonstrations of databases – one from Native Title Services NSW and the other from the National Native Title Tribunal. Because time was limited for discussion, they requested that a workshop be held at AIATSIS in Canberra before the end of the financial year in order to construct a best practice document addressing database structure and content, and ethics and

## **WHAT'S NEW**

### **Legislation**

#### **Recent Cases: Australia**

[Sampi v State of Western Australia \(No 3\) \(2005\) 224 ALR 358; \[2005\] FCA 1716](#)

Litigated determination. Outcome: Native title exists in parts of the determination area

Available at:

[http://www.nntt.gov.au/ntdetermination//1134098706\\_1640.html](http://www.nntt.gov.au/ntdetermination//1134098706_1640.html)

[Mundraby v State of Queensland \[2006\] FCA 436 \(24 April 2006\)](#)

Consent determination. Native title exists in relation to the land and waters.

Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2006/436.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2006/436.html)

[Sampi v State of Western Australia \(No 4\) \[2006\] FCA 760 \(19 June 2006\)](#)

Determination: Native title exists in relation to parts of the determination area. The orders include recognition of exclusive native title rights over parts of the land claimed and non-exclusive native title rights over areas below the mean high water mark. A determination that native title does not exist has been made over Brue Reef.

Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2006/760.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2006/760.html)

[James Dimer on behalf of the Esperance Nyungar People/Paul Winston Askins, James Ian Stewart/Western Australia, \[2006\] NNTTA 70 \(8 June 2006\)](#)

Native title - future act. Application for determination for the grant of exploration licences. The registered native title claimants are deceased. The application was dismissed.

protocols for access and use of connection materials. This document would result in savings for NTRBs who need to update or establish databases by seeing what is already available within NTRBs and learning from their experiences rather than investing in database design all on their own. A report from the workshop will be available shortly on the NTRU website under 'The Future of Connection Material Project'.

[Back to contents](#)

Available at:

<http://www.austlii.edu.au/au/cases/cth/NNTTA/2006/70.html>

[BROWNLEY & ORS -v- MINARA RESOURCES LTD \[2006\] WASC 93 \(25 May 2006\)](#)

Supreme Court of Western Australia

Defendant application to stay the plaintiffs' action and further to strike out certain paragraphs of the statement of claim. In 1997 the defendant entered into negotiations with the Bibila Lungutjarra Native Title Claimant Group (the 'Bibila people') and the Goolburthunoo Native Title Claimant Group (the 'Goolburthunoo people') as part of the process of developing a laterite nickel and cobalt project at Murrin Murrin.

Available at:

<http://www.austlii.edu.au/au/cases/wa/WASC/2006/93.html>

[Bradley Foster & Ors \(Waanyi Peoples\)/Copper Strike Ltd/Queensland; \[2006\] NNTTA 61 \(19 May 2006\)](#)

Future Act Determination. - By consent, the determination of the Tribunal is that the acts, namely the grant of Exploration Permits (EPM) 15071 and 15073 to Copper Strike Ltd, may be done subject to compliance with the terms of the 'Native Title and Heritage Protection Agreement' as filed with the National Native Title Tribunal.

Available at:

<http://www.austlii.edu.au/au/cases/cth/NNTTA/2006/61.html>

[Hamersley Iron Pty Ltd - v - Puutu Kurnti Kurrama Pinikura Native Title](#)

Western Australia. Open Court. Tenements applied for to facilitate infrastructure required for the development of an iron ore mine (Brockman Number 4). The objectors maintain that the applicant did not pursuant to the relevant provisions of the *Mining Act* obtain an entry permit authorising it to enter and mark out the



land the subject of a registered native title claim.

Available at:

[http://www.doir.wa.gov.au/documents/mineralsandpetroleum/wardens\\_decisions/2006WAMW7v2.pdf](http://www.doir.wa.gov.au/documents/mineralsandpetroleum/wardens_decisions/2006WAMW7v2.pdf)

[Nyangatjatjata Aboriginal Corporation & Ors v Registrar of Aboriginal Corporations \[2006\] FCA 606 \(23 May 2006\)](#)

Federal Court of Australia. The Nyangatjatjata Aboriginal Corporation ('the Corporation') and members of its governing committee brought an application for an order for review against a decision made by the Registrar of Aboriginal Corporations appointing an administrator to the Corporation.

Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/606.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/606.html)

[Northern Territory v Alyawarr, Kaytetye, Warumungu, Wakaya Native Title Group \[2006\] HCATrans 251 \(19 May 2006\)](#)

High Court of Australia. Application for special leave to appeal. Available at:

<http://www.austlii.edu.au/au/other/HCATrans/2006/251.html>

[ASHWIN & ORS -v- MINARA RESOURCES LTD \[2006\] WASC 75 \(10 May 2006\)](#)

Supreme Court of Western Australia. This is the return of two applications, both of which raise short but important questions in relation to native title. Both applications were brought by the defendant. By one application, the defendant seeks to have the proceedings (litigation by Goldfields native title claimants over a ten year old agreement) stayed until such time as all proper plaintiffs are identified and joined in the proceedings. By the other application, the defendant seeks to strike out all or alternatively certain parts of the plaintiffs' statement of claim. Available at: <http://www.austlii.edu.au/au/cases/wa/WASC/2006/75.html>

[Kemp v Registrar, Native Title Tribunal \[2006\] FCA 568 \(5 May 2006\)](#)

Federal Court of Australia. The motion sought an order prohibiting building or other works in an area in northern New South Wales. The area is in the jurisdiction of the Greater Taree City Council and is on a headland in the South Pacific Ocean bordered by Khappinghat Creek. The area is known as Khappinghat Nature Reserve and Saltwater National Park.

Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/568.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/568.html)

[Rubibi Community v State of Western Australia \(No 7\)\(with Corrigendum dated 10 May 2006\) \[2006\] FCA 459 \(28 April 2006\)](#)

Federal Court of Australia. Determination of native title. Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/459.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/459.html)

[Jango v Northern Territory of Australia \(No 6\) \[2006\] FCA 465 \(3 May 2006\)](#)

Federal Court of Australia. Application for a determination of compensation, and whether the Court is required to make a determination of native title. Applicants failed to establish that they were native title holders for the area. If they had reached that threshold, compensation would have been payable on the value at the time of the acquisition, not at the time the NTA came into operation. Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/465.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/465.html)

[Manas v State of Queensland \[2006\] FCA 413 \(13 April 2006\)](#)

Federal Court of Australia. Consent determination.

Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/413.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/413.html)

[Nona and Manas v State of Queensland \[2006\] FCA 412 \(13 April 2006\)](#)

Federal Court of Australia. Consent determination. Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/412.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/412.html)

[Determination of native title—Larrakia](#)

*Risk v Northern Territory* [2006] FCA 404 (13 April 2006) Determination that native title does not exist. Available at:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/404.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/404.html)

### **Reported Cases**

(Sourced from NNTT Judgements and Information email alert service and the Federal Court's Native Title Bulletin)

*Anderson & Anor v The Director-General of the Department of Environment and Conservation & Ors* (2006) 144 LGERA 43; [2006] NSWLEC 12

*Moore and Ors v Mungeranie and Ors* (2005) 193 FLR 62; [2005] NNTTA 53

*Sampi v State of Western Australia* (No 2) (2005) 224 ALR 358; [2005] FCA 1567.



## Recent Cases - Other

### DALAM MAHKAMAH RAYUAN MALAYSIA

These are appeals against the decision of the learned Judicial Commissioner of the High Court in Miri, Sarawak made on 21.3.2001 after a retrial of seven consolidated suits between the parties therein concerning the plaintiffs' claims to native customary rights over certain plots of land situated at what was then known as Kampong Dagang, Miri which were taken possession of by the State and the houses thereon demolished to make way for commercial development of the area.

Available at:

<http://www.kehakiman.gov.my/jugdment/coa/lat/est/rayuan%20sivil%20No.Q-01-18-01%20&%20Q-01-22-01.htm>

[Back to contents](#)

## Case Notes

### **Issue:**

The case in *Jango v Northern Territory of Australia* [2006] FCA 318 involved a claim for compensation over the tourist town of Yulara near Uluru under s 61(1) of the *Native Title Act 1993 (Cth)* (NTA). In order to demonstrate their entitlement to compensation, the claimant group needed to establish that they had native title rights and interests over the area at the time the 'compensation acts occurred'. These acts included the granting of freehold leases and the construction of public works which are to said to have extinguished native title between 1979 and 1992.

### **Background:**

The applicants asserted that they and their predecessors held native title rights and interests over the claim area under the traditional laws and customs of the Western Desert bloc until they were extinguished by the compensation acts. These acts include the development of the town of Yulara, Connellan airport and other public works. The claim group did not rely on the fact that they were a 'cohesive or discrete' community but claimed that the current people of the Western Desert were descended from the Western Desert at sovereignty and that the claimants had similar laws and customs as those acknowledged by the Western Desert people. The claimants relied on the fact that indigenous societies were not static. However the respondents argued that the claimants did not establish the members of the claim group acknowledged and observed traditional laws and customs that they

asserted and that the traditional laws and customs were those of traditional laws and customs of the Western Desert bloc.

### **Held:**

The laws and customs governing 'the acquisition and holding of rights and interests in country' were 'central to the controversy between the parties' in the case.<sup>1</sup> The court said that the main issue was whether there was a continuity of the society until the compensation acts were carried out. Justice Sackville found that the evidence of the Aboriginal witnesses in relation to rights and interests in land did not 'correspond to the case pleaded by the applicants'<sup>2</sup> and that the evidence did not present a 'consistent pattern of observance of traditional laws and customs'.<sup>3</sup> As a result, the 'evidence falls short of establishing the existence of a body of laws and customs relating to rights and interests in land that was acknowledged and recognised by members of the Western Desert bloc'.<sup>4</sup> Having found that the claimants had failed to establish their native title rights prior to the compensation acts, the compensation act had not effect on any rights and there the compensation could not be claimed.

### *Other matters:*

Sackville J went further to discuss matters of extinguishment if native title had been proven by the claimants. He found that:

Even though pastoral leases had been granted over the claim area in 1882 and 1896, some native title rights and interests would have survived the claim area since the both leases contained a broad reservation in favour of Aboriginal people.

Therefore, if native title existed, claimants would have a right to compensation as a result of the 'compensation acts' starting at 1979. An entitlement would have arisen at the time of the construction of the public works.

### **Implications:**

The *Jango* decision was a much anticipated case on compensation under the NTA and it

---

<sup>1</sup> *Jango v Northern Territory of Australia* [2006] FCA 318 per Sackville J, [208].

<sup>2</sup> *Jango v Northern Territory of Australia* [2006] FCA 318 per Sackville J, [405-06].

<sup>3</sup> *Jango v Northern Territory of Australia* [2006] FCA 318 per Sackville J, [446].

<sup>4</sup> *Jango v Northern Territory of Australia* [2006] FCA 318 per Sackville J, [446].



was hoped that it would resolve the question of compensation over the extinguishment of native title. However since the claim failed many issues remain unresolved such as the quantum of compensation that can be received by claimants. The case highlights the hurdles faced by claimants when making a successful claim. Claimants need to prove:

they held native title rights and interests prior to the acts of compensation occurring;  
that those rights and interests have not been extinguished by non-compensable acts before the compensation acts were done;  
that the compensation acts had extinguished the native title rights and interests; and  
the amount of compensation that they are entitled to as a result of the compensation act

A failure to establish any of these elements will defeat a claim. This reflects how native title is conceptualised and calculated.

#### Online resources:

For full judgment see:

[http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2006/318.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2006/318.html)

See further for NNTT case details:

<http://www.nntt.gov.au/newsletter/hotspots/issues/19.html>

#### **Risk v Northern Territory of Australia (Unreported, FCA, 17 May 2006, Mansfield J)**

##### Issue:

The Larrakia claim involved a number of claimant applications for the recognition of native title over land and waters in and around Darwin. The main issues that the court had to consider were:

Whether the Larrakia people had established that they held native title rights and interests in the claim area under s 223(1) of the *Native Title Act (Cth)* (NTA)

Where established, the nature and extent of those rights and interests;

Whether native title had been extinguished under the common law or the NTA.

##### Background:

The Larrakia claim covers an area of 30 sq. km. consisting of parts of metropolitan Darwin and its surrounds on the Darwin Peninsular which

was mainly Crown land or land held by the Darwin and Palmerston City Council. The proceedings involved a consolidation of 19 applications filed by three different claim groups (the Larrakia, Quall and Roman applicants). The Larrakia argued that their claim group encompassed the Quall and Roman applications which the Quall applicants, on behalf of the Danggalaba Clan and the Kulumbiringin Clan, argued that the Larrakia were a language group and that they should be recognised as native title holders. The Roman applicants withdrew their claim.

##### Held:

In order to succeed in the claim the Larrakia people needed to satisfy the requirements of s 223 (1) of the NTA. In particular they needed to establish that they are a society united in and by their acknowledgement and observance of a body of accepted laws and customs; that the present day body of accepted laws and customs in essence is the same body of laws and customs acknowledged and observed by the ancestors of members of the Larrakia people adapted to modern circumstances; and that the acknowledgement and observance of those laws and customs has continued substantially uninterrupted since sovereignty in 1825, when the area of the then colony of New South Wales was extended westwards to a longitudinal line west of the Darwin area, and that the society has continued to exist throughout that period as a body united in and by its acknowledgement and observance of those laws and customs.

While recognising that the Larrakia community is a 'vibrant, dynamic society which embraces its history and traditions'<sup>1</sup> which has both strong self and community recognition he found that there was strong evidence of a number of factors that 'affected their continued observance of, and enjoyment of, the traditional laws and customs of the Larrakia people that existed at sovereignty.'<sup>2</sup> Ultimately the court concluded that the present day Larrakia people did not have rights and interests possessed under traditional laws acknowledged, and the traditional customs observed, by the Larrakia people at sovereignty. In reaching his conclusion Mansfield J relied on the majority judgement in *Members of the Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422. He looked at three periods in history and noted that:

---

<sup>1</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J) [839] see also Summary at [11].

<sup>2</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J), Summary [12].



The settlement of Darwin from 1869, the influx of other Aboriginal groups into the claim area, the attempted assimilation of Aboriginal people into the European community and the consequences of the implementation of those attempts and other government policies (however one might judge their correctness), led to the reduction of the Larrakia population, the dispersal of many Larrakia people from the claim area, and to a significant breakdown in Larrakia people's observance and acknowledgement of traditional laws and customs.<sup>3</sup>

In Mansfield J's view, there was a considerable degree of ambiguity and inconsistency in relation to the traditional laws and customs which was caused by a combination of events that interrupted the practice and observance of those traditional laws and customs.<sup>4</sup> He found that a lot of evidence was only given in general terms and that the passing of knowledge was not consistent with the way in which knowledge was acquired from the Larrakia people pre-sovereignty. Mansfield J found that the evolution of those laws and customs as a result of changes 'reflect a sincere and intense desire to re-establish those traditional laws and customs adapted to the modern context' but did not support a determination of native title.<sup>5</sup>

#### Implications:

In reaching his final judgment, Mansfield J considered a number of important issues including: the definition of native title under s 223 (1); what is meant to be determined when making a determination of native title under s 225; and the case law interpreting s 223(1) and s 225 especially *Western Australia v Ward* (2002) 213 CLR 1; [2002] HCA 28 and *Members of the Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422; [2002] HCA 58.

In particular, Mansfield J looked at the majority judgement in *Yorta Yorta* which held that the relevant rights and interests that need to be established under s 223 (1) were those which are derived from traditional laws and customs

---

<sup>3</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J), Summary [12], [812].

<sup>4</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J), [835].

<sup>5</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J), [836].

evidencing a normative society that existed before sovereignty. He said that this affects the meaning of what is meant to be 'traditional' and that the observance of traditional laws and customs must have been "substantially uninterrupted" since sovereignty.<sup>6</sup>

#### Online resources:

See for NNTT summary:

[http://www.nntt.gov.au/newsletter/hotspots/1147248819\\_2000.htm](http://www.nntt.gov.au/newsletter/hotspots/1147248819_2000.htm)

For complete judgement see:

[http://www.austlii.edu.au/au/cases/cth/federal\\_c/2006/404.html](http://www.austlii.edu.au/au/cases/cth/federal_c/2006/404.html)

#### Publications

##### Aboriginal Studies Press

*Compromised Jurisprudence: Native title cases since Mabo*

Lisa Strelein

**\$39.95, pb, ISBN-10 0-85575-533-4, ISBN-13 978-0-85575-533-1**

*Over the past decade, Strelein has been a leader in the field as one of the most concise, sober and reliable commentators on the jurisprudence of the law of native title. Practitioners, scholars, teachers and students would be well advised to add this volume to their collection.*

David Ritter, Faculty of Law, University of Western Australia

*Compromised Jurisprudence* traces the development of the courts' thinking from the original thinking in *Mabo v Queensland [No. 2]* through to the significant High Court decisions in 2002 and the Federal Court's implementation in such cases as *De Rose*. Each chapter contains a discrete analysis of the most significant cases during this period. A timeline maps the trajectory of the key doctrines of native title while the book's conclusion identifies the underlying themes and contradictions in the law. This is the only critical non-textbook analysis of native title law.

#### Forthcoming publications

##### August

*Aboriginal Darwin: A guide to exploring important sites of the past and present*  
Toni Bauman with Samantha Wells

---

<sup>6</sup> *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J) at [52] and [54].



**\$34.95, pb, full colour throughout, ISBN-10 0-85575-446-X ISBN-13 978-0-85575-446-4**

*Aboriginal Darwin* peels back layers to show the rich heritage and complex cultures of Aboriginal people, both before and since colonisation. It includes contemporary and historical sites that range from the harbour to the beaches, monsoon forests, gardens, parks, camping places, exhibitions, cultural displays and buildings in the CBD, supplemented by information about sites not accessible to visitors. Beautifully illustrated, *Aboriginal Darwin's* easy-to-use layout allows users to explore at their own pace. It's a practical guide that offers readers the bonus of an alternative social history of Darwin.

## New and forthcoming releases

### Other

Office of Native Title WA. *Preparing Connection Material: A Practical Guide*.

This new publication is a companion document to the State's Guidelines for the Provision of Information in Support of Applications for a Determination of Native Title, published in October 2004. To obtain a copy of the Guide, please contact Theresa Venz (08) 9222 9605 or email [Theresa.Venz@ont.wa.gov.au](mailto:Theresa.Venz@ont.wa.gov.au).

[\*Ethnohistorical Evidence and First Nations, Metis and Tribal Claims in North America: A Review of Past and Present Experiences with an Eye to the Future\*](#) by Arthur J. Ray, Professor, History Department, University of British Columbia; Woodrow Wilson Center Fellow. It provides useful comparative perspective for anthropologists and historians working in native title in Australia. Available at: <http://www.wilsoncenter.org/events/docs/Aboriginal%20Claims%20Conference%20-%20Skip%20ray%20working%20paper%20%5B%20Revised%5D.pdf>

## Online Publications

### HREOC

Speech, Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and Acting Race Discrimination Commissioner, Human Rights and Equal Opportunity Commission. The Elliott Johnston Tribute Lecture, Flinders University, Tuesday 23 May 2006 [\*From rhetoric to reconciliation - Addressing the challenge of equality for Aboriginal and Torres Strait Islander peoples in\*](#)

[criminal justice processes](http://www.humanrights.gov.au/speeches/social_justice/reconciliation20060523.html) Available at: [http://www.humanrights.gov.au/speeches/social\\_justice/reconciliation20060523.html](http://www.humanrights.gov.au/speeches/social_justice/reconciliation20060523.html)

### Jumbunna Indigenous House of Learning [Journal of Indigenous Policy Issue 5](#)

Available at:

[http://www.jumbunna.uts.edu.au/journals/jip/JIP\\_Issue\\_5.pdf](http://www.jumbunna.uts.edu.au/journals/jip/JIP_Issue_5.pdf)

### National Native Title Tribunal

Please visit the NNTT website at [www.nntt.gov.au](http://www.nntt.gov.au) to download any of these publications.

Determination brochure

[The Mandingalbay Yidinji People's native title determination](#)

Available at:

[http://www.nntt.gov.au/metacard/files/Mandingalbay\\_Yidinji/A2\\_A5\\_Mand%20WEB%20PDF.pdf](http://www.nntt.gov.au/metacard/files/Mandingalbay_Yidinji/A2_A5_Mand%20WEB%20PDF.pdf)

### [Indigenous Fishing Bulletin June 2006](#)

Includes:

- A ranger's claim that a native title ruling over a series of uninhabited Torres Strait islands will stop visitors helping themselves to turtle eggs.

Available at:

<http://www.nntt.gov.au/publications/data/files/Indigenous%20Fishing%20Bulletin%20May%202006.pdf>

### [Library Bulletin May 2006](#)

The latest bulletin of materials recently received in the Tribunal Libraries.

Available at:

<http://www.nntt.gov.au/Library/files/WhatsNewInTheLibraryMay2006.pdf>

### [Library Bulletin April 2006](#)

The latest bulletin of materials recently received in the Tribunal Libraries. Available at

<http://www.nntt.gov.au/Library/files/WhatsNewInTheLibraryApril2006.pdf>

### [Native Title Hot Spots, Issue 19-](#)

recommended for legal practitioners.

Issue 19 includes: Determination of native title in Rubibi; Determination of native title – two more in the Torres Strait; Compensation application over Yulara – Jango case; Determination of native title – Larrakia.



Available at:

<http://www.nntt.gov.au/newsletter/hotspots/issues/19.html>

### **Talking Native Title**

Produced quarterly, *Talking Native Title* presents the latest news from the Tribunal and includes current events, latest agreements, emerging issues for all stakeholders and updates about Tribunal services and staff.

Issue No 19 of Talking Native Title includes:

- Recognition of the Mandingalbay Yidinji people's native title rights
- Sea rights the next step for Torres Strait Islanders
- New jobs created by Koolan Island agreement
- Bush tucker and natural medicine revived on NSW reserve

Available at:

[http://www.nntt.gov.au/metacard/files/TNT19/TNT\\_Issue\\_19%202006\\_Web.pdf](http://www.nntt.gov.au/metacard/files/TNT19/TNT_Issue_19%202006_Web.pdf)

### **Talking South Australia June 2006**

In this issue:

#### *West coast region*

Get a full update on the progress of native title applications for the Far West Coast, Barngarla and other claims in this region.

#### *Southern region*

The Narungga community are close to finalising South Australia's first fishing and aquaculture ILUA in this region.

#### *Northern region*

Intensive work is underway to try and resolve overlap issues in the north of the state. Find out the latest developments for Adnyamathanha #1, Adnyamathanha # 2, Arabunna and Kokatha among others.

Available at:

<http://www.nntt.gov.au/publications/talkingsa2.html>

### **Talking Victoria - June 2006**

In this issue:

New applications: Two new native title claims have been received by the Federal Court – one for the Gunditjmara people and one for the Bunurong people.

Mining exploration and a golf course ILUA

Three Indigenous land use agreements (ILUAs) were registered and celebrated at Bendigo and

Creswick recently. The agreements saw traditional owners involved in new developments, even though their native title claims are still under way.

Melbourne forums

The work of the Indigenous Land Corporation (ILC) was the focus of a presentation by principal legal officer Paul Hayes at the Victoria/Tasmania Registry's May native title forum. Read a summary of his major points and find out what to expect at the July forum.

Available at:

<http://www.nntt.gov.au/publications/talkingvic1.html>

## **Government Publications**

[Native Title Conference 2006: Tradition and Change, Culture and Commerce. Native Title: The Government's Proposals for Reform](#) by The Attorney-General Philip Ruddock MP 26 May 2006. Available at: [http://www.ag.gov.au/agd/www/MinisterRuddockhome.nsf/Page/Interview\\_Transcripts\\_2006\\_Transcripts\\_26\\_May\\_2006\\_-\\_Transcript\\_-\\_Native\\_Title\\_Conference\\_2006](http://www.ag.gov.au/agd/www/MinisterRuddockhome.nsf/Page/Interview_Transcripts_2006_Transcripts_26_May_2006_-_Transcript_-_Native_Title_Conference_2006)

## **Other**

[Towards a new Indigenous representative body](#) by Bob McMullen, 23 March 2006. 'Writing for the Progressive Essay series, Bob McMullen examines the need for an Indigenous representative body to hold government to account, and suggests a number of ways in which such a representative body could be improved'. Available at: <http://www.bobmcmullen.com/files/McMullen%20Bob%20-%20Towards%20a%20new%20indigenous%20representative%20body.pdf>

*Law Report*, ABC Radio National. Discussion with retiring Federal Court judge, Ron Merkel. Hear his frank views on anti-terror laws, native title and migration law. And find out why he's giving up the bench for the life of an envelope-pushing barrister who'll be taking on 'strategic litigation'. [Leaving high office for a higher purpose](#)



Available at:  
<http://www.abc.net.au/rn/lawreport/stories/2006/1644195.htm>

[Gáldu Čála - Journal of Indigenous Peoples' Rights No 1, 2006](#)

Some legal considerations concerning Saami rights in saltwater: The extent of ownership rights in saltwater areas under Norwegian and international law Elisabeth Einarsbøl

Available at:  
[http://www.galdu.org/govat/doc/sjosamisk\\_engli sh.pdf](http://www.galdu.org/govat/doc/sjosamisk_engli sh.pdf)

[Yanyuwa people win Native Title claim](#)

ABC Radio, The World Today - Thursday, 29 June, 2006, 12:30.

Reporter: Sarah Hawke

Available at:  
<http://www.abc.net.au/worldtoday/content/2006/s1674823.htm>

[Exploring Country: A guide to making an exploration and mining agreement](#)

Department of Primary Industry, Fishery and Mines, Northern Territory

Available at:  
[http://kakadu.nt.gov.au/pls/portal30/docs/FOLD ER/DBIRD\\_ME/LAND\\_ACCESS/MINERALS/T ENURE/PDF/EXPLGUIDE.PDF](http://kakadu.nt.gov.au/pls/portal30/docs/FOLD ER/DBIRD_ME/LAND_ACCESS/MINERALS/T ENURE/PDF/EXPLGUIDE.PDF)

*Building Sustainable Communities: Good Practices and Tools for Community Economic Development. Institute for Governance, Canada.*

Commissioned by Indian and Northern Affairs Canada (INAC), this web-based publication was designed by the Institute to systematically capture the knowledge and insights of economic development experts, many of whom were about to retire from the public service. Based on the IOG Memory Stick Program: Capturing Corporate Wisdom for Future Leaders

[http://www.iog.ca/learning\\_centre.asp?pageID=35](http://www.iog.ca/learning_centre.asp?pageID=35), it covers numerous economic development issues, ranging from business development – to employment - to tourism, and provides useful information and links for economic development officers across governments and in First Nation and Inuit communities. Available at:  
[http://www.iog.ca/view\\_publication.asp?area=10&publicationItemID=232](http://www.iog.ca/view_publication.asp?area=10&publicationItemID=232)

[Back to contents](#)

## Upcoming Events

### Conferences

[Land, Memory, Reconstruction and Justice: Perspectives on Land Restitution in South Africa](#)

13-15 September 2006. Houw Hoek Inn (Cape Town, South Africa)

[AAS Annual Conference 2006. Beyond Science and Art: Anthropology and the Unification of Knowledge](#) James Cook University, Queensland, Australia. 27-30 September, 2006

**Indigenous Researchers Forum (IRF)** Adelaide, South Australia

- [Registration Form](#)
  - [Preliminary Program Schedule](#)
- 25 - 27 September, 2006. For further information please contact Leanne Smith Telephone: 08 8302 6784 Facsimile: 08 8302 7034 or Email: [leanne.smith@unisa.edu.au](mailto:leanne.smith@unisa.edu.au)

### Other

**Capacity Building in Indigenous Communities Training Seminar**

Explore a wide range of issues relating to Indigenous communities, with ARDS 'Capacity Building in Indigenous Communities Training Seminars' for 2006. Conducted by RICHARD TRUDGEN, author of the influential book 'Why Warriors Lie Down and Die'

**Capacity Building That Works**

This training will cover both the theory and practice of capacity building techniques effectively applied to local governance, law, economics, health and substance abuse issues.

**Seminar Dates**

Alice Springs 01 - 02 August 2006

Canberra 25 - 26 July 2006

Darwin 05 - 06 September 2006

Nhulunbuy 08 – 09 November 2006

Registration Deadline: One week prior to seminar. Group discounts apply to groups of 10 or more. For bookings and enquiries, phone Alice or Zinnia on (08) 8987 3910 or go to our website: [www.ards.com.au/seminars.htm](http://www.ards.com.au/seminars.htm)

### Recent Events

**Native Title Conference 2006: Tradition and Change, Culture and Commerce**

Darwin, 24 – 26 May 2006.

The Native Title Conference 2006 was attended by 500 conference delegates, with more than 100 speakers presenting over the three days. All native title representative bodies and native



title services from across Australia attended the conference, and made up more than half of the conference delegates. This year people from ten prescribed bodies corporate (PBCs) attended, and they were able to meet together for the first time. The conference conveners would like to thank the Larrakia people and nation for providing such a warm welcome to the conference delegates, and thanks also to everyone who supported and contributed to the event.

See speech by Attorney-General Philip Ruddock [Native Title Conference 2006: Tradition and Change, Culture and Commerce. Native Title: The Government's Proposals for Reform](#) by The Attorney-General Philip Ruddock MP 26 May 2006. Available at: [http://www.ag.gov.au/agd/www/MinisterRuddockhome.nsf/Page/Interview\\_Transcripts\\_2006\\_Transcripts\\_26\\_May\\_2006\\_-\\_Transcript\\_-\\_Native\\_Title\\_Conference\\_2006](http://www.ag.gov.au/agd/www/MinisterRuddockhome.nsf/Page/Interview_Transcripts_2006_Transcripts_26_May_2006_-_Transcript_-_Native_Title_Conference_2006)

Other papers from the Native Title Conference are being uploaded to the conference website as they become available.

Please see <http://ntru.aiatsis.gov.au/conf2006/papers.html>

## Recent Events

### Launch of the 'Intellectual property and Indigenous Knowledge: Access, Ownership and Control of Cultural Materials' Project at AIATSIS

This project, developed by Dr Jane Anderson (AIATSIS) and the Intellectual Property Research Institute of Australia, was designed to address the problem that Indigenous people are generally not the owners of their cultural material. It sought to develop practical solutions to some of these problems as well as to make a number of proposals for future strategies so that the mistakes of the past are not repeated.

The three major outcomes of the project are:

1. a primer on legal issues facing cultural institutions that hold Indigenous cultural material
2. a draft Framework for Community Protocols to enable communities to develop their own guidelines for engaging with people external to the community so that they may protect their traditional knowledge
3. a Research Report which will address five key themes arising from extensive

consultation with Indigenous communities, including: attitudes to the term 'Indigenous cultural property'; information about access and ownership of cultural material; attitudes to the creation and exploitation of Indigenous knowledge; community needs and expectations of intellectual property law; how intellectual property could be used to advance Indigenous interests.

The primer is available on-line at <http://www.ipria.org/publications/index.html>

[Back to contents](#)

## Opportunities

- Call for papers for the Cultural Heritage and Indigenous Cultural and Intellectual Property Rights conference, which will be held in Burra, South Australia, 3rd-5th December, 2006. Abstracts can be submitted on-line at the following URL:

[http://ehlt.flinders.edu.au/archaeology/conferences/Burra%202006/Burra\\_Indigenous\\_2006.php](http://ehlt.flinders.edu.au/archaeology/conferences/Burra%202006/Burra_Indigenous_2006.php)

- Call for papers - Pacific transnationalism: tracing ties to the homelands

La Trobe University, Melbourne, Australia  
20 Nov 2006 to 22 Nov 2006

[http://www.aas.asn.au/News/news\\_item.php?s=&e\\_num=45](http://www.aas.asn.au/News/news_item.php?s=&e_num=45)

- Those interested in enrolling in the **UWA Graduate Certificate/Diploma in Applied Anthropology (Native Title & Cultural Heritage)** mid-year are advised that applications should be lodged by the 24th July 2006; and later by arrangement. However early applications are strongly encouraged. For further information about the course please see:

[http://www.anthropology.arts.uwa.edu.au/home/applied\\_anthropology](http://www.anthropology.arts.uwa.edu.au/home/applied_anthropology)

- This is a **final call for post-graduate papers for the AAS Conference Post-Graduate Symposium** held on Tues. 26th Sept. preceding the main conference. Papers are welcomed on any subject undertaken as research by post-graduate scholars. This day is



intended to provide post-graduates with the opportunity to present at a major conference in a supportive environment.

material directly on to all who kindly responded to my email earlier this year. Thanks. Robert Graham. [ergm@optusnet.com.au](mailto:ergm@optusnet.com.au)

It is a good opportunity to obtain experience in this important aspect of academia. Send proposals to [Kevin.mayo@jcu.edu.au](mailto:Kevin.mayo@jcu.edu.au) There are 3 scholarships available to attend the conference for those presenting papers. For details of these scholarships see the ANSA site at [www.aas.asn.au](http://www.aas.asn.au)

[Back to contents](#)

## Employment

**Queensland South Native Title Services**, a relatively new Native Title services provider is now setting up its **Consultant Register**. Could anthropologists interested in Native Title consultancies in southern Queensland contact me and I can send on the relevant documentation. I will also try and forward this

## NATIVE TITLE IN THE NEWS

### National

09-May-06 **Funding to help Aboriginal people buy their own home** The budget has been expanded to help Aboriginal people to buy their own homes on communal land. About 460 families will benefit from the \$54 million set aside for cheap loans. The loans would be offered at cheap interests rates of 4.5 per cent and are capped at 1 per cent less than the Commonwealth Bank standard home loan. The scheme is currently running only in the Northern Territory but the government wants to 'lure the states into changing their laws to allow home ownership to flourish across the country'. The Government has promoted the scheme believing that 'private home ownership can break the poverty cycle.' According to the 2001 Census data, only 32 per cent of Indigenous Australians own or a repaying for a loan compared to 74 per cent of the rest of the community. Australian, 9-May-06, pg 2.

10-May-06 **Badu ranger program initiated** Badu Island has initiated its own ranger program to 'participate in resource management and community and visitor education'. The program is one of the outcomes negotiated under an Indigenous Land Use Agreement (ILUA) between the Badu and Mura native title holders over the establishment of a radar facility on Pumpkin Island. The project 'ensuring appropriate local management and protection of land' and 'pioneers an approach to

Torres Strait Islander participation in activities that contribute to border protection'. Koori Mail, 10-May-06, pg 30.

10-May-06 **Retiring judge criticises Australia's native title system** Retiring Judge Ron Merkel has said that the current native title system is in a 'state of gridlock and that the only way out is for parties to mediate'. He said that the present system 'imposed demands on the parties and the court that were unprecedented in adversarial litigation'. He said that the process was generally protracted with 'ongoing mediation, [a] lack of financial resources for claimant communities to pursue their claims, the failure to resolve intra-communal disputes and many logistical difficulties' undermining the possibility of reaching mediated outcomes which is a 'better more efficient, more effective and fairer way of resolving native title disputes'. This approach has been supported by Federal Attorney General Philip Ruddock. Koori Mail, 10-May-06, pg 14.

27-May-06 **New rapport developed between mining and Aboriginal communities** The Argyle Mine is producing a 'strong indigenous workforce' with about 25 per cent being Aboriginal a figure which Rio Tinto hopes to double in the next few years. This is a 'radical change in attitude' away from the 'grim warnings and antagonism' that came when Native Title legislation was first introduced. Executive directors of the Mining Council of Australia, Mitchell Hooke said that 'it's the right thing to do but the primary driver is the business case'. The change comes as a result of the labour shortages created by the mining



boom as well as a broader attempt to 'address an extraordinary mismatch' that so much of 'Australia's wealth is produced in areas populated by its most disadvantaged and fastest growing population'. The Indigenous population in more remote areas is well suited to address these labour shortages but there are still significant challenges in training Indigenous staff and developing infrastructure. Australian Financial Review, 27-May-06, pg 20.

01-Jun-06 **Anniversary of National Reconciliation Week** This week marks the 10th anniversary of National Reconciliation Week which provides an opportunity to reflect on the 'reality that there is still much to be done to build relationships' and 'hear about the culture and history of the nation's indigenous people and to explore new and better ways of meeting the challenges' faced by the Aboriginal community. It also coincides with the 1967 referendum which removed discriminatory clauses from the constitution and the High Court Mabo judgment which recognised native title rights and interests. Bendigo Advertiser, 1-Jun-06, pg 8.

03-Jun-06 **Customary law a part of native title claims** The breakdown of customary law can lead to the diminished success of native title claims. Graham Hiley QC has said that 'proving an ongoing connection to land going back to sovereignty was an essential requirement'. Accordingly, if groups 'no longer maintain and observe traditional law and customs relating to land it could cause a claim to fail'. This view was affirmed by National Native Title Tribunal President Graeme Neate. Some examples of traditional societies exist in Arnhem Land, Cape York and in the Torres Strait Islands but where there has been a substantial degree of development the system breaks down. Mr Hiley said that 'with the recent negative focus on some indigenous community member's criminal actions...it is important to note the difference between criminal law and customary law'. Cairns Post, 3-Jun-06, pg 6.

21-Jun-06 **Agreement making is the best way forward** National Native Title Tribunal president, Graeme Neate has argued that agreement making is 'one of the most practical ways to resolve native title issues' and that events of the last three months have reaffirmed this. He said that 'groups are increasingly choosing to reach agreement' with 'about 80 per cent of the 59 determinations that native title exists have been made by agreement'. According to him 'these types of determinations give parties...greater say in what the

determination contains.' Other agreements such as Indigenous Land Use Agreements may also be a 'stepping stone on the way to a native title determination or may be part of the determination process'. Through agreements parties can gain benefits such as employment, compensation and recognition and lead to 'constructive working relationships' through 'developing an understanding of each other's perspectives'. Koori Mail, 21-Jun-06, pg 28.

21-Jun-06 **MCA and Government join in major initiative to address Indigenous employment** The Minerals Council of Australia (MCA) and the Federal Government have entered into a 'strategic partnership' to 'work together with indigenous communities to facilitate industry's commitment that the socio-economic benefits of mining and minerals processing are shared with communities affected by its operations'. A number of partnerships are being trialled in the Pilbara region, Wiluna, Boddington and Kununurra, Tanami region and Western Cape after the signing of a Memorandum of understanding in June 2005. The partnerships 'aim to be responsive to local conditions and concerns and build new projects and expand on those that are already working and commit to achieving real improvements'. Koori Mail, 21-Jun-06, pg 6.

## ACT

13-May-06 **ACT Indigenous groups back new representative body** The Indigenous community in the ACT has backed a proposal to set up a new representative body to represent their interests in the territory. In its report to Chief Minister Jon Stanhope, the Aboriginal and Torres Strait Islander Consultative Council 'called for an elected body, created through legislation and with bipartisan support, to replace the current council'. The body is designed to replace the role of the abolished Aboriginal and Torres Strait Islander Commission and 'lobby for changes in funding and programs'. The Government will formally respond to the report at the end of the year. Canberra Times, 13-May-06, pg 11.

## New South Wales

27-Apr-06 **Handback will return significant sites back to traditional owners** The ownership of the Gulaga and Mumbulla Mountain has been transferred to the Wagonga,



Merrimans and Bega local Aboriginal land councils. The registration of owners has been managed by the Department of Aboriginal Affairs. Claimants need to 'prove they are descendants of at least one of the 25 original families...and have a cultural association with the lands'. Under the agreement the parks will remain open to the public and money paid by the Government will be put into the land. Sydney Morning Herald, 27-Apr-06, pg 8.

10-May-06 **NSW heritage group named** A new committee has been formed to advise the New South Wales Government on 'identifying, assessing and managing the State's Aboriginal cultural heritage'. The 11 member committee has been established under the National Parks and Wildlife Act. The members represent Aboriginal Elders, registered native title claimants and Aboriginal owners registered under the Aboriginal Land Rights Act and the NSW Aboriginal Land Council. Koori Mail, 10-May-06, pg 26.

13-May-06 **Land Council set to reject sale** The Worimi Local Aboriginal Land Council will consider a resolution about a disputed land sale at Port Stephens. The land was sold to the Winten Property Group which the land council believes was undervalued. The administrator wants the transaction to be 'declared void on the grounds it did not comply with the Aboriginal Land Rights Act'. Worimi elders have said that there were 'significant cultural sites' on the land and did not want it to be 'disposed of'. Newcastle Herald, 13-May-06, pg 21.

23-May-06 **RTA's report circulating** A report into the historical significance of the areas designated for the Coolac bypass has been circulated. Neville Williams a Wiradjuri elder asked for the study and said that the 'ball is in the RTA's court and it is up to them to decide when work commences'. Daily Advertiser, 23-May-06, pg 5.

24-May-06 **Land sale meeting** The sale of land at Shoalhaven Heads will be discussed in a meeting of the Jerrinja Local Aboriginal Land Council after City Councillor Gareth Ward moved a notice requesting the council to encourage JLALC to sell the land. Matt Brown member for Kiama said that he saw the sale as 'an issue of land management' and that the 'best way forward is for the two communities to sit down and discuss a way forward'. South Coast Register, 24-May-06, pg 2.

27-May-06 **Sandon Point launch buyback plan** Sandon Point activists have launched a

plan to raise \$20 million to buy back land. The campaign was initiated by the Sandon Point Community Picket and Aboriginal Tent Embassy (SPATE) and the Northern Illawarra Residents Action Group (NIRAG) who hope to 'buy about 40 ha of land owned by Stockland'. Illawarra Mercury, 27-May-06, pg 15.

28-May-06 **NSW land claim amended** The National Native Title Tribunal has approved amendments to a claim over land located in Murray and Alice Streets in Wentworth. The application has incorporated additional names. Mildura Independent Star, 28-May-06, pg 5.

02-Jun-06 **Land to be returned to traditional owners** The State Government is moving towards handing back 'thousands of hectares of sand dunes on Stockton Bight to the Aboriginal community'. Under the scheme ownership of the land will be transferred and leased back to the Government to 'be run as a national park, with money for the lease paid to the park's board of management to help run the park'. Half of the board will consist of registered traditional owners who will 'set up a plan of management for the park' which may affect public access to 'culturally sensitive areas'. Newcastle Herald, 2-Jun-06, pg 5.

07-Jun-06 **Court ruling in Darkinjung claim welcomed** The NSW Minister for Aboriginal Affairs Milton Orkopoulos has welcomed the decision of the Land and Environment Court dismissing a claim by the Darkinjung Local Aboriginal Land Council (DLALC). The DLALC had been involved in a deal in which a waterfront property at The Entrance was sold for \$42 million after which the Minister appointed an administrator. He said that the message to the land council 'has been clear from day one; you are required to operate within the law the same as everyone else'. The Minister said that he despaired the 'wasted money of land councils in these legal actions' and that the court ruling 'provided another reason why the upcoming review of the Aboriginal Land rights act was so important'. Koori Mail, 7-Jun-06, pg 13.

14-Jun-06 **Residents demand to limit mines** Residents from the Gloucester district have 'mounted a counterattack against...mining companies they believe are threatening the fabric of their community'. After a public meeting residents formed the Barrington-Gloucester-Stroud Preservation Alliance to oppose the expansion of two coal mines and the issue of gold exploration licenses. The group's deputy chairman, Tony Tersteeg said



that the Gloucester was a 'farming and tourist community and if all these mines go ahead they will change the entire structures of [the] environment and...economy'. The alliance has been supported by Aboriginal groups. Newcastle Herald, 14-Jun-06, pg 18.

15-Jun-06 **Riding ban on Muswellbrook Common** The Muswellbrook Common has been made 'off-limits' to recreational trail bike riders by the Aboriginal Land Council, Wanaruah who took ownership of the area under the Aboriginal Land Rights Act three years ago. The land council 'fear[s] that any injury sustained by a rider could result in the land council being liable'. Newcastle Herald, 15-Jun-06, pg 53.

15-Jun-06 **Report on land council shows money squandering** In a report prepared by an administrator appointed to the Darkinjung Local Aboriginal Land Council, it was revealed that the council had spent \$6.9 million 'on legal fees and various other pursuits that had borne little benefit to members'. Under law, 'proceeds from the sale of land must be used for the benefit of all members of the local Aboriginal land council'. The land council recently earned \$42 million from a sale of land near The Entrance. Newcastle Herald, 15-Jun-06, pg 19.

21-Jun-06 **Land council to sell land** The Worimi Local Aboriginal Land Council will potentially earn 'millions of dollars' after sand extraction will begin on land at Salt Ash. The council has passed a resolution to enable extraction and is awaiting approval from the NSW Aboriginal Land Council. Newcastle Herald, 21-Jun-06, pg 21.

21-Jun-06 **State Government's handling of sensitive Indigenous issues criticised** Chris Illert, Northern Illawarra Aboriginal Collective (NIAC) general manager has 'lashed out at the State Government's handling of sensitive Aboriginal Issues'. He said that the state was 'intentionally avoid[ing] concerned Aboriginal groups in an attempt to pursue mining around major dams and waterways'. He said that the NIAC was demanding a formal commission inquiry into the issue. Wollongong Advertiser, 21-Jun-06, pg 1.

## Northern Territory

01-Mar-06 **Newcastle Waters claim test case** The native title claim over a pastoral lease in the Northern Territory has been described as a 'test case'. The case is currently being heard by the Federal Court which has received evidence

from traditional owners such as Pompey Raymond. Land Rights News, 1-Mar-06, pg 8.

01-Mar-06 **Subdivision a first for Aboriginal land** The land within the Nhulunbuy, the mining town north east of Arnhem Land will be subdivided to build the Malpi village in Nhulunbuy which will include 29 houses and unites that are financed from mining royalties from the Alcan bauxite mine. Land Rights News, 1-Mar-06, pg 18.

28-Apr-06 **Handover of Northern Territory Parks** The Yulara and Larrakia claims have prompted the Northern Territory Government to take note of the decisions and reconsider the handover of Territory Parks to Aboriginal ownership. After receiving advice that the ownership of Territory Parks could be challenged under the Native Title Act, the Chief Minister Claire Martin decided that the government would not challenge this in the courts but negotiate the handover of the parks with Aboriginal Interests and lease back arrangements. However these recent decisions have prompted a call by Dr Richards Lim to reconsider this decision. Territory News, 28-Apr-06, pg 5.

05-May-06 **Amendments to the Radioactive Waste Management Bill 2005 maximise the rights of traditional owners on land** The amendments to the *Radioactive Waste Management Bill 2005* moved by Senator Nigel Scullion 'ensure[s] that claimants are party to the negotiations and minimise possible legal challenges in the future'. Norman Fry, Chief executive of the Northern Land Council (NLC) has 'agreed to work with the Commonwealth Government to help secure a site for nuclear waste'. However the 'problem is that although the traditional owners from the land trust are able to give permission to build the facility at least some of them feel they haven't been given the full picture.' Tennant & District Times, 5-May-06, pg 6.

05-May-06 **Home ownership on Aboriginal land** The Tiwi Islands traditional owners have committed to negotiate an agreement to allow for home ownership and commercial business on their traditional land at Nguiu on Bathurst Island. In exchange, the Federal Government has pledged an additional \$10 million to establish a college on the island. This follows changes to land rights laws that 'make it easier for developers and indigenous groups to negotiate'. This agreement also commits the traditional owners to further negotiations to allow for 99 year leases which would promote



private home ownership and alleviate the housing crisis in the community. Geelong Advertiser, 5-May-06, pg 8; Shepparton News 5-May-06, pg 14; Newcastle Herald, 5-May-06, pg 2; Adelaide Advertiser, 5-May-06, pg 27; Age 5-May-06, pg 2; Toowoomba Chronicle, 5-May-06, pg 14; Illawarra Mercury, 5-May-06, pg 14; Sunday Territorian, 7-May-06, pg 14; Border Mail, 5-May-06, pg 12; Barrier Daily Truth, 5-May-06, pg 8.

09-May-06 **Nuclear waste site near Tennant underway** There have been proposals to build a nuclear waste facility on Indigenous owned land near Tennant Creek. Negotiations have been going on between the Northern Land Council and the traditional owners of the Warlmanpa Land Trust who have been asked to allow the water depository to be built on the Indigenous owned Station. The station was not originally on the short list drawn up by the Federal Government but under new amendments to Territory law 'traditional owners could ask for the facility to be built on their land'. Northern Territory News, 9-May-06, pg 2.

11-May-06 **NT courts call for Indigenous access** Chief Justice Brian Martin from the Northern Territory Supreme Court has said that 'courts should make every effort to sit regularly in indigenous communities'. However he said that the permit system controlling access to Aboriginal communities meant that there was a 'potential for conflict between the fundamental policy that the sittings of the court are conducted in public and are open to view'. Jon Tippett, president of the NT bar association said that 'courts should not sit on Aboriginal land if media access could not be guaranteed in open court proceedings'. Australian, 11-May-06, pg 17; Northern Territory News, 13-May-06, pg 232.

14-May-06 **Land Council lodges appeal** The Central Land Council has lodged an appeal against the Federal Court's dismissal of a compensation claim over land extinguished in Yulara. The appeal will be heard by the Full Bench of the Federal Court in Darwin in November. The court will also consider the Larrakia claim. Sunday Territorian, 14-May-06, pg 12.

20-May-06 **NT Government loses a land battle** The Northern Territory Government has lost the Davenport Murchison claim after an 11 year battle. As a result, the Alyawarr, Kaytetye, Warumungu and Wakay peoples will have native title over 1143sq km of land near Tennant Creek. They will have the right to hunt

and live in the Davenport Murchison National Park which is jointly managed by the Parks and Wildlife service and Indigenous groups. Northern Territory News, 20-May-06, pg 3; Centralian Advocate, 26-May-06, pg 20.

22-May-06 **Native Title Conference** About 500 traditional owners, academics, legal counsel and government representatives are expected to attend the national native title conference in Darwin. Northern Territory News, 22-May-06, pg 4.

22-May-06 **Parks campaign continues** A 'save our parks' campaign to prevent national parks being returned to traditional owners continues in the Northern Territory. Campaigner Francoise Builder says that 'parks are free, they are for everybody, so why hand it to a group of people and then lease it back with taxpayer's money'. Northern Territory News, 22-May-06, pg 8.

29-May-06 **Book of native title published** The Australian Institute of Aboriginal and Torres Strait Islander Studies has published a book by Dr Lisa Strelein exploring the flaws in native title in Australia. *Compromised Jurisprudence: Native title cases since Mabo* looks at the native title case law in Australia. Northern Territory News, 29-May-06, pg 5.

31-May-06 **Land Rights Amendments** Labor has acknowledged in an official media release that the proposed amendments to the Aboriginal Land Rights (Northern Territory) Act includes a number of means that 'facilitate economic development' but wants to ensure that 'traditional owners are not pressured into trading off their legal rights in return for basic entitlements'. Media release, 31-May-06, pg 57.

01-Jun-06 **New deal for land councils under changes to the Aboriginal Land Rights (Northern Territory) Act** Land Councils will no longer be 'guaranteed funding' and Indigenous people 'unhappy with their performance will be able to set up representative bodies in competition'. Mining and developments will also be 'easier to negotiate'. Under the changes the Federal Government will also handover the role of monitoring negotiations to the Northern Territory Government. Sydney Morning Herald, 1-Jun-06, pg 4.

01-Jun-06 **Opportunity to buy leases on communally owned land** Indigenous Australians in the Northern Territory have been given the opportunity to buy 99-year leases on communally-owned land. This allows individuals



to 'buy their own homes and set up commercial enterprises' and will be 'eligible for low-interest mortgages'. The amendments to the Aboriginal Land Rights Act also 'curbs the power of the land councils'. However Federal Indigenous Affairs Minister Mal Brough said that the changes meant that 'Aborigines now had a greater opportunity to prosper and land councils had been made more accountable'. The reforms will also 'speed up' exploration and mining applications since 'communities will have the power to approve mining and other commercial applications' without referring to land councils. Northern Territory News, 1-Jun-06, pg 2; Northern Territory News, 2-Jun-06, pg 12; Kalgoorlie Miner, 3-Jun-06, pg 12.

**01-Jun-06 Indigenous lease plan criticised** Money paid to Indigenous Australians as compensation will be used by the Federal Government to 'fund housing and to encourage traditional owners to lease out their land'. '[I]nstead of using public money to pay rent to traditional owners...the funds will come from the Aboriginal Benefits Account which holds mining royalties...on behalf of indigenous communities'. About 30 per cent of money collected from royalties is retained for spending on communities. The government has been criticised for using the benefits account money and also capping the rent payments at 5 per cent. Age, 1-Jun-06, pg 6.

**01-Jun-06 Canadian alliance funds exploration in the NT** Energy Metals Ltd has received a cash injection from Denison Mines Inc which will 'fast track exploration of the high-grade Bigrlyi deposits and the recently acquired Ngalia tenements'. Three of the tenements are on aboriginal freehold land. Energy Metals and Strike Resources hold contiguous tenements in the area and were invited to give presentations to the Warlpiri Aboriginal community on 'land access matters in an effort to advance the grant of various tenements in the area'. Paydirt, Jun-06, pg 66.

**01-Jun-06 NT project closer to reality** Olympia Resources Ltd is 'on the verge of bringing its Harts Range abrasive project on stream'. An Indigenous Land Use Agreement (ILUA) has been negotiated with traditional owners and the Central Land Council (CLC). Heritage clearances have also been conducted on the mining site. Paydirt, Jun-06, pg 62.

**02-Jun-06 Mining deal creates more jobs** A business charter has been signed between Alcan and Yirrkala Business Enterprises. The agreement formalises a 30 year commercial

relationship between the two companies and 'aims to strengthen indigenous economic independence in north-east Arnhem Land'. Alcan acting site manager Alister Field said that 'it outlines joint objectives and business principles with particular emphasis on creating mainstream employment opportunities for Yolgnu people'. Northern Territory News, 2-Jun-06, pg 31.

**03-Jun-06 Prospect of nuclear waste facility on Aboriginal land firmed** The federal government has legislated for the transfer of nuclear waste to the Northern Territory where it will be stored on the Aboriginal owned Muckaty Station. An NLC spokesman has confirmed that the land council has joined a federal reference group and its executive council has visited the Lucas Heights to inspect the facilities in Sydney. National Labor Party president Warren Mundine has also welcomes the domestic nuclear waste industry. Australian Financial Review, 3-Jun-06, pg 4; Land Rights News, 1-Mar-06, pg 3.

**07-Jun-06 Respected leader dies in red centre** The son of land rights activist, Vincent Lingiari has died of a heart attack. His father lead the Wave Hill walk off in 1966, was a former land council executive and member of ATSIC. His death has been felt by the Gurindji community. Northern Territory News, 7-Jun-06, pg 5.

**07-Jun-06 Northern Land Council worried about Act changes** The Northern Land Council (NLC) has raised concerns about the new amendments to the Land Rights Act. NLC chief executive Norman Fry said that the 'amendments appeared to breach the Racial Discrimination Act [and] aimed at breaking up land councils by removing financial independence and terminating valid land claims'. He said that 'the proposal that land councils be forced to delegate land use functions to small corporations, and prioritise scare resources to them is unworkable and inefficient and will promote dispute and jeopardise development outcomes'. Koori Mail, 7-Jun-06, pg 3.

**09-Jun-06 Permit ban is not a quick fix** The Northern Territory Anti-Discrimination Commissioner Tony Fitzgerald has said that the 'Aboriginal land owners are entitled to require permission to enter their land in the same way as do owners of pastoral properties and private urban residences'. He said that the 'relaxation of the permit system unfairly deprives Aboriginal land owners of a right enjoyed by



every other land owner in Australia'. According to him, 'rather than unilateral removal of the Aboriginal entitlement to regulate access to their land, the sensible way to assess alleged links between permits and social conditions is to include Aboriginal land owners in discussions about [the] complex issue'. Centralian Advocate, 9-Jun-06, pg 8.

13-Jun-06 **Labor will reject land rights plan** Labor will vote against the proposal of ALP president Warren Mundine to 'offer Aborigines the chance to buy their own homes'. Labor Indigenous affairs spokesman Chris Evans said that Labor will not support the Aboriginal Land Rights (Northern Territory) Amendment Bill in its current form. The bill 'enables traditional owners of Aboriginal land in the Northern Territory to sell entire towns to anyone, black or white' which Labor believes 'goes too far and under mines the integrity of an act which aims at protecting the rights to land of traditional owners'. The Federal Government wants the system to be 'adopted nationally' but Senator Evans said that Labor 'backed 'real measures' aimed at economic development on Indigenous land and encouraging the home ownership aspirations of Indigenous Australians'. He said that with the current laws the government had failed to 'strike the right balance'. The Northern Territory's Chief Minister Claire Martin backed the changes but Senator Evans said that the 'most controversial elements of the bill including the 99-year leasing provisions and additional ministerial powers...were not recommended by any of the three reviews in the past nine years'. Labor is also concerned that the provisions will also undermine the 'independence and functions' of land councils. Media Releases, 13-Jun-06, p 33; Australian 16-Jun-06, pg 4.

13-Jun-06 **ALP wishy washy on land ownership for Indigenous people** Mal Brough has said that the details of the reforms to the Land Rights Act were announced in November and Labor had 'plenty of time' to review the amendments. Mr Brough also said that the amendments come from joint submissions by the land councils. According to him, the 'leasing scheme is voluntary and the leasing of a township cannot proceed without approval of the local traditional owners'. He said that 'these are hard decisions aimed at breaking welfare dependencies and providing real opportunity to participate in the market economy and start the long term process of allowing indigenous Australians to share in the prosperity the rest of the country enjoys'. Media Release, 13-Jun-06, pg 47.

16-Jun-06 **Land Rights Act Amendments criticised** The Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs, the Hon Warren Snowden, said that the Bill to amend the Land Rights Act was a 'short cut to disaster'. He found that there was an 'unwillingness to negotiate appropriate amendments' with the 'creation of smaller land councils' and 'unnecessary proposals for leasing Aboriginal Land' creating a 'recipe for disaster'. He said that Aboriginal communities or groups should have been consulted and given an opportunity to express their views and that the amendments 'undermine the integrity of the Land Rights Act'. Territory Times, 16-Jun-06, pg 7; Media Release, 19-Jun-06, pg 69; Territory Times, 23-Jun-06, pg 6.

19-Jun-06 **Land Rights Act needs to be scrutinised** Democrats deputy leader, Andrew Bartlett says that changes to the *Land Rights Act* needs to be scrutinised and 'referred to a parliamentary inquiry'. Northern Star, 19-Jun-06, pg 30.

19-Jun-06 **Government pushes for land leases** The Federal Government has asked the Galiwin'ku community to support long-term private leases on communal land in return for housing and jobs'. In exchange Indigenous Affairs minister Mal Brough has 'promised to fund the construction of about 50 new houses, provide more work-for-the-dole funding, jobs and additional land and sea rangers.' He is promoting the uptake of the leases to 'encourage home ownership and business development' and said that it was not a matter of 'giving up rights'. The community has been given two months to decide. Media Release, 19-Jun-06, pg 71; Herald Sun, 20-Jun-06, pg16.

21-Jun-06 **Mining handbook launched** The Mines and Energy Minister Kon Vatskalis has launched 'a new handbook designed to assist partnerships between mining companies and traditional owners'. The handbook aims to 'promote Aboriginal employment in the mining industry' and show that 'Aboriginal partnerships do work, they bring mutual benefits, and making an agreement with the community is the way to succeed'. Katherine Times, 21-Jun-06, pg 9.

25-Jun-06 **Government denies nuclear waste site deal** The Federal Government has denied that a deal has been made to place a nuclear waste site on the Muckaty Station near Tennant Creek. A spokesman for the Federal Science Minister Julie Bishop said that the owners of the station have not 'officially offered their land and it is not one of the sites being considered by the



current review'. The Northern Land Council has also denied the report. Sunday Territorian 25-Jun-06, pg 4.

## Queensland

01-Apr-06 **Native title claim over Mornington Island** The Lardil, Yangkaal, Gangalidda and Kaiadilt people have lodged a claim over an area of Mornington Island to 'exclusively use and occupy some land and waters on the island for hunting, fishing and camping purposes'. The National Native Title Tribunal public affairs officer said that the claim had passed the registration test and that they had a 'fairly good chance' since native title has been proved in the area. North West Country, Apr-06, pg 12.

26-Apr-06 **Badu and Mua (Moa) recognised as traditional owners** The Badu and Mua (Moa) have been recognised as traditional owners in the Torres Strait over 80 uninhabited islands, islets and rocks located in the Western group of Islands. Torres Strait Regional Authority (TSRA) chairman Toshie Kris welcomed the decision saying that the consent determination 'recognises that traditional owners continue to protect and enjoy their traditional rights'. He said that the result was a 'formal acknowledgement' from the Federal Court that cultural ties to land and sea continue to exist today. The claim was initially filed in the Federal Court in 2002 and one of the 20 successful consent determinations out of 27 in the area. Koori Mail, 26-Apr-06, pg 34; Tablelands Advertiser, 26-Apr-06, pg 20.

02-May-06 **East point development delayed** The development of the East Point spit near Mackay harbour has been delayed by a series of native title claims from 1997 to 2003. During that period about 10 claims were 'whittled down to three legitimate claims and the signing of an Indigenous Land Use Agreement aided the process'. The development also faces a number of other hurdles from conservationists. Daily Mercury, 2-May-06, pg 15.

03-May-06 **Wild Rivers Act impacts on native title rights** In its submission to the Queensland Government, the Cape York Land Council (CYLC) criticised Premier Beattie's Wild Rivers Act for 'its impact upon the Native Title rights of the indigenous people of Cape York'. Michael Ross, CYLC chair, said that the 'law impacts Native Title and yet the State Government refuses to meet and negotiate a solution with traditional owners'. He said that under the Native Title Act 'acts that affected Native Title

rights required consultation with Native Title holders and payment of compensation' which the Queensland government had ignored. The legislation aims to protect rivers in non-settled areas for exploitation and impacts on the predominantly Indigenous communities living in the area by restricting their ability to 'clear any timber, build any business or home, build any enterprise or mine, on or near rivers on their own land'. Ross said it will 'destroy development opportunities and economic prospects of indigenous people'. Noel Pearson from the CYLC has said that it was 'ludicrous' for the Government to talk about economic independence and then legislate to preclude that opportunity. Indigenous groups and pastoralists have 'joined forces' to oppose the laws. At the old Musgrave telegraph station at the weekend both groups have resolved to oppose the legislation that 'prevent[s] any development or use of river systems away from the state's large population areas'. Pastoralists contend that the 'legislation was introduced without consultation and prevents them from making improvements to their cattle stations'. The influence of environmental groups has led to the enactment of the legislation which graziers and Indigenous people claim would curb development. Mr Pearson said that the 'way that this policy will work out is that indigenous people will die on welfare (with) no prospect for development, no prospect of jobs (or) even developing the lands that they already have'. The state Department of Aboriginal and Torres Strait Islander Policy also said that the 'real concern is the prescriptive nature of the policy that delivers an end product that services environmental outcomes without due consideration of their social and economic impact'. Cooktown Local News, 3-May-06, pg 7; Western Cape Bulletin, 4-May-06, pg 3; Weekend Australian 6-May-06, pg 29; Weekend Australian 3-Jun-06, pg 29; Australian 5-Jun-06, pg 7; Cairns Post, 6-Jun-06, pg 9.

12-May-06 **Land rights payouts will benefit community** Native Title rights have been used by the six families to benefit the South Burnett. The traditional owners have created a working group with the Rio Tinto to assess how the money would be spent. The money would be then be given to the Wakka Wakka Cultural Heritage Aboriginal Corporation and the Aboriginal Community Interest Consultative Committee to distribute the money ensuring that 'Native Title rights helped the regional community rather than individuals'. Projects have included the renal unit at Cherbourg, the Barambah Valley store and the Murgon Art Gallery. South Burnett Times, 12-May-06, pg 5.



20-May-06 **Sacred site on the path of a runway** Indigenous groups have said the extension of the Gold Coast airport will destroy a sacred site. A midden - a site made of shells, bones, charcoal, cooking stones and stone tools - is in the pathway of the extension project. Native Title committee member Wesley Aird said that the 'desecration' was 'another example of big business breaking the law and dismissing the concerns of Aborigines'. The site has both 'scientific, social and regional significance' and 'plays a key role in understanding the way indigenous people used land'. Gold Coast Bulletin, 20-May-06, pg 27; Tweed Sun 25-May-06, pg 3.

25-May-06 **Native Title recognised in North Queensland** The federal court has recognised the Mandingalbay Yidinji people's native title rights over 3 140 hectares of land south east of Cairns after a 7 year legal fight. The Mandingalbay Yidinji people can 'now undertake their traditional activities and help manage and protect the land'. However the decision covers 'only part of [the] clan's country with the rest...tied up in a combined claim that is still to be determined'. Cairns Post, 25-Apr-06, pg 6; National Indigenous Times, 4-May-06, pg 11; Koori Mail, 10-May-06, pg 15.

27-May-06 **Native title claim lodged** The Gugu Badhun people have lodged a claim over 9470sq km area north-west of Townsville including parts of Thuringwa and surrounding shires. The claim mainly involves pastoral leases. Townsville Bulletin, 27-May-06, pg 32.

30-May-06 **Native Title respected in Roma** In the area around Roma 'companies must negotiate with one the native title applicants for the Mandandanji as well as all individual landowners' before laying down pipe lines. It is 'within the industry's responsibility to negotiate with both groups and provide adequate compensation and cultural protection measures for any of the routes on which the plan to lay pipes'. Western Star, 30-May-06, pg 24.

31-May-06 **Gold Coast airport maintains that it did consult Indigenous groups** The Gold Coast airport has 'denied not consulting with local indigenous groups' about the impact of a planned runway extension. The airport's management said that the 'they [had] gone beyond fulfilling their legal responsibility and tried to communicate with all community groups'. Details of preserving the culturally significant site have been included in the Cultural Management Plan for the site.

However traditional owners say that the airport has not done all that it can to protect the site. Daily News, 31-May-06, pg 7.

07-Jun-06 **Academic explains why native title polarises** The third annual James Cook University Mabo Lecture will be based on 'why native title tends to polarise Australians'. The lecture will be delivered by Prof Larissa Behrendt. Cairns Post, 7-Jun-06, pg 5.

07-Jun-06 **Dam will put cultural heritage at risk** The proposed Traveston Crossing dam will impact on four recorded cultural heritage sites that have been registered at the state level. In the Cooloola Shire Councils submission on the proposed dam, it was revealed that the dam will 'destroy several known areas of Aboriginal archaeological significance' to the Kari Kabi, Butchulla and Wakka Wakka people. Gympie Times, 7-Jun-06, pg 5.

07-Jun-06 **Traditional owner board established** A traditional owner board with representatives from five tribal groups has been set up to engage Indigenous people in natural resource management in the Condamine River catchment. The board will 'play a major role in the protection of significant local cultural heritage sites' and was set up after a consultation process between the Condamine Alliance and traditional owners. The alliance is responsible for managing environmental and community projects in the area. Jerome from the Jarowair people said the 'organisation is the start of a process to eliminate all the negative things that have happened over the past 200 years'. Koori Mail, 7-Jun-06, pg 67.

14-Jun-06 **Cape York sites to be protected** Conservationists, the state Government, graziers and Indigenous groups are in negotiations over a number of sites in Cape York along the Normanby River and the McIlwraith Ranges. Some of the areas include the sand dunes of Shelburne Bay, the floodplains by the Normanby River and Australia's largest stands of old growth hoop pine. Environment Minister Desley Boyle said that 'we have already put a stop to mining at Shelburne Bay and are negotiating with the local Wuthathi people'. Cairns Post, 14-Jun-06, pg 6.

21-Jun-06 **Agreement signed with Kalkadoon people** The Kalkadoon people have signed an agreement with Universal Resources for the Roseby copper and gold mining project after a year of negotiations. The agreement will allow Universal Resources to mine on five leases in



exchange for business opportunities, training and employment, compensation and cultural heritage management. The value of the agreement has not been disclosed with up front payments contingent on the value of copper. The company will also 'help in the submission of contracts for tender work' but 'will nit show preferential treatment'. North West Star, 21-Jun-06, pg 1.

**22-Jun-06 Wild Rivers moratorium should be extended** The State Government has announced a moratorium to the Wild Rivers legislation in the Cape York region but industry and community groups want it to be extended to include all at-risk river systems. Acting Premier Anna Bligh said that 'the Government was committed to the protection of Queensland's wild rivers but...wanted to get the balance right'. The decision was in response to issues raised by a number of stake holders including pastoralists and Indigenous communities. AgForce lobbied for the moratorium saying that it had the potential to 'shut-down future development in North Queensland'. Similarly, Indigenous leader Noel Pearson said that the legislation threatened the 'future viability of indigenous and non-indigenous communities in the region'. However Regional Chairman of the Carpentaria Land Council said that some areas covered under the legislation were an 'important cultural resource to Indigenous people' and that a 'focus on short-term economic gain means that...spiritual and cultural customs were overlooked.' Queensland Country Life, 22-Jun-06, pg 3.

**29-Jun-06 Woppaburra people negotiating handover of traditional land** The Woppaburra people of the Keppel Islanders are working with the government to have traditional land transferred back through the Queensland Aboriginal Land Act. The agreement will include 'will provide traditional names for the six parcels and build long term social and economic development opportunities as future land holders.' Morning Bulletin, 29-Jun-06, pg 31.

**29-Jun-06 Chalco will make bid for bauxite mine** Chalco, will lodge its final bid to develop the bauxite mine near Aurukun on Cape York. The Beattie Government has said that it will 'examine the proposal in detail to see whether it met its requirements about job numbers and long-term economic benefits for the indigenous community around Aurukun'. Australian, 29-Jun-06, pg 20.

**29-Jun-06 Pipeline cost and timing blowout** The proposed gas line from PNG faces further

delays as costs blow out. One of the significant costs is the negotiations with traditional owners over access to traditional land. There has been 'an army of negotiators and advisers...trying to resolve a stand-off between APC and some traditional owners over compensation payments'. Courier Mail, 29-Jun-06, pg 65

## South Australia

**26-Apr-06 SA sets target for native title** Native title claim groups in South Australian have set a timeframe for the settlement of claims. The Interim Congress Executive Committee (ICEC) a body formed by claimants to develop policies agreed on a plan to settle by 2020. The body was formed after a push by the SA Government and the Aboriginal Legal Rights Movement (ALRM). This involves plans to incorporate ALRM to create legal and political weight, recognising the role of Aboriginal people as traditional owners, supporting the state-wide ILUA program and recognising that the 'local community must be in a position to create its own future with the support of the wider community'. Koori Mail, 26-Apr-06, pg 17.

**26-Apr-06 Marina development likely to lead to opportunities** Parry Agius, Aboriginal Legal Rights Movement chief executive officer is confident that a proposed waterfront residential development at Port Wakefield 'can be successfully negotiated to respect Aboriginal heritage in the area'. Under the Aboriginal Heritage Act the developers, Gulf Harbour Pty Ltd was required to consult with the native title group. Mr Agius said that the agreement would 'offer opportunities for not only the rural people, but also the Aboriginal people of the Yorke Peninsula and Adelaide'. Plains Producer, 26-Apr-06, pg 3.

**18-May-06 Aquaculture and fishing affected by native title** Aquaculture and fishing on the Eyre Peninsula may be affected by native title. The Seaford Council of South Australia has begun negotiations for Indigenous Land Use Agreements covering coastal land and waters from Cowell to Venus Bay. It believes that 'leases are secure but will keep close tabs on the progress of the negotiations'. Adelaide Advertiser, 18-May-06, pg 24.

**24-May-06 SA Government move disappointing** The South Australian Government's has decided to 'downgrade' the Department of Aboriginal Affairs and



Reconciliation and 'sideline the last Aboriginal senior executive'. This move has 'disappointed and angered' the SA Indigenous community. Parry Agius from the Aboriginal Legal Rights Movement says that the decision may 'turn Aboriginal Affairs into a division' and 'putting Aboriginal Affairs under a non-Aboriginal bureaucrat doesn't do anything to develop Aboriginal leadership. He also said that 'at a time when governments across the nation are asking Aboriginal community members to be more accountable and to show more leadership so that we can break away from the welfare mentality...the SA Government has basically taken away the little power we had'. Koori Mail, 24-May-06, pg. 24

09-Jun-06 **Newmont joins in on reconciliation** Newmont Pajingo Operations have celebrated the 10th anniversary of Reconciliation Week with Indigenous representatives. General Manager Jim Beyer said that it 'provided all Australians with an opportunity to mend relationships'. He said that for Newmont it was a 'time to reflect on [their] partnerships with traditional Kudjala landowners and cultural diversity' in the workplace. Newmont has been working with the local community to 'develop sustainable business initiatives and to increase employment and career development opportunities'. Northern Miner, 9-Jun-06, pg 6.

14-Jun-06 **Mining council calls for reforms** The South Australian Chamber of Mines and Energy chief executive Phil Sutherland said that the 'Aboriginal Heritage Act needed to be reviewed to reflect the significant progress made in the area of native title'. The chamber has also said that it wanted 'better integration between the Aboriginal Heritage Act and native vegetation regulations and parks management'. These calls for reforms have emerged as a part of the state Parliament's natural resources committee initiating an inquiry into mineral resource development in South Australia. The inquiry is 'focusing on the administrative and legislative framework that governs exploration and development'. Committee Inquiry established. For information call 8237 9475 or email [NRC.Assembly@parliament.sa.gov.au](mailto:NRC.Assembly@parliament.sa.gov.au) Adelaide Advertiser, 14-Jun-06, pg 56.

22-Jun-06 **Native Title negotiations to start** The First Peoples of the River Murray and Mallee Region have registered a native title claim over the natural resources in the Riverland and parts of the Lower Murray. In a 'state first' members of the group will engage in direct negotiations with State and Local

Governments as well as representatives from a range of industries including the South Australian Farmers Federation and the Chamber of Mines and Energy and Fishing Industry Council. The discussions aim to establish Indigenous Land Use Agreements. Murray Valley Standard, 22-Jun-06, pg 5.

24-Jun-06 **Whale tourism creates opportunities** The Aboriginal Land Trust is 'seeing partners for the long-term management of the centre and visitor precinct' at Head of Bight. Trust manager John Chester said that 'indigenous communities could gain enormously from commercial ventures with the private sector' and that the 'trust believed the existing facilities and the land provided the base for development of a range of tourist products'. Adelaide Advertiser, 24-Jun-06, pg 59.

## Tasmania

10-Jun-06 **Listing of Risdon Cove rejected for not including Aboriginal community** It has been argued that Risdon Cove will not receive national heritage listing. Clarence City Council alderman Tony Mulder has said that Richard James's motion failed to include Aboriginal heritage values and that his 'unilateral approach' is 'doomed to failure'. Several aldermen were in favour of the heritage listing but wanted it to be 'jointly developed with the Aboriginal community in a spirit of mutual respect and reconciliation'. Mr Mulder also said that 'while heritage listing enables protection of its values, only motioning European values is easily construed as an attempt to regain control of land that was handed back to its original owners by the Groom Liberal Government'. Hobart Mercury, 10-Jun-06, pg 31.

11-Jun-06 **Campaign to rename Tasmania** Activist Michael Mansell has said that Tasmania should be renamed 'Lutruwita' and that there was a 'trend to go back to Aboriginal place names'. Tasmanian author Heather Rose said that the idea would not be supported by business and government but said that there is 'something incredibly strong and wonderful in acknowledging these ancient names'. Sunday Tasmanian, 11-Jun-06, pg 9.

## Victoria

28-Apr-06 **History of sacred site contested** The cultural significance of the Convincing Ground has been contested by shadow planning minister Ted Baillieu. However Andrew Levings, a key Portland fishing industry member has dismissed the claim saying that



the 'idea that the Convincing Ground never happened...is just ridiculous'. The site is significant for the killing of the majority of an Aboriginal tribe in the 1830s and has been the subject of a 15 month legal fight over the lands future use. Portland Observer, 28-Apr-06, pg 3.

**03-May-06 Initiative to involve Indigenous groups in park management announced**

John Thwaites, acting Premier and Environment Minister, has announced an initiative to involve Indigenous groups in the management of the state's parks and reserves through providing training and employment opportunities. The recruitment program and the Indigenous Partnership Strategy and Action Plan 'would enable traditional owners and their communities to take part in decisions making processes surrounding land and water resources management'. He also said that 'this [was] a crucial step towards ensuring Aboriginal Victorians have opportunities to maintain important social and cultural ties with the land'. High Country Times, 3-May-06, pg 10.

**20-May-06 Cultural heritage can be protected as a part of farming**

At a workshop for landholders it was revealed that Indigenous cultural heritage could be 'integrated into farm planning'. The Mooramong is protecting its cultural heritage sites as a part of overall farm planning and sought to show that native title does not apply to private land. For example this may include signage or acknowledging cultural sites. Hamilton Spectator, 20-May-06, pg 23.

**21-May-06 Mildura Aboriginal Corporation reaches agreement over marina development**

Brisbane developers have met with two Aboriginal groups to address concerns that the Mildura Aboriginal Corporation was not party to discussions regarding the marina and that its members were not 'afforded similar benefits' received by the North West Claimants. Legislation requires that 'in matters of Native Title, consultation must take place with the local Aboriginal Corporation'. Mildura Independent Star, 21-May-06, pg 6.

**03-Jun-06 Indigenous groups oppose development over sacred site**

Dja Dja Wurrung clans Aboriginal Corporation deputy chairman and Traditional Land Rights committee member Gary Murray says that '16 heritage sites were under threat in VicRoads duplication works' on the Calder highway. He said that he refused to sign the draft protocol in place until VicRoads was prosecuted for the destruction that it created. Bendigo Advertiser, 3-Jun-06, pg 2.

**03-Jun-06 Indigenous land issues raised**

In his speech to the Bendigo Historical Society, local Dja Wurrung leader Gary Murray said that 'land rights and dispossession were still a stumbling block on the path to reconciliation'. He said that these fundamental problems need to be addressed rather than putting 'band aids' on them noting that out of the 16,000 hectares of land across Australia, only 714 is owned by Aboriginal people. According to him, 'the wrong sorts of solutions have been put in place' and that 'they've got to localise it and resource it properly' to achieve viable outcomes. Bendigo Advertiser, 3-Jun-06, pg 2.

**03-Jun-06 Judge warns that native title case needs to make progress**

Justice Tony North has warned parties that mediation will be scrapped and the case will be sent for trial if parties to the Gunditjmarra claim don't make progress by mid-June. He said that 'it will be a result of the failure of the policy makers to either make their policy or explain to me in detail why they haven't given the very pressing circumstances of the applications'. The claim covers an area of 140 000 acres and related to the 'right to camp, fish and use other natural resources on Crown land'. The claim was first lodged in 1996 and mediation has been held since 1999. There are 175 parties to the claim which may also relate to the delays in the process. Native Title Services Victoria (NTSV) said that the Victorian Government has made an offer and since then the focus has been on finalising the in-principle agreement. Hamilton Spectator, 3-Jun-06, pg 3.

**06-Jun-06 Traditional owners invited to join Council**

Traditional land owners from the Yarra ranges have been invited to become members of the Victorian Aboriginal Heritage Council. The Minister for Aboriginal Affairs Gavin Jennings said that the council will be set up to provide advice on cultural heritage issues. This move is a part of the new Aboriginal Heritage Act 2006 which will ensure that the 'protection of Aboriginal cultural heritage is an integral part of the planning and land development process'. Applications must be received by Aboriginal Affairs Victoria at GPO Box 2392, Melbourne 3001 by Friday 30 June. Mountain View Mail - Healesville, 6-Jun-06, pg 8; Upper Yarra Mail, 6-Jun-06, pg 8.

**21-Jun-06 Residents back development proposal threatening Indigenous cultural site**

Residents in the Portland District have made a submission to the Glenelg Shire Council 'highlighting the perceived injustice



surrounding the development plan for the Convincing Ground Area'. Action group spokesman Owen Roberts said that 'it seems that the planning department of the council is unduly influenced by both indigenous objections and by the minister himself'. They said that there was no proof that the area was a culturally significant site and that they will not forfeit land to 'appease a very dubious land claim'. Glenelg Shire town planner Bernie Wilde said that more legal action will arise 'as a result of the unresolved Convincing Ground saga' and that he was the victim of a 'well-funded concerted effort' by the state government to destroy his career.. Mr Wilde had 'approved an application by developer Michael Maher to subdivide' the land in contention but claims that the 'appropriate consultation was made with Aboriginal Affairs Victoria and there were no issues of relevant declarations made under the Aboriginal and Torres Strait Islander legislation'. The Federal Police have seized documents over a sacred site known as the Convincing Ground which was the site of the slaughter of Aborigines. A Gunditj-Mara leader has called the land 'an [I]ndigenous Gallipoli'. Herald Sun, 21-Jun-06, pg 12; Warrnambool Standard, 21-Jun-06, pg 6.

**26-Jun-06 Dja Dja Wurrung people negotiate ILUA** The Dja Wurrung people have negotiated an Indigenous Land Use Agreement with the owners of the Forest Resort at Creswick. The agreement will give the resort owners access to 20.6 ha of land under native title to develop a golf course and construct an international hotel. In exchange traditional owners have secured employment and training opportunities cultural recognition though a commitment to display and sell local Indigenous art and display signage. The agreement has given parties 'an opportunity to develop solid working relationships that had the potential to stand the test of time'. National Native Title Tribunal President Graeme Neate said that 'groups across Australia are increasingly sorting out their native title issues through agreement' and this was 'another example of an agreement being reached before native title claimants have settled their claim'. Bendigo Advertiser, 26-Jun-06, pg 3.

**26-Jun-06 Templates for ILUAs fast track native title agreements** A new contract system developed by the Minerals Council of Australia and native title claimants will fast track agreements through using a common template for ILUAs. The agreements will allow mineral explorers to sign a Deed of Assumption on the terms of the use agreement and circumvent a

system of lengthy negotiations with Indigenous groups. Cultural heritage and economic benefits are a part of the agreement. The National Native Title Tribunal has registered the agreement 'so that it can be carried out and used by other groups'. Bendigo Advertiser, 26-Jun-06, pg 3.

## Western Australia

**24-Apr-06 Agreement with Aztec allows for recommencement of mining** The Dambimangardi people have signed off on an agreement with Aztec Resources which will lead to the recommencement of mining on Koolan Island. Under the agreement Aztec will 'provide employment and training opportunities for indigenous people in Derby, and guarantee a 30 per cent indigenous workforce by the sixth year of operation'. The agreement will also 'employ indigenous cultural heritage officers, protect culturally significant sites and involve traditional owners in environmental and land management issues'. A capital trust will be established to manage the funds generated from the sale of iron ore, with half being invested and the other used for community development. The agreement has been welcomed by both parties. Australian 24-Apr-06, pg 5; Broome Advertiser, 27-Apr-06, pg 1; Kimberly Times, 27-Apr-06, pg 1; Barrier Daily Truth, 24-Apr-06, pg 10; Koori Mail, 10-May-06, pg 61.

**26-Apr-06 Mining agreement reached with Wajarri Yamatji claim group** An agreement has been reached in principle between the Wajarri Yamatji Native Title Claim Group and the Midwest mining exploration corporation. The agreement will boost the development of the iron ore industry in the region while also addressing the concerns of the Wajarri people to ensure the protection of their land. Both parties have welcomed the agreement which covers the Weld Ranges. In particular the agreement protects the reserve surrounding the old Wilgie Mia which is of cultural significance to the traditional owners. Ike Simpson of the Wajarri people said that 'it was essential that any exploration activity be conducted in liaison with the traditional owners'. Koori Mail, 26-Apr-06, pg 35; Perth Lawyer, 4-May-06, pg 4.

**29-Apr-06 Yawuru community wins native title claim** The Yawuru community in Western Australia has won a 12 year legal battle over Broome and the surrounding Kimberly area. In his judgment Justice Ronald Merkel said that the Yawuru were the traditional owners of the



Rubibi claim covering about 6000sq km of reserve land and pastoral leases. He also noted that native title was in a 'state of gridlock' and recommended changes such as focusing on mediation. Justice Merkel found that the 'case highlighted a native-title system hampered by protracted mediation, a lack of funding for claimants, internal community disputes, logistical complications and flawed legislation'. Frank Sebastian, a Yawuru elder said that it was a 'long struggle' and that they 'will be involved in decisions about how Broome is to develop, that means a better future' Gold Coast Bulletin, 29-Apr-06. pg 4; Weekend Australian 29-Apr-06, pg 2; West Australian 29-Apr-06, pg 15; National Indigenous Times, 4-May-06, pg 13; Koori Mail, 10-May-06, pg 3; Perth Lawyer, 18-May-06, pg 6.

**04-May-06 Dandenong Paddocks subject of land claim** Ronald Terrick, one of the leaders of the Kings Domain protest has said that he wants to claim the Dandenong Police Paddocks as Aboriginal property. He said that he wanted to 'commence talks with parks Victoria and other authorities about turning [the] place into a place of cultural significance.' However a spokesman for Environment Minister John Thwaites said that Mr Terrick needed to 'go through the appropriate channels to make a claim on the site'. Berwick Leader, 10-May-06, pg 1.

**04-May-06 Yawuru win native title claim** The Yawuru people have won a native title claim over land in and around Broome. Pat Dodson a Rubibi applicant and national Indigenous figure said that 'the determination would provide corporate entities in Broome with some legal and economic certainty, and that Yawuru...input would be sought in the development of the town'. He said that the next step would be to set up a prescribed body corporate (PBC) in which the native title could be vested. However he noted that this would be limited by the criteria for membership to the Yawuru dictated by the court. The Walman Yawuru have been opposing the Rubibi claimants since they left after concerns over a 'pan-Aboriginal approach' to their traditional lands. Both groups are now contesting who should control the PBC. Broome Advertiser, 4-May-06, pg 1; Native Title Finalised, 4-May-06, pg 3.

**04-May-06 Native title claim creates risk for home owners** The State Government has assured home owners on beachfront land that their freehold titles would be protected even though title to the land is unclear. The lots near cable beach were originally created from vacant

crown land by the Court Liberal Government under the Western Australian Native Title Act in 1993 which was found to be invalid by the High Court in 1995 and has not been rectified by subsequent governments. The freehold title of the landowners to the land has been technically invalid and Justice Merkel has said that the 'extraordinary situation...will have to be resolved between owners of the freehold, the State and the native title holders'. The government will need to negotiate with the Rubibi people to give up their native title rights and receive compensation under an Indigenous land use agreement. West Australian, 4-May-06, pg 32; Australian, 2-May-06, pg 4-5.

**11-May-06 Yawuru claim affects building of oval** Two proposed ovals at the Broome Recreation and Aquatic centre will be affected by the recent Yawuru claim win. Graeme Campbell, Broome Shire president said that the Shire 'was very keen to engage with the claimants regarding any proposed usage of the land'. Deputy Premier Eric Ripper has said that the recent Rubibi claim will not affect 140 homes that were not legalised by the native title process. The land was sold under a land scheme that was later rejected by the High Court which was pointed out by Justice Merkel when he handed down his decision. Mr Ripper said that 'the situation was one created by the Court Government, which the current government would now have to deal with'. It is likely that compensation relating to the 'grant of freehold on the non-exclusive native title rights...would be handled as a part of larger negotiation under the Native Title Act'. Broome Advertiser, 11-May-06, pg 3.

**20-May-06 Pending legal battle over failure to consider Indigenous interests** Minara Resources will face a legal battle after failing to stop litigation by Goldfields native title claimants over an agreement made 10 years ago. The company is now claiming that an agreement made when developing its northern Goldfields Murrin Murrin site to negotiate benefits and compensation for the Wutha people was unenforceable. Brian Wyatt Goldfields Land and Sea Council executive said that the process had occurred because the Government 'had not fully considered Indigenous people's rights and claims to the land'. Supreme Court judge Master Craig Sanderson has ruled that the evidence needs to be examined in more detail. He said that if 'Minara prevailed, right-to-negotiate provisions in native title legislation would amount to nothing'. West Australian, 20-May-06, pg 79; Kalgoorlie Miner, 22-May-06, pg 1; Business News, 25-May-06, pg 14.



20-May-06 **Indigenous bodies enter talks about farm transfers** The Goldfields Land and Sea Council and the Department of Indigenous Affairs has entered into successful talks in establishing a 'closer working relationship' between the two. Some of the issues discussed included the 'transfer of trust owned farms to the control of traditional owners' which will give them 'autonomy and control of an income producing enterprise'. However these plans have not been settled. Kalgoorlie Miner, 20-May-06, pg 21.

24-May-06 **Pilbara claim groups in process of negotiating agreements** Six Pilbara native title claim groups have had discussions with Rio Tinto Iron Ore to settle Binding Initial Agreements (BIAs) for native title over the Pilbara region. The BIAs provide 'traditional owners' consent to, and support for, the mining company's present and future operations and would streamline its native title approval processes'. Even though full agreements have not been reached this paves the way for a 'smoother negotiation process'. According to Kuruma Marthuduners native title working group chairman Neil Finlay, contentious issues such as financial compensation have been resolved which 'will allow future negotiations to focus on broader economic and social issues'. North West Telegraph, 24-May-06, pg 3; Pilbara News, 24-May-06, pg 6; Australian Financial Review, 19-May-06, pg 62.

25-May-06 **Funding shortfall for NTRBs** Both business and Aboriginal groups have said that the funding provided to Native Title Representative Bodies is not enough. The Minerals Council of Australia has said that 'these bodies are chronically under resourced even though they are considered the fundamental component of the native title system'. The lack of government funding means that 'mining companies must step into the breach'. Proper resourcing is 'critical to settling the 600 outstanding native title applications...and responding to mining and exploration applications in a timely way'. Business News, 25-May-06, pg 13.

01-Jun-06 **New mine creates opportunities** The Coyote Mine over 26 000 sq km of Tjurabalan land has been opened south east of Halls Creek. The mine will provide long-term employment for 100 people with 40 per cent employed by CDE capital which has a workforce that is about 50 per cent Aboriginal. Broome Advertiser, 1-Jun-06, pg 4.

02-Jun-06 **State Government will challenge native title win over Broome** Deputy Premier Eric Ripper has said that the Government will appeal the Federal Court's decision which 'spelt out the details of the Rubibi claim, which covers an area of more than 5200sq km'. The decision has raised concerns that that 'good will between the state and the native title claimants might be irreparably damaged'. Mr Ripper has said that the state would continue to comply with the Native Title Act, but Wayne Bergmann, Kimberly land Council executive director has said that the appeal would 'mean a return to uncertainty'. Australian, 2-June-06, pg 6; Sydney Morning Herald, 2-Jun-06, pg 2; West Australian, 2-Jun-06, pg 6; Sunday Times, 4-Jun-06, pg 50.

09-Jun-06 **BHP to invest in Swan Northwest Joint Venture Project** BHP Billiton will invest \$5 million into the Silver Swan Northwest Joint Venture nickel exploration project. An agreement has also been reached with native title claimant groups and that the tenements would be made available in approximately three months. Kalgoorlie Miner, 9-Jun-06, pg 1.

14-Jun-06 **Njama mining agreements make history** The Njama native title group have reached agreements with CBH Resources Limited, Consolidated Minerals Limited (CML) and with the individual miner Barry Kayes making history after signing all three in one day. The CBH agreement involves the Sulphur Springs Project which is an open-cut copper and zinc mine near Port Headland. The agreements contain a range of provisions 'including a financial settlement, employment and training initiatives and under takings in heritage and environmental protection'. The CML agreement involves compensation for current and future mines which has exceeded the native title act which only requires companies to deal with traditional owners over future acts. North West Telegraph, 14-Jun-06, pg 5.

15-Jun-06 **Native title claim stalls project** The Western Australian government has been 'accused of holding vital community projects in Broome to ransom over Rubibi native title negotiations'. Plans to upgrade the Goolarabooloo Aboriginal Hostel have been referred to the Office of Native Title even though it is not a part of the Rubibi claim area. Proponent Joseph Roe said that he needs to find 'more than \$6 million to upgrade the facility to provide low-cost accommodation for Aboriginal and non-Aboriginal people'. Federal MP Barry Haase visited the hostel and also



raised concern that the 'upgrade has been made a part of native title negotiations'. However a spokesman for Deputy Premier Eric Ripper said that the 'Housing and Works does not provide funding for projects such as the hostel and referring it to native title negotiations was an attempt to find a solution'. Broome Advertiser, 15-Jun-06, pg 5.

**15-Jun-06 Industry and Indigenous groups meet at the Burrup Peninsula** The Burrup Peninsula is a 'powerhouse of WA's economy' and a draft for managing the resources in the region is yet to be released. It will cover ethics, culture, industry and economics and coincides with the native title settlement in 2003 with the Ngarluma Yindjibarndi, Yaburara Mardudhunera and Wong-goo-tt-oo people. The Peninsula is jointly managed by traditional owners and the Department of Conservation and Land Management. The plan is to 'protect and preserve sites of cultural and natural significance, tell a story of Aboriginal connection to country and provide compatible recreational and commercial opportunities'. West Australian, 15-Jun-06, pg 20.

**25-Jun-06 Strong Indigenous involvement in Koolan Island 'rebirth'** The 'rebirth' of the iron ore mine on Koolan Island will 'deliver strong employment opportunities for local Aborigines'. Aztec Rose who recently acquired the mine has a 'goal of having 30 per cent of its 220 person workforce filled by indigenous people'. The 'employment pledge' is a part of an agreement between traditional owners, the Dambima-Ngardji people and Aztec Resources. Aztec Chairman Ian Burston said that the agreement was 'built around understanding, trust and most importantly, cooperation'. He also said that there was a 'tight labour market and that 'it was important for the industry, the indigenous community and Government to cooperate to improve the skills of local people rather than looking offshore to fill these positions'. Mining Chronicle, Jun-06, pg 12; Prospect Magazine, 25-Jun-06, pg 27.

**28-Jun-06 Juluwarlu moves to acquire Roebourne Land** The Juluwarlu Aboriginal Corporation has 'received support to acquire the buildings it operates' and has approached the Roebourne Council about the land. The proposed acquisition would provide the Corporation with 'greater security to ensure the sustainability of its operations and also enable it to attract more funding through demonstrated security of tenure'. However shire executive services manager Mark Jones has said that it 'would be better for an Indigenous Land

Corporation to buy the premises under its land acquisition program' which will require the submission of a business plan. Pilbara News, 28-Jun-06, pg 9.

**29-Jun-06 Djugan people denied rights** Djugan member Colin Ozies has said that the state government has denied the existence of the Djugan. He said that the 'Djugan people had to battle successive State Governments' and that 'Rubibi was formed to present a united front because Richard Court would not deal with separate claims by Djugan, Yawuru and Goolarabooloo peoples. Mr Ozies was critical of the Government's approach noting that in 'denying the Aboriginal people their natural rights smacks of hypocrisy' takes away individual identities turning Indigenous people into 'generic 'home brand' Aboriginals'. Broome Advertiser, 29-Jun-06, pg 7.

**29-Jun-06 Western Desert communities say uranium mining is an answer to poverty** Western Desert Aboriginals, the Martu, want Rio Tinto's Kintyre uranium deposit to 'be developed to provide them with essential services that the State Government has failed to deliver'. Western Desert Land Aboriginal Corporation chief executive Clinton Wolf said that even though they have previously opposed uranium mining they had been 'forced to the negotiating table through poverty'. He said that the communities with smaller populations 'wanted to forget about a rights agenda and start looking at an economic agenda'. Mr Wolf also said that it was a matter of capitalising on opportunities that will become available. West Australian, 29-Jun-06, pg 6.

[Back to contents](#)

## APPLICATIONS LODGED WITH THE NNTT

Date filed	Application name	Application type	Status	State/Territory	Tribunal file no.	Federal Court file no.
16/05/2006	<a href="#">Margaret Matthews</a>	Claimant application	Active	NSW	NC06/6	NSD953/06
22/05/2006	<a href="#">Bahtabah Local Aboriginal Land Council #2</a>	Non-claimant application	Active	NSW	NN06/7	NSD987/06
22/05/2006	<a href="#">Bahtabah Local Aboriginal Land Council #1</a>	Non-claimant application	Active	NSW	NN06/6	NSD986/06

(This information has been extracted from the National Native Title Tribunal website [www.nntt.gov.au](http://www.nntt.gov.au) ) For further information regarding Applications Lodged contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

[Back to contents](#)

## REGISTRATION TEST DECISIONS

Decision date	Application date	Application name	State/Terr.	Decision	Tribunal file no.	Federal Court file no.
12/05/2006	25/05/2006	<a href="#">Butchulla Land and Sea Claim</a>	QLD	Not Accepted	QC06/4-1	QUD16/06

(This information has been extracted from the National Native Title Tribunal website [www.nntt.gov.au](http://www.nntt.gov.au) ) For further information regarding Registration Test Decisions contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

## APPLICATIONS CURRENTLY IN NOTIFICATION

Notification closing date	Application name	Application type	Date filed	State/Territory	Tribunal file no.	Federal Court file no.
28/06/2006	<a href="#">Forster Local Aboriginal Land Council</a>	Non-claimant application	26/09/2005	NSW	NN05/14	NSD179
28/06/2006	<a href="#">Lumugal</a>	Claimant application	17/01/2006	WA	WC06/1	WAD15/
28/06/2006	<a href="#">Bindurrna People</a>	Claimant application	14/01/2005	WA	WC05/1	WAD8/0
28/06/2006	<a href="#">Tableland Yidinji People #3</a>	Claimant application	14/10/2004	QLD	QC04/10	QUD208
6/09/2006	<a href="#">Karingbal #2</a>	Claimant application	20/01/2006	QLD	QC06/5	QUD23/
6/09/2006	<a href="#">Lardil, Yangkaal,</a>	Claimant application	12/01/2006	QLD	QC06/1	QUD7/0



	<a href="#">Gangalidda &amp; Kaiadilt Peoples</a>					
6/09/2006	<a href="#">Gugu Badhun People #2</a>	Claimant application	22/03/2005	QLD	QC05/7	QUD85/
20/09/2006	<a href="#">Town of Batchelor No.2</a>	Claimant application	29/08/2005	NT	DC05/4	NTD21/0

(This information has been extracted from the National Native Title Tribunal website [www.nntt.gov.au](http://www.nntt.gov.au) ) For further information regarding Applications Currently in Notification contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

[Back to contents](#)

## ILUAS

Tribunal file no.	Name	Type	State/Terr.	Reg. date	Subject matter
QI2005/009	<a href="#">Small Scale Mining and Exploration Activities - Western Yalanji People ILUA</a>	Area agreement	Queensland	06 June 2006	Mining
QI2005/007	<a href="#">Western Yalanji and Mareeba Shire Council</a>	Area agreement	Queensland	18 May 2006	Development
QI2004/026	<a href="#">Mandungalbay Yidinji People and Cairns City Council</a>	Area agreement	Queensland	18 May 2006	Access
QI2004/025	<a href="#">Mandungalbay Yidinji People and Ergon Energy Corporation Limited</a>	Area agreement	Queensland	18 May 2006	Access
QI2005/015	<a href="#">Western Yalanji #3 Fossicking ILUA</a>	Area agreement	Queensland	18 May 2006	Mining
QI2004/064	<a href="#">Western Yalanji &amp; Cook Shire Council</a>	Area agreement	Queensland	18 May 2006	Development



VI2004/004	<a href="#">Taungurung - Mt Conqueror Minerals Regional Exploration and Mining ILUA</a>	Area agreement	Victoria	05 May 2006	Mining
VI2005/007	<a href="#">Creswick Golf Course Redevelopment</a>	Area agreement	Victoria	05 May 2006	Mining
VI2004/005	<a href="#">Low Impact Exploration and Exploration, Dja Dja Wurrung</a>	Area agreement	Victoria	05 May 2006	Mining
VI2004/010	<a href="#">Low Impact Exploration and Exploration - Wamba Wamba, Barapa Barapa, &amp; Wadi Wadi Peoples</a>	Area agreement	Victoria	05 May 2006	Mining

(This information has been extracted from the National Native Title Tribunal website [www.nntt.gov.au](http://www.nntt.gov.au) ) For further information regarding ILUAs contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

[Back to contents](#)

## **DETERMINATIONS**

<b>Short name</b>	<b>Case name</b>	<b>Date</b>	<b>State/Terr.</b>	<b>Outcome</b>	<b>Legal Process</b>
<a href="#">Western Yalanji People</a>	Riley v State of Queensland [2006] FCA 72	18 May 2006	QLD	Native title exists in the entire determination area	Consent determination
<a href="#">Larrakia (Part A - consolidated proceeding)</a>	Risk v Northern Territory of Australia (Unreported, FCA, 17 May 2006, Mansfield J)	17 May 2006	NT	Native title does not exist	Litigated determination
<a href="#">Rubibi Community</a>	Community v State of Western Australia (No 7)	28 April	WA	Native title does not exist	Litigated determination



	[2006] FCA 459	2006			n
--	----------------	------	--	--	---

(This information has been extracted from the National Native Title Tribunal website [www.nntt.gov.au](http://www.nntt.gov.au) ) For further information regarding Determinations contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

[Back to contents](#)

## **FEATURED NATIVE TITLE ITEMS IN THE AIATSIS CATALOGUE**

The following list contains either new or recently amended catalogue records relevant to Native Title issues. Please check MURA, the AIATSIS on-line catalogue, for more information on each entry. Highlights from the collections in this issue include Lisa Strelein's book, *Compromised jurisprudence : native title since Mabo*, some early wordlists, and an edited version of the papers of Governor Philip.

### **Audiovisual materials:**

#### *Colour slides:*

Arnernte camp life taken by Olive Pink (1930-1940)

Arnernte men's ceremonies taken by T.G.H. Strehlow (1940-1945)

Aboriginal prisoners in chains taken by Hermann Klaatsch (1904-1906)

#### *Black and white photographs:*

The 1923-1925 British Museum Expedition to Australia. Exemption certificates taken by Violet Stanton (1950)

Forrest River Missionaries taken by Ernest Gribble (1890-1899)

Historic portraits (1910-1950) deposited by the New England Historical Resource Centre  
Swedish expedition to the Kimberley and to Queensland taken by Ernest Mj\*oberg (1910)

### **Print materials:**

#### **Anthropology:**

Elu, McRose and Rod Mitchell

'Grandparenting in Western-Central Torres society: conservatism within evolution', 2002

Trigger, David S. and Mulcock, Jane

'Forests as spiritually significant places: nature, culture and 'belonging' in Australia.' In *Australian Journal of Anthropology* Vol.16, no.3 (2005), pp. [306]-320.

### **Archives and library issues:**

University of South Australia. Aboriginal Research Institute. Northern Territory University [Collection of papers relating to Consultation on national protocols for Aboriginal and Torres

Strait Islander information in libraries, archives and information services: Parliament House, Canberra, 14 September 1994] / sponsored by Aboriginal Research Institute, University of South Australia and Northern Territory University. 1994.

### **Early wordlists and language material:**

Fraser, A.

'Mulligan River dialect'.

Harper, Walter R.

'Bellinger River dialect.'

Matheson, Henry.

'Johnstone River dialect'

Sutton, J. B.

'Port Jackson dialect'.

All above in *Australasian Anthropological Journal* Vol.1, no.6 (1897).

### **Economics and policy:**

Walters, Ian Noel

'Farmers and their fires, fishers and their fish: production and productivity in pre-European South-East Queensland.' *Dialectical Anthropology* ; Vol. 17, 1992, pp. 167-182

### **Government reports - Australia**

Australia, Queensland

*Government response to Torres Strait Islanders: a new deal / a report of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs on Greater Autonomy for Torres Strait Islanders.* [Canberra]: Commonwealth of Australia, 1998

Barber, Kim and Hilary Rumley. Western Australia. Waters and Rivers Commission.

*Gunanuran: (Kununurra) Big River: Aboriginal cultural values of the Ord River and wetlands: a study and report prepared for the Water and Rivers Commission.* Perth, W. A.: Waters and Rivers Commission, 2003.

English, Anthony and Louise Gay. New South Wales. Dept. of Environment and Conservation.

'Living land living culture: Aboriginal heritage & salinity.' Hurstville, N.S.W.: Dept. of Environment and Conservation, 2005.



### History – exploration and accounts:

Davidson, Daniel Sutherland, 1900-1952  
[Correspondence, objects lists, and some notes relating to Davidson's ethnographic research in Australia, 1931]. [1930-1931] NOTE: Access conditions to be determined later.

Phillip, Arthur, and John Currey, the Banks Society. *The voyage of Governor Phillip to Botany Bay: compiled from authentic papers /* edited from the 1789 edition by John Currey. Malvern, Vic.: Published for the Banks Society at the Colony Press, 2004.

### Indexes, directories and guides:

Australian Institute of Aboriginal and Torres Strait Islander Studies. Native Title Research Unit. Native title resource guide [electronic resource]. c.2004.

New South Wales. Bureau of Crime Statistics and Research. 'Court statistics 1975' / Department of the Attorney General & of Justice, N.S.W. Bureau of Crime. Statistics & Research. [Sydney?]: NSW Bureau of Crime Statistics & Research [1976?].

Society of Australian Genealogists  
*Australasian Genealogical Computer Index. Volume 2* [electronic resource-CD]: NSW Government Gazettes 1832-1863 (managed by the Society of Australian Genealogists. Sydney, N.S.W.: Society of Australian Genealogists, 2005.

*Reference Australia: an occasional collection of essays and notes on bibliographical, geographical and statistical sources.* North Balwyn, Vic.: Australian Reference Publications, 1987-1991.

### Land acquisition and land management:

Pannell, Sandra N. and Emma Johnson. Cooperative Research Centre for Tropical Rainforest Ecology and Management. Yamani country: a spatial history of the Atherton Tableland, North Queensland / Sandra Pannell; with contributions from Ngadjon-Jii traditional owners, Cairns, Qld: Rainforest CRC, 2006.

Toussaint, Sandy and Western Australia. Waters and Rivers Commission *Fitzroy Valley Indigenous Cultural Values Study (a preliminary*

The Newsletter is also available in ELECTRONIC format. This will provide a FASTER service for you, and will make possible much greater distribution, is better for the environment and allows you to use the HYPERLINKS contained in each issue. If you

assessment). Nedlands, W.A.: Centre for Anthropological Research, University of Western Australia, 2001.

### Land rights – Overseas

Ivanitz, Michele

'Local government and native title process agreements in Australia and Canada: ethical practice and shifting contexts.' In *Local government, public enterprise & ethics*: editors, Patrick Bishop and Noel Preston, 2000, ch. 5, pp. [79]-101

McHugh, P. G.

'Aboriginal title in New Zealand: a retrospect and Prospect'. In *New Zealand journal of public and international law*, Vol. 2 no. 2 Nov 2004, pp. 139-202.

### Mediation and agreements:

Welsh, Rob and City Media Centre (Sydney, N.S.W.) City of Sydney Principles of Cooperation Agreement; speech by Rob Welsh, chairperson Metropolitan Aboriginal Land Council. 2006.

### Native Title – case studies

South West Aboriginal Land and Sea Council  
'The single Noongar claim: a new way forward.' Victoria Park, W. A.: South West Aboriginal Land & Sea Council, [2005?], ELECTRONIC RESOURCE.

### Native Title: Legal issues

Collins, Richard B. 'Sacred sites and religious freedom on government land'. In *University of Pennsylvania journal of constitutional law*, Vol. 5 no. 2 Jan 2003, pp. 241-270

Lumb, R. D. *The constitutions of the Australian states*, St. Lucia, Australia: University of Queensland Press, 1972.

Strelein, Lisa M.

*Compromised jurisprudence: native title since Mabo*, Canberra, Aboriginal Studies Press. 2006.

### [Back to contents](#)

would like to SUBSCRIBE to the Native Title Newsletter electronically, please send an email to [ntru@aiatsis.gov.au](mailto: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.

## **ABOUT THE NATIVE TITLE RESEARCH UNIT**

---

AIATSIS acknowledges the funding support of the Office of Indigenous Policy Coordination (OIPC) - Native Title and Land Rights Centre.

For previous editions of this Newsletter, click on the Native Title Research Unit link at [www.aiatsis.gov.au](http://www.aiatsis.gov.au) or go to <http://ntru.aiatsis.gov.au/publications/newsletters.html>

### **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 7714**

**Email:**

[ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)

