



AIATSIS

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Native Title Research Unit

NATIVE TITLE NEWSLETTER

May and June 1999

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The *Native Title Newsletter* is published on a bi-monthly basis. The newsletter includes a summary of native title as reported in the press. Although the summary canvasses papers 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.

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Note: Where an item also appears in other newspapers, etc, an asterisk () will be used. People are invited to contact the Native Title Research Unit at AIATSIS if they want the additional references. As usual, NTRU will try to provide people with copies of recent newspaper articles upon request.*

Ad = Advertiser (SA)
Age = The Age
Aus = Australian
CM = Courier Mail (QLD)
CP = Cairns Post
CT = Canberra Times
DT = Daily Telegraph
FinR = Financial Review
HS = Herald Sun (VIC)
KM = Kalgoorlie Miner
IM = Illawarra Mercury
LE = Launceston Examiner
Mer = Hobart Mercury
NNTT = National Native Title Tribunal
NTA = *Native Title Act 1993*
NTN = Northern Territory News
QNT = Queensland Native Title News
SC = Sunshine Coast Daily
SMH = Sydney Morning Herald
Tel M = Telegraph Mirror (NSW)
WA = West Australian
WAus = Weekend Australian

NEWS FROM THE NATIVE TITLE RESEARCH UNIT

There are a number of conferences coming up that are relevant to native title. Members of the Native Title Research Unit will be participating at some of these and will endeavour to report.

AIATSIS, in collaboration with the Indigenous Law Centre of the University of New South Wales, will be organising a session of the Australian Anthropological Association Annual Conference, being held at UNSW from 10-13 July. The session, on conceptualising Native Title will be held on Saturday 10 July over two 90 minute blocks and will feature papers by Mick Dodson, Jocelyn Grace and Peter Sutton, followed by a workshop for open discussion. Papers from the session will be published.

Later in the year, the Australian Linguists Association are holding a native title workshop. The flyer is included with this newsletter.

A reminder that Volume 2 of Regional Agreements: Key Issues in Australia is now available from AIATSIS.

This will be the last newsletter prepared by Penny Moore. We thank Penny for her stewardship of the newsletter over the past two years and wish her well in her pursuit of new challenges.

Current Issues

Reconciling through Understanding

Here are some thoughts on this issue, hope you like it.

The significance of the native title process extends beyond legal and political struggles. It is in fact a process to reconcile vastly different systems of knowledge and worldviews. In the past researchers from many disciplines have 'researched' Aboriginal and Torres Strait Islander peoples, cultures and way of life. These researchers have stood on the verge of this Indigenous domain and have made observations, taken notes and then stepped back into their domain to explain this society through books, articles, films and lectures.

The current process of developing native title claims operates in this same framework. It all started when the principle institution, the Courts, the very backbone of western culture and society was forced to admit that the society of which it is a part has acted in breach of its own rules. The Court was then faced with the challenge of enforcing these rules in an unbalanced political, social and economic environment steeped in ignorance. The legal institutions do not understand Indigenous society, it does not understand their relationship with their land, their belief systems, their history. In the struggle to comprehend these societies and culture the Court firstly turns to its own knowledge base. It seeks precedents from other jurisdictions with which it shares a common ancestry. It looks at the bodies of knowledge within its domain developed from the process of researching the other. Armed with all this knowledge it then pronounces Indigenous people in Australia have rights to land based on certain principles. The entire native title process then uses the principles founded within the familiar domain to understand and articulate the rights of Indigenous people to their lands, often tempered with a balancing of the social, political and economic interests.

Indigenous people are then faced with the problem of asserting diverse rights to country based on their particular social, cultural and historic circumstances. This may lead to attempts to streamline or transform the relationship to country enjoyed by a particular society and group. In this scenario the diversity of experiences and cultures in Indigenous Australia are sacrificed to ignorance and convenience.

Indigenous knowledge systems exist, are completely self contained and have sustained themselves right across Australia for two hundred years. When you start at this point then all the issues surrounding native title, recognition, sovereignty etc are placed into context. Then one will understand that extinguishment of native title, loss of native title all those yardsticks set up by the Courts to explain why people can't get recognition of rights to land are irrelevant. Indigenous people enjoy a relationship with country that exists outside the western legal system and can only be truly enjoyed from within that society.

In researching, preparing and presenting Indigenous assertions of rights over country one can never be content to follow legal precedent. Each and every application for a determination of native title rights and interests must be argued in terms of the society and culture from which the people derive those rights. This means stepping away from the 'familiar' and seeking to understand what makes this group who they are and how their culture has sustained rights to land over the centuries. This requires the divesting of cultural baggage and biases about real cultures, lost cultures and importantly pushing the limits of understanding and knowledge within the 'mainstream' legal and intellectual traditions.

The challenge is to ensure that the Western system does not ride roughshod over the Indigenous system. This means getting away from false concepts like the fragility of Indigenous rights and culture. The diverse cultures have survived and sustained themselves through well over two hundred years of oppression and as Australian society moves into a new and enlightened millennium our culture, society and systems of knowledge can only blossom and grow.

Kado Muir

Visiting Research Fellow/Manager, Native Title Research Unit, AIATSIS

NATIVE TITLE IN THE NEWS - MAY AND JUNE 1999

International

A three-member team of the United Nations Committee on the Elimination of Racial Discrimination has been refused permission to enter Australia. The Federal Government has warned the Committee that ignoring the direction would risk breaching UN protocol. The Labor Party, the Democrats and Aboriginal and Torres Strait Islander Commission Board members invited the Committee to visit Australia. The Government said it had already given extensive information to the Committee on the issues under consideration and that a visit by Committee members would not be of value. *(CT, 1 May, p5)**

Amnesty International's 1998 annual report has criticised changes to the native title laws. The report states that the native title changes favour miners and farmers and limited Aboriginal native title rights to traditional land use. *(Age, 17 June, p4)**

National

The High Court is considering an appeal that should clarify rights of Indigenous peoples to hunt and fish under native title legislation. Mr Murrandoo Yanner was prosecuted under the *Queensland Nature Conservation Act* for spearing and eating two crocodiles on Aboriginal land in north Queensland. The case was first heard in the Queensland Magistrates Court where it was dismissed on the grounds that the Mr Yanner was exercising native title rights under the NTA. On appeal, the Queensland Court of Appeal held that the *Queensland Fauna Conservation Act*, which was enacted before the NTA, had the effect of extinguishing common law rights to hunt crocodiles. The High Court will decide whether the Queensland Act extinguishes common law native title rights to hunt native animals. The case has broader implications for the application of native title to State laws. *(SMH, 5 May, p3)** The High Court has reserved judgement on the case until later this year. *(HS, 6 May, p10)**

New boundaries for Native Title Representative Bodies (NTRBs) were announced by the Minister for Aboriginal Affairs, Senator John Herron. The Minister has invited groups to apply for recognition as NTRBs under the provisions of the amended NTA. Under the NTA, NTRBs now have to be recognised by the Government in order to represent native title applicants. The final decision on recognition lies with the Minister. *(WA, 11 May, p30)*

Victoria

The Victorian Indigenous Working Group and ATSIC Commissioner Geoff Clark have criticised the Victorian Government's consultation process on State legislation relating to future acts. (*Altona/Laverton Mail, 2 June, p15*)

Victorian Minister for Conservation and Land Management stated that 47 native title applications, covering half the state's crown land had been received up to the end of May this year. The Minister said the department had spent \$3 million on the applications. (*Shepparton News, 9 June, p5*)

Queensland

The Local Government Association of Queensland has continued its education campaign on native title with a series of regional workshops. The workshops provide local government with information on: the role of local government in dealing with native title matters; the role of other parties like the state and native title representative bodies; and how to negotiate native title agreements. They bring together a range of experts including the National Native Title Tribunal. Tribunal President, Mr Graeme Neate, who was participating in the workshops congratulated the Local Government Association for setting an example for their members and other peak bodies. (*NNTT Media Release, 11 May*)*

A land interest forum to develop a plan for dealing with native title and land use issues between Brisbane's Indigenous community and Brisbane City Council will be held later this month in Brisbane. The forum will involve traditional Indigenous owners, council representatives, native title organisations, representatives from State and Federal Government departments and local government authorities and Brisbane's Aboriginal and Torres Strait Islander residents. (*The Satellite (Sherwood & Centenary Ed), 16 June, p32*)

A native title objection application has halted construction of a shelter shed at Midge Point. (*Prosperpine Guardian, 17 June, p14*)*

South Australia

A new eight-member taskforce has been formed aimed at 'streamlining' the system of land access including environment and native title issues in South Australia's mineral sector. The taskforce is chaired by Henry Walker chief executive Mr Richard Ryan. The taskforce will present a five-year plan to the Premier, Mr Olsen by September 1999. (*Ad, 12 June, p57*)

A series of workshops to explain Native Title and its implications for landowners will be held in several regional centres this month. Run by law firm Mellor Olsen for the South Australian Farmers Federation the workshops will include presentations by the State Government, National Native Title Tribunal and Aboriginal Legal Rights Movement. (*Ad, 9 June, p24*)*

Western Australia

The new NTRB boundaries in Western Australia cover six areas including the Kimberley, Pilbara, Geraldton, the south-west, the Goldfields and the Central Desert. The Kimberley Land Council is concerned that the new boundaries will exclude them from representing some of its constituent communities. (*WA, 11 May, p30*)

The Western Australian Government announced that it will seek expedited procedure approvals under the NTA as a measure to relieve the State's minerals and energy sector. Other measures announced by Mines Minister, Mr Norman Moore, include the introduction of a new protocol for native title negotiations. (*WA, 13 May, p36*)

Ms Nancy Gordan, who is of Mantjintjarra-Ngalia descent, has been appointed to the governing board of the Goldfields Land Council. (*Kalgoorlie Miner, 24 May, p3*)

Glen Shaw, representing the Western Australian Native Title Working Group has suggested that the State Government will not get its native title legislation through Federal Parliament, even with Labor Party amendments. After each State and Territory's native title legislation is passed it must go before the Senate, which has the power to disallow it. The Australian Democrats in Canberra had indicated that they would not support State legislation that had not been signed off by Aboriginal groups. Peter Yu, Kimberley Land Council executive director, stated that the first hurdle was to get the Bill through the State Parliament with Labor's amendments. (*WA, 14 June, p10*) The Hon Greg Smith, MLC, has criticised the Democrats approach because it gives Aboriginal groups the say over whether legislation will be allowed. (*KM, 26 June p1*)

The Aboriginal Legal Service (WA) claimed a victory for traditional Aboriginal rights with the overturning of the conviction for poaching undersized marron against Ted Wilkes, director of the Perth Aboriginal Medical Service. The conviction was set aside on the grounds that the magistrate erred when he rejected evidence that Mr Wilkes was not prohibited from catching or keeping

undersized marron if he was exercising his traditional native title rights under the NTA. (WA, 24 June, p10)

Western Australian Premier, Richard Court, has agreed to give the Opposition documents that show the financial interests of the assistant director-general of the Ministry of the Premier and Cabinet, one of the Government's chief native title policy advisers, in mining companies. (WA, 17 June, p31)

A Nyoongar Oral History

We encourage readers to send in contributions to the Newsletter. Yongar Mungah (Aboriginal name) a Nyoongar man, forwards this contribution from the South West of Western Australia. It highlights the oral traditions and history held by Aboriginal groups around the country, which often provide an alternative view to the popular history.

Prior to the establishment of the Swan River colony here in Western Australia the area was known as Derbal Yarragan. This land was rich in resources and provided economic, social and spiritual sustenance to Nyoongar's within the clans of the Tonduraks, Bullaruk, and Ngoonhnuks.

History tells us that Yellagonga when greeted by Capt. James Stirling, bowed and offered his country and resources to the settlers. In fact the Nyoongar people thought the settlers were countrymen who had returned from the spirit place Djangah. We welcomed them as lost relatives who were to advise us of what knowledge they brought from Djangah. We shifted our Kaleeps (homes) from around river and from the distance we were able to observe our white spirit brothers.

As the time passed we observed that they did not live as we, nor follow the seasons that we were accustomed to. Our white brothers dug up the land and pulled down trees to clear tracts of land. It could be said that unlike us they did not understand the way in which we held the land in the highest esteem and how if the natural forces were broken this would create fighting amongst the clans. Unfortunately we did not realise that this was already taking place alongside the inevitable expansion. The balance of nature was broken, yet we still hunted the kangaroo (yongah) and the possum (coomahl). We would still fire the bushland to procure animals for food, skins and other sustenance. The clans and families were and are the caretakers of the land.

To conclude this story I must inform you of a prophecy among the Nyoongar people known as Moyran's Prophecy. Moyran was the first wife of Midgigooroo and mother of Yagan¹. She gave the first warning about the white spirits as they settled in our country. As our Kaleeps disappeared she voiced her concern that there would come a time when we would be seen as trespassers in our own lands and unable to hunt and gather fish and yams along the Riverland's. Her words are a grim reminder even in today's society. 'Meenya Djanga Boomungar' (The smell of the white man is killing us).

Yongar Mungah
26/05/99

¹Nyoongar resistance leader executed by the British.

APPLICATIONS

National

The National Native Title Tribunal now post summaries of registration test decisions on their website at: <http://www.nmtt.gov.au/>

The following decisions are listed for May and June:

02/05/99 Dariwul People
02/05/99 Dharawal People
02/05/99 Elouera People
02/05/99 Elouera #2
02/05/99 Eora People
02/05/99 Illawarra Tribal Owners
03/05/99 Cosmo Newberry
04/05/99 Widi Mob
13/05/99 Combined Metropolitan Working Group (Combined Application)
13/05/99 Djungan People #2
13/05/99 Kuku Djungan People
21/05/99 Mulbah Family Group
27/05/99 Dambimangari (Combined Application)
27/05/99 Dja Dja Wurrung People #14
27/05/99 Robert Charles Bropho
27/05/99 Swan Valley Nyungah #3
01/06/99 Ballaruks Peoples
01/06/99 Karajarri #3
03/06/99 Njamal (Combined Application)
03/06/99 Munatunga Elders
08/06/99 Maduwongga (Combined Application)

07/06/99 Larrakia No. 2
 09/06/99 Gobawarra Minduarra Yinhawanga
 11/06/99 Dharawal Nation
 11/06/99 Wotjobaluk people & others
 11/06/99 Wotjobaluk People (Combined Application)
 14/06/99 Nyangamarta-Pitjikirli People
 15/06/99 Mayala
 15/06/99 Nyungah people
 17/06/99 Nanda
 24/06/99 Kuruma Marthudunera (Combined Application)
 25/06/99 Bar-Barrum People
 26/06/99 Bond #2
 28/06/99 Birri Gubba (Cape Upstart)
 30/06/99 Innowonga People

Queensland

**Bidjara #2 [NNTT ref#QC97/23], Bidjara #3 [NNTT RefQC97/49],
 Bidjara #4 [NNTT Ref#QC97/62]**

A meeting that would have brought together around 200 Bidjara people has been cancelled. The meeting was to discuss which native title applicants were authorised to lodge native title applications on behalf of the Bidjara traditional owners. There are three native title applications in the name of Bidjara people, with applicants in Bidjara No.4 questioning the validity of the other applications. Some applicants are worried that the cancellation of the meeting will advantage Bidjara No.4 at the expense of the other applications. *(CM, 22 May. P11)*

Koa People [NNTT Ref#QC99/17]

The Koa People's claimant application covering the Castle Hill pastoral holding in Central Queensland was lodged in the Federal Court on 24 May 1999. The application was lodged in response to a non-claimant application QN98/4. *(QNT, June 1999, p1)*

Western Australia

Miriuwung Gajerrong #1 [NNTT Ref#94/2]

The Federal Court has awarded costs of \$6 million to the applicants in the Miriuwung Gajerrong native title case. The costs will be met 75 per cent by the Western Australian Government and 25 per cent by the Northern Territory Government. *(Hon. Warren Snowdon Media Release, 6 May)*

Widi Mob [NNTT Ref#WC97/72]

The Widi Mob native title application, south east of Geraldton, has been unsuccessful in meeting the requirements of the registration test. The application is over an area of 53 000 square kilometres. However large areas of land within those boundaries, including all freehold land, are not subject to the application.

The application, lodged on 26 August 1997, was unsuccessful on nine grounds. These included showing that the application was authorised by the claimant group; demonstrating a traditional physical association with the land and showing that the applicants had maintained native title in accordance with traditional laws and customs. The applicants can appeal the Tribunal's decision. (*NNTT Media Release, 5 May*)*

Sir Samuel [NNTT Ref#WC95/58]

The Sir Samuel application, on the northern Goldfields has failed the registration test. The applicants would retain the right to have a say over mining, exploration or some other developments which predated the start of the amended NTA on 30 September 1998, but not on any subsequent proposals. The application now known as Sir Samuel was originally lodged on 27 September 1995 and was amended by incorporating new applicants in September 1998 following negotiations over overlapping applications in the area. (*NNTT Media Release, 6 May*)

Cosmo Newberry [NNTT Ref#WC96/17]

The Cosmo Newberry application failed the registration test on a single ground: it had claimants in common with an overlapping application that had already passed the registration test, namely the Wongatha application.

The Cosmo Newberry application was lodged by the Ngaanyatjarra Council on 21 February 1996. Although the application was lodged before the NTA amendments were introduced to Parliament on 27 June 1996, and would therefore ordinarily retain negotiating rights on development proposals prior to the start of the new NTA, the application was amended in the Federal Court this year (after the start of the amended NTA).

NNTT Registrar, Chris Doepel said that the Tribunal has interpreted Parliament's intention to be that where applications amended after the start of the amended NTA fail the registration test, the applicants lose the right to have a say over all mining, exploration and development proposals - regardless of when the application was lodged. In view of this opinion, the Tribunal will soon decide whether any pending future act arbitrations relating to the Cosmo

Newberry native title application should be dismissed. (*NNTT Media Release, 6 May*)*

Combined Metropolitan Working Group [NNTT Ref#WC99/6]

The Combined Metropolitan Working Group's native title application has passed the registration test. The applicants now have the right to negotiate while the native title determination process is underway. The application excludes freehold, commercial leases as well as other exclusive possession leases. The application was formed from an amalgamation of applications by Robert Bropho, William Warrell, Gregory Garlett and Richard Wilkes in the Perth region. (*WA, 14 May, p1*)*

North Hannan housing [WF98/275, WF98/279]

National Native Title Tribunal Deputy President Hon. E. M Franklyn QC ruled late yesterday that the WA Department of Land Administration (DOLA) had negotiated in good faith with the Murdeeu, Karoni, Gubrun and Maduwongga people.

DOLA announced the proposed North Hannan land release on 28 March 1996. Negotiations with native title applicants proceeded for the next two years with the Tribunal providing mediation assistance in 1998. On 29 September 1998 the native title parties asked the Tribunal to decide the matter. The following month DOLA withdrew from mediation.

The Tribunal found that negotiation in good faith did not mean that the Government had an obligation to accept the other side's position, or mean that a negotiated agreement must be reached between the parties. It remained to be determined whether and under what conditions the subdivision would proceed in order to protect the native title rights and interests of Indigenous people. (*NNTT Media Release, 20 May*)*

The Tribunal made a consent determination allowing the compulsory acquisition of native title rights, to allow the North Hannan's housing development in Kalgoorlie to proceed. The agreed conditions of the determination include employment and training opportunities, business and sub-contracting opportunities and heritage protection for native title parties. (*NNTT Media Release, 28 June*)*

Goldfields Native Title Applications

National Native Title Tribunal President Graeme Neate commented on the rationalisation of applications in the Goldfields, as a result of Indigenous efforts to comply with new Federal native title laws.

From a peak of 84, combined and withdrawn applications had seen the number drop to 35 and is likely to drop further to around twenty.

Speaking in Kalgoorlie, Mr Neate said the drop in applications was evidence of a new negotiating environment and the Tribunal would soon restart mediation toward the final settlement of local applications. Mr Neate identified elements of the Federal framework that would facilitate negotiations:

- all parties, including the registered native title claimants, were now bound to negotiate in good faith;
- negotiations in good faith could be confined to only those native title rights and interests which satisfied the requirements of the registration test. The parties could, of course, choose to negotiate on a wider basis prior to seeking an arbitrated determination;
- exemptions from the right to negotiate were possible for low impact exploration activity;
- within town or city boundaries, the circumstances which attracted the right to negotiate were now very limited;
- registered applicants had to be authorised by the native title group so that other parties could be confident they were negotiating with properly authorised claimants. The local representative body could also certify an application for the purposes of the registration test but only if satisfied that the applicants were properly authorised; and
- voluntary, legally binding, registered indigenous land use agreements could now be negotiated under which long term access to land for miners and explorers could be secured on terms suitable to the parties. *(NNTT Media Release, 25 May)**

Maduwonga (Combined Application) [NNTT Ref#WC94/3, 95/11, 98/20, 99/9]

The oldest native title claim in the Goldfields and the third application lodged in Western Australia, has failed the Federal Government's new registration test. The claim, lodged in 1994 over 21,000 sq km of land in and around Kalgoorlie-Boulder had met all but one of the 14 registration test conditions. The application had claimants in common with the North East Independent Body's Wongatha claim in the Northern Goldfields, which has already passed the registration test. The Maduwonga group has lost the right to negotiate however, a spokesperson for the group said the claim is a strong one and the failure does not mean anything for the result in the Federal Court. *(KM, 10 June, p3)*

Wutha people [NNTT Ref#WC99/10]

The Wutha claim, an amalgamation of two claims lodged in 1996, has successfully passed the Federal Government's new registration test. This is the

fourth Goldfields native title claim to pass the test. The claim covers 61,740 sq km in the Northern Goldfields. (*KM, June 18, p2*)

Northern Territory

Katherine [NNTT Ref#DC99/2]

A native title application on behalf of the Dagoman, Jawon and Wardaman people has been lodged in the Federal Court. The application covers areas of land in and around Katherine. (*NTN, 22 May, p4*)

MINING AND NATURAL RESOURCES

Queensland

Native title negotiations in relation to a \$750 million nickel and cobalt mine at Marlborough, 60km north of Rockhampton have stalled. Preston Resources Ltd has walked away from direct negotiations with Aboriginal claimants and has stated that it wants to take talks to arbitration. The native title applications cover half the mine's nickel reserves, estimated at 52 million tonnes. Aboriginal groups are reported to be shocked by the decision and have stated that they believed the talks were close to reaching a decision. The Barada Barna, Kabalbarra, Yetimaria and Darumbal people were the first to have their applications recognised under the amended state Native Title Act. (*CM, 24 June, p3*) In response to the stalling of the talks the Opposition leader demanded that Parliament reconvene for an emergency session to clear native title legislation. Premier Peter Beattie rejected the call stating that the responsibility for the failure of native title negotiations rested solely with the Federal Government. (*CM, 25 June, p8*)

Western Australia

Noongar Land Council Executive Director, Mr John Hoare, is concerned that logging in Western Australia under the Regional Forests Agreement is destroying native title evidence. Mr Hoare said that coexistence of native title rights and rights of other land users, as confirmed by the *Wik* decision, could not occur with the practice of non-selective logging. (*Manjimup Bridgetown Times, 12 May, p7*)

The WA government has selected a consortium, headed by the Henry Walker Group, to develop up to 4 000 hectares of Ord River pastoral land for intensive horticultural farming. The proposal involves the establishment of about 80 fully serviced farms at Mantinea Flats, 30km north west of Kununurra. Negotiations on native title, environment issues and Aboriginal heritage are to begin if the project is found to be viable. (*SMH, 17 June, p30*)*

Goldfields Land Council has called on WMC Resources to end heritage surveys in the North East of WA. WMC Resources has stated that the tours are an exercise in identifying and protecting Aboriginal sites near its Mt Keith operations however GLC fears that they could be an underhanded method of destroying Aboriginal sites. *(KM, June 21, p3)**

Expenditure on mining exploration in WA declined for the seventh successive quarter. Exploration budgets have been cut due to a drop in demand and falling prices for commodities. Concerns surrounding the native title issue in Australia, a stronger Australian dollar and attractive opportunities overseas are seen as some of the reasons for the decline. *(FinR, June 22, p3)**

A memorandum of understanding has been signed between seven mining companies and the Kimberley Land Council. The memorandum took 18 months to negotiate and involved 40 Aboriginal leaders. The agreement is the largest regional arrangement in Australia and the first to cover an entire region. The aim of the memorandum is to streamline exploration across WA's Kimberley region. Under the memorandum the mining companies will notify traditional owners through the Kimberley Land Council as soon as an exploration licence application is made. The traditional owners will then have the option of entering into a native title and heritage protection agreement with the mining company. If they do not want to sign an agreement they can lodge an objection to the exploration licence through the Government native title process. The seven companies include BHP, Rio Tinto, Acacia Resources, Shell Development Australia, Tanami Gold, Glengarry Resources and Western Metals. *(FinR, June 22, p24)** Chief executive officer of the Chamber of Minerals and Energy, Mr Ian Satchwell, said the agreement has generated a lot of interest in the mining community. It appears consideration will be given to such an agreement in the Goldfields. *(KM, 25 June, p5)*

Noongar Land Council is considering a test case in the Federal Court to stop the Department of Conservation and Land Management destroying evidence of native title through logging old-growth forests. The Council stated that evidence of traditional practices and spiritual connections would be destroyed if logging continued at the present levels. *(WA, 29 June, p11)*

AGREEMENTS

New South Wales

The NNTT has placed the first Indigenous Land Use Agreement (ILUA) under the new federal native title laws on the Register of Indigenous Land Use Agreements. The agreement is between Adelong Consolidated Gold Mines NL, the NSW Aboriginal Land Council and representatives of the Walgalu and Wiradjuri people in the Tumut and Adelong area of NSW. The agreement provides shares in the company, employment opportunities, cultural heritage protection and environmental monitoring for local Aboriginal groups. The agreement is binding on all native title holders in the area whether they are signatories to the agreement or not. (*Media Release, Attorney-General, 22 June*)

Queensland

Public notification for Queensland's first two ILUAs began on 5 May. The two Mackay area agreements are Mackay Harbour Beach Park, QLA99/1 and Mackay Surf Lifesaving Club, QLA99/2. Under the Native Title Act any person claiming to hold native title in the areas subject to the agreement has three months from the date of notification to lodge an application for a determination of native title over any part of the area. (*QNT, June 1999, p1*)

The Queensland Government has announced its intention to negotiate an ILUA for the Togara North coal mine project located 30km south of Comet in the Shire of Bauhinia. (*QNT, June 1999, p1*)

On 19 May 1999 Integrated Pipeline Services on behalf of Boral Energy Asset Management and Envestra Limited announced its intention to begin ILUA processes for the construction, use and maintenance of a gas pipeline between Gladstone and Maryborough. All persons and organisations whose interests may be affected by the proposed pipeline have been invited to write to Integrated Pipeline Services. (*QNT, June 1999, p1*)

Native title negotiations are under way over an area of land near Gladstone, Queensland. United Launch Systems International are proposing to build a spaceport that would be used to launch LEO (low earth orbit) satellites. An environmental impact study is also being conducted. (*FinR, 7 May, p21*)

Western Australia

A group of Aboriginal native title claimants encompassing the Williams and Riley families has signed a historic agreement with a farmer to allow the development of a gypsum mine in the Lake Chinocup nature reserve in WA's south-west. Farmer Paul Shiner made the deal with the Noongar Land Council representing the group and it is believed to be the first agreement of its kind in Australia involving farmers and crown land (*WA, 8 June, p6*)*

AMENDMENTS

Northern Territory

It has been suggested that Senator Brian Harradine may disallow the Northern Territory's proposed native title regime. The regime that seeks to replace certain provisions of the NTA, has been scrutinised by the Senate after the Commonwealth Attorney-General, the Hon. Daryl Williams, tabled a declaration that the legislation complies with the requirements of the NTA. This was the first state-based native title regime to come before the Commonwealth Parliament. (*FinR, 27 May, p1*)

Senator Brian Harradine decided not to give notice at this stage to disallow the Northern Territory alternative negotiations scheme because he did not wish to interfere with or preempt the outcome of current discussions between stakeholders. The Northern Territory Government, the Central Land Council and the Northern Land Council are all involved in the discussions. (*Senator Harradine, Media Release, 27 May*)*

ACT

The ACT Government has tabled the Native Title Amendment Bill 1999 in the ACT Legislative Assembly. Debate on the Bill has been deferred. The Bill seeks to enact the validation and extinguishment provisions of the *Native Title Amendment Act 1998* in the ACT particularly the NSW list of extinguishing tenures in the Commonwealth Act that relate to the ACT. (*ANTar Action Alert, 30 June*)

Recent publications

The publications reviewed here are not available from AIATSIS. Please refer to individual reviews for information on obtaining copies of these publications.

Native Title Report: July 1997 - June 1998, Human Rights and Equal Opportunity Commission. The Aboriginal and Torres Strait Islander Social Justice Commissioner has a reporting function under section 209 of the Native Title Act 1993 (Cth) (the NTA). The Commissioner is required to:

- prepare an annual report to the Attorney-General on the operation of the NTA and its effect on the exercise and enjoyment of human rights of Aboriginal and Torres Strait Islander peoples; and
- report, when requested by the Attorney-General, on any other matter relating to the rights of Indigenous people under the NTA.

To date, the Aboriginal and Torres Strait Islander Social Justice Commissioner has published five Native Title Reports.

The fifth Native Title Report is the first report of the Acting Aboriginal and Torres Strait Islander Social Justice Commissioner, Ms Zita Antonios. The report focuses on the amendments to the *Native Title Act 1993* that were passed on 8 July 1998. The report evaluates the amendments against principles of equality and non-discrimination. It considers whether the amendments comply with Australia's international human rights obligations as well as considering emerging international standards (such as the Draft Declaration on the Rights of Indigenous People). It contrasts the meaning of equality within a human rights framework with the notion of equality used to justify certain amendments to the right to negotiate provisions of the NTA. The report also examines a number of agreements that have been reached through the native title process to date, and highlights the very real outcomes that have been achieved through negotiation. (*HREOC website, native title page*)

The report can be downloaded from HREOC's website at:

http://www.hreoc.gov.au/social_justice/native_title/index.html

Land Rights at Risk? Evaluations of the Reeves Report, Research Monograph No. 14, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra. Altman, J. C., Morphy, F., and Rowse, T. (Editors)

In Building on Land Rights for the Next Generation: Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976 (the Reeves Report) John Reeves QC proposes fundamental and controversial changes to land rights law in

the Northern Territory. *Land Rights at Risk?* is the published outcome of a conference - 'Evaluating the Reeves Report: Cross-Disciplinary Perspectives' - convened by the Department of Archaeology and Anthropology and the Centre for Aboriginal Economic Policy Research, the Australian National University, March 1999.

In this monograph the broad scope of the conference is maintained, and the sixteen published papers represent a cross-section of disciplines from the social sciences and humanities, including social anthropology, political science, law, economics, public policy, geography and social work. The majority of the contributors have a long-term professional involvement in land rights issues. Taken as a whole, this volume provides a comprehensive and informed critique of the Reeves Report, and it will be essential reading for all those concerned with the Reeves recommendations and their implications. (*CAEPR publicity material*)

Guide to Connection Reports

The Queensland State Department of the Premier and Cabinet is producing a guide to compiling connection reports, which clearly sets out the State's requirements. The guide will also list sources of relevant material and provide some guidance on researching oral histories. For further information contact Val Donovan on phone (07) 3227 7994 or Colin Sheehan on phone (07) 3227 7964.

Connections in Native Title: Genealogies, Kinship and Groups, Research Monograph No. 13, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra Finlayson, J. D., Rigsby, B. and Bek, H. J. 1999. *Connections in Native Title* is a collection of papers presented to the Anthropological Research Issues and Perspectives workshop held at the Australian National University in February 1998. The papers focus on issues of 'Genealogies, kinship, descent and groups: issues and problems in the native title era'. While these papers focus on issues for anthropological research, they also speak to a wider readership interested in native title claim preparation and mediation. Contributions focus on anthropological issues of kinship and social organisation in particular where these matters are increasingly sites of political and academic debate in native title claim research, preparation and presentation. This volume includes papers by Peter Sutton, Fiona Powell, Rod Hagen, Julie Finlayson, Ian Keen, Bruce Rigsby, Nancy M. Williams and Geoff Clark. Each author draws on their significant practical experience in both land rights and native title issues to discuss these matters. (*CAEPR flyer*)

Native Title Research Unit publications

The following NTRU publications are available from AIATSIS. Please phone (02) 6246 1161, fax (02) 6249 1046 or email: ntru@aiatsis.gov.au

Regional Agreements: Key Issues in Australia - Volume 2, Case Studies
Edited by Mary Edmunds, 1999. (cost \$19.95 including postage)

A Guide to Overseas Precedents of Relevance to Native Title Prepared for the NTRU by Shaunnagh Dorsett and Lee Godden, 1998. (cost \$18.95 including postage)

Working with the Native Title Act: Alternatives to the Adversarial Method
Edited by Lisa Strelein, 1998. (cost \$9.95 including postage)

Regional Agreements: Key Issues in Australia - Volume 1, Summaries
Edited by Mary Edmunds, 1998. (cost \$19.95 including postage)

A Sea Change in Land Rights Law: The Extension of Native Title to Australia's Offshore Areas by Gary D. Meyers, Malcolm O'Dell, Guy Wright and Simone C. Muller, 1996. (cost \$12.95 including postage)

Heritage and Native Title: Anthropological and Legal Perspectives
Proceedings of a workshop conducted by The Australian Anthropological Society and AIATSIS at the ANU, Canberra, 14-15 February 1996 (cost \$20 including postage)

The Skills of Native Title Practice Proceedings of a workshop conducted by the NTRU, the Native Title Section of ATSIC and the Representative Bodies, 13-15 September 1995 (cost \$15 including postage)

Anthropology in the Native Title Era Proceedings of a workshop conducted by the Australian Anthropological Society and the Native Title Research Unit, AIATSIS, 14-15 February 1995 (cost \$11.95 including postage)

Claims to Knowledge, Claims to Country: Native Title, Native Title Claims and the Role of the Anthropologist Summary of proceedings of a conference session on native title at the annual conference of the Australian Anthropological Society, 28-30 September 1994 (out of print)

Proof and Management of Native Title Summary of proceedings of a workshop conducted by the Native Title Research Unit, AIATSIS, on 31 January-1 February 1994 (cost \$9.95 including postage).

The following publications are available free of charge from the Native Title Research Unit, AIATSIS, Phone (02) 6246 1161, Fax (02) 6249 1046 or email ntru@aiatsis.gov.au:

Issues Papers published in 1998 and 1999:

- No. 20: ***Compensation for Native Title: Land Rights Lessons for an Effective and Fair Regime*** by J. C. Altman
- No. 21: ***A New Way of Compensating: Maintenance of Culture through Agreement*** by Michael Levarch and Allison Riding
- No. 22: ***'Beliefs, Feelings and Justice' Delgamuukw v British Columbia: A Judicial Consideration of Indigenous Peoples' Rights in Canada*** by Lisa Strelein
- No. 23: ***'This Earth has an Aboriginal Culture Inside' Recognising the Cultural Value of Country*** by Kado Muir
- No. 24: ***The Origin of the Protection of Aboriginal Rights in South Australian Pastoral Leases*** by Robert Foster
- No. 25: ***Compulsory Acquisition and the Right to Negotiate*** by Neil Löfgren
- No. 26: ***Engineering Unworkability: The Western Australian State Government and the Right to Negotiate*** by Anne De Soyza
- No. 27: ***Extinguishment and the Nature of Native Title Fejo v Northern Territory*** by Lisa Strelein

Regional Agreements Papers: Land, Rights, Laws: Issues of Native Title

- No. 5: ***Process, Politics and Regional Agreements*** by Ciaran O'Faircheallaigh
- No. 6: ***The Yandicoogina Process: a model for negotiating land use agreements*** by Clive Senior
- No. 7: ***Indigenous Land Use Agreements: New Opportunities and Challenges under the Amended Native Title Act*** by Dianne Smith

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This newsletter was prepared by Penelope Moore and Roslynne Percival

The
Australian Linguistic Society
in conjunction with the
Native Title Research Unit
Australian Institute of Aboriginal and Torres Strait Islander Studies
and with assistance from the
National Native Title Tribunal
presents

Linguistic Issues

in

Native Title Claims

**A workshop to be held on Saturday, October 2
at the University of Western Australia (room TBA)**

Linguistic evidence has played an increasingly important role in native title claims, as highlighted recently in the Miriuwung Gajerrong and Yorta Yorta cases. This workshop will provide an opportunity to draw together the linguistic issues arising in the various claims. It will be of interest to linguists, anthropologists, lawyers and others involved in native title claims.

The workshop will be held as part of the 1999 Conference of the Australian Linguistic Society but is open to non-members. The conference and the Society's journal are the leading academic forums for descriptive study and analysis of Australian indigenous languages.

Papers are invited on all relevant aspects of native title claims, including but not limited to:

- revisiting the issues of the relationships between language, people and country, including the notion of the language group
- historical and comparative evidence for the continuity of language in a given area, including
 - use of historical documentation
 - issues of contemporary knowledge and use of language
 - the role of place names and geographical and ecological terms
- communication in court and in the preparation of claims, including
 - communicative styles
 - interpreting and translation
 - difficulties in communication
- comparison with similar issues in other countries

Presentations will be of 30 minutes, including 5 minutes question time.

Further information, including a short bibliography, is available at the website (see below).

Registration

Registration fee to be paid in advance: waged \$40, student/unwaged \$20 (free to those registered for the main Australian Linguistic society conference). The preferred method of registration is using the web form at the workshop website:

<http://www.arts.uwa.edu.au/LingWWW/als99/ntitle.html>

or contact: John Henderson

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