

Native Title Newsletter

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WHAT'S NEW WITH THE NTRU!

The PBC toolkit is now online see the NTRU Project report for details.

http://ntru.aiatsis.gov.au/major_projects/pbc_rntbc.html

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.





Native Title 15 Years On

By B A Keon – Cohen QC

Fifteen years on since *Mabo (No 2)*¹, where are we at? In 1992, key players such as industry, state and federal governments, wanted native title like a hole in the head.

On 3 June 2002, Fred Chaney, Deputy President of the NNTT, summarised 'ten years on'. He referred to three 'gains': first, 30 determinations over 225,000 square kilometres, almost all of it in Queensland and Western Australia; second, a new culture of negotiation, reaching into wide areas of national life; and third, the realisation that obtaining recognition of native title is arduous, requiring all the stamina of Eddie Mabo, and the skills and long-term commitment of talented professionals. He might also have mentioned, to balance the picture, a failure of vision by all political parties and governments, that ignored much of the potential opened up by *Mabo*, and produced an unduly repressive, expensive, and cumbersome national solution.

Despite greater acceptance from business leaders and the general community, governments of all political persuasions, remain comfortable in their limited vision, and native title's most determined opponents – especially at the bar table.

As to real results on the ground, attitudes vary widely. The Yorta Yorta people, and others, would say they have gone backwards. They must live (for ever) with a determination, *in rem*, which rejects any native title rights over their traditional lands; and which removed their 'right to negotiate' over future acts as well. The National Native Title Tribunal (NNTT) would say: 'steady progress' - and trot out, by way of support, a string of statistics, especially concerning Indigenous Land Use Agreement's negotiated and entered into, and claims resolved. The Western Australian government won't answer your correspondence and will usually reject any consent determination, preferring to fiercely oppose claims at trial. Recent examples such as *Wongatha*² in the Goldfields; and the *Single Noongar Claim*³ to Perth make it hard to distinguish between a genuine desire to clarify the law and the pursuit of costly, policy-driven appeals. The current Federal Government, ideologically driven to wind-back native title generally, and land rights in the Northern Territory⁴ under the umbrella of abused children, will turn up at consent determinations and

talk cynically of good progress while supporting respondents and seriously under-funding Native title Representative Bodies (NTRBs or Representative Bodies) and Prescribed Bodies Corporate (PBCs), creating costly log-jams in the entire system. Representative Bodies express frustration with burdensome auditing requirements, while being unable to properly represent their clients. The increasing numbers of PBCs say that until recent months, they have for a decade been scandalously denied *any* resources or any technical assistance in administering native title on behalf of their traditional owners – a task the Commonwealth law demands. Meanwhile, the High Court says: come to Canberra at your peril. Since the *Wik* watershed in 1998, the High Court has largely settled the law, given clear (and restrictive), rulings on the meaning of s 223 of the Act, and, in the process, created major evidential burdens for claimants (that no one else suspected existed). In the foreseeable future, the Court is unlikely to change its adverse attitude. The *Native Title Act 1993* (Cth) and these decisions – particularly *Ward*⁵ and *Yorta Yorta*⁶ - mean that those native title claimants that succeed enjoy a fragmented 'bundle of rights' susceptible to extinguishment; success at trial is now all but impossible for 'non-remote' communities; and that negotiated, often minimal, outcomes is the sum total offered by *Mabo (No 2)*. An interesting, exception to that bleak assessment is the recent *Noongar* Perth claim⁷ - now subject to appeal by Western Australia.

One example of the influence of government policies can be seen in Victoria. Under the Kennett conservative government, the Yorta Yorta people failed at trial, following a fully contested, knock-down fight in the Federal Court. By contrast, after ten years of negotiation with the Bracks government, the Gunditjmarra people from Western Victoria succeeded, recording the 100th registered determination of native title.⁸ On 30 March 2007, at Mt Eccles National Park Justice North made a consent determination recognising the Gunditjmarra people's non-exclusive native title rights over 140,000 hectares of country.

The statistics continue to mount. As at 19 April 2007, 583 claims were being processed: 537 claimant applications, 11 compensation claims, and 35 non-

¹ *Mabo v Queensland (No 2)* (1992) 175 CLR 1.

² *Harrington Smith v WA (No 9)* [2007] FCA 31.

³ *Bennell v Western Australia* [2006] FCA 1243.


⁴ See *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

⁵ *Western Australia v Ward* (2002) 191 ALR 1.

⁶ *Yorta Yorta v Victoria* (2002) 194 ALR 538.

⁷ *Bennell v Western Australia* [2006] FCA 1243.

⁸ *Lovett v Victoria* [2007] FCA 474.



claimant applications.⁹ As at June 2007, 101 determinations of native title had been entered on the NNTT's register. Of these, 67 found that native title exists, in whole or in part, in the determination area. Of those 67, 79 per cent were by consent of the parties, many without the need for a trial.¹⁰

The Commonwealth has recently introduced two amending Bills. The first, the *Native Title Amending Bill 2007*, became operative law on 15 April 2007.¹¹ The changes it introduces affect Representative Bodies, PBCs, respondent parties, and the operations of the Federal Court and the NNTT. For example, the NNTT has been given extra powers and functions to deal with native title claims referred to it by the Federal Court for mediation.

The second is the *Native Title Amendment (Technical Amendments) Act 2007*, introduced into the House of Representatives on 29 March 2007. It was referred to the Senate Legal and Constitutional Affairs Committee, which reported back to the Senate on 9 May 2007. Its recommendations included enabling the NNTT Registrar to assist parties seeking to register an Indigenous Land Use Agreement; the reviewing of NTRB decisions affecting claimant groups; and allowing PBCs to charge a third party costs incurred for performing statutory functions.¹² Greens Senator Rachel Stewart, commenting upon the amendments, passed the view that:

The promise of native title has been hamstrung by an overly complex and bureaucratic system, the reluctance of the NNTT to use its arbitration powers to impose conditions on mining companies, and the recalcitrance of governments who do not wish to concede any ground.¹³

I agree with Senator Stewart. However, I also agree with Fred Chaney. Upon his retirement from the NNTT in April 2007, he said that over the past 50 years of him observing Indigenous Australia:

native title has been the greatest single agent of positive change. However imperfectly, it has shifted the balance in the relationship and has brought Aboriginal people to the (negotiation) table as never before.¹⁴

I said as much upon *Mabo (No 2)* being handed down in 1992.

After fifteen years, serious questions remain unanswered at both national policy and on-the-ground levels. The outlook cannot be characterised as 'positive' for the severely dislocated communities along Australia's eastern seaboard, who are largely excluded from the native title regime other than a 'right to negotiate'. Further, the Tiwi owners and the residents of the Alice Springs town camps are now under pressure from Minister Mal Brough to fragment their communal title to 99-year leases, and take-up private home ownership. Such imposed sub-division and transference of land rights from traditional-communal to various crown titles (for example, fee-simple, leasehold) proved disastrous for Indigenous owners in New Zealand from the 1860s, and in the USA during the notorious 'allotment era' (1887-1934). In both jurisdictions, traditional owners were exploited, and their land was lost to colonisers block by block. The ramifications of these potentially devastating attacks upon Indigenous land gains since 1976 and 1992 remain to be seen.

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⁹ (2007) 8 *Native Title News* (2 May) 26, 30.

¹⁰ Graham Neate in *NNTT Hotspot* (Issue No 23, June 2007).

¹¹ Act No 61 of 2007.

¹² *NNTT Talking Native Title* (Issue No 23, June 2007).

¹³ *Koori Mail*, National, 28 March 2007.

¹⁴ *NNTT Talking Native Title* Issue No 22, March 2007.



HREOC National Survey on Land, Sea and Economic Development

By the Human Rights and Equal Opportunity Commission

In the Native Title Report 2006, the Aboriginal and Torres Strait Islander Social Justice Commissioner published results of a national survey of traditional land owners from a National Survey on Land, Sea and Economic Development undertaken in 2006. The results summarise traditional owner views regarding the uses and purposes of their land and seas. The survey information includes traditional owners' views on economic development, including the barriers, priorities and community capacity to engage in economic projects and agreements.

To date, much of the public debate about Indigenous land and seas has been driven by academics and government bureaucrats, with advice being sought from Indigenous people within academia or the relevant government policy area. The HREOC survey was designed to source information from Indigenous people themselves.

Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma, said the survey of traditional land owners and their representative bodies included those with a responsibility to hold, manage and progress land under Indigenous title, such as Native Title Representative Bodies, Native Title Service providers, land councils, community/shire councils, Prescribed Bodies Corporate and Indigenous corporations.

He said the survey identified a distinct disparity between the governments' economic development agenda on Indigenous lands and the importance to the traditional land owners of the land and economic development on land.

The survey revealed that traditional owners are most likely to value their position as the custodians of their land and seas above all other roles, including economic development. However, as a traditional owner from the Yorta Yorta nation pointed out, economic development was seen as an important tool in which to gain self determination and independence, but should not be at the expense of the collective

identity and responsibilities to traditions, nor the decline in the health of traditional owners' country.

The survey also identified the limited capacity for Indigenous people to understand and participate in negotiations and therefore leverage opportunities.

Mr Calma said that only 25 percent of traditional owner respondents claimed to understand agreements, while 60 percent of their Native Title Representative Bodies claimed that traditional owners in their region were able to understand agreements.

Traditional owners who responded to the survey were frustrated at trying to engage effectively in the native title and land tenure system indicating that they needed the legal processes explained to them, and that they did not understand the difference between state and Commonwealth processes.

He said others did not understand the different processes and acts or even what native title was. Others said the Aboriginal Land Act was set up by lawyers and anthropologists for lawyers and anthropologists and it was only these professionals who could understand it.

Traditional owner respondents called for government, industry and representative organisations to provide more support and appropriate plain English information to Indigenous communities both in relation to native title and economic development. Mr Calma said the respondents considered these requirements to be essential to effective Indigenous participation in negotiating native title and land tenure outcomes that met their responsibilities as custodians and also supported their economic development aspirations and opportunities.

He said it was clear from the survey that appropriately designed information and support would also develop the capacity for, and ensure fully informed consent to, development options on traditional owners' lands.



The *Larrakia* Appeal

By Ross Mackay

Risk v Northern Territory of Australia [2007]
FCAFC 46 ('*Larrakia*')
Background

Background

The *Larrakia* claim was the consolidation of a number of claimant applications for native title over land and waters in and around Darwin. The claim covers an area of 30 square kilometres including parts of metropolitan Darwin and its surrounds on the Darwin Peninsula, and consisted mainly of Crown land or land held by the Darwin and Palmerston City Councils.

At first instance, 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 by virtue of the NTA.

At first instance,¹⁵ Mansfield J dismissed the claim. In doing so, he interpreted the High Court's decision in *Yorta Yorta*¹⁶, as requiring continuity from pre-Sovereignty to the present day. In analysing the *Larrakia* community, he found that the 'society' required under s 223 of the NTA had ceased in the period between 1910 and WWII, as there was no evidence of a strong and identifiable *Larrakia* community.¹⁷ In addition, he found it fatal that, although there was an identifiable *Larrakia* community currently who practiced traditional law and custom, there were significant discrepancies in relation to the content of these laws and customs, and that many fundamental beliefs were derived from the Kenbi land claim hearings, rather than being intergenerationally transmitted from pre-Sovereignty times.¹⁸

¹⁵ *Risk v Northern Territory* [2006] FCA 404 (*Larrakia*)

¹⁶ *Members of the Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422 (*Yorta Yorta*).

¹⁷ *Risk v Northern Territory* [2006] FCA 404 at [339]-[441].

¹⁸ *Ibid* especially [820]-[822].

Intervention of the Attorney-General

The Attorney-General intervened in the appeal through a power under s 84A of the NTA contending that 'the course set' in a wide body of recent native title jurisprudence had 'departed from the law'.¹⁹ The Commonwealth argued that it was concerned with the lack of consistency with which the courts have been treating native title.²⁰

Their Honours accepted the grounds for the intervention, although they did not feel it necessary to respond directly to the submissions since the matters raised by the Attorney-General are covered elsewhere in the judgment, as responses to the appeal submissions generally.²¹

Grounds of Appeal – *Larrakia* Respondents

Consideration of Oral Evidence

In making this argument, the appellants cited as an example one claimant witness who gave evidence of named 'ceremony men', canoe making, learning dances and songs, burial ceremonies, bush food and crabbing expeditions. At least part of this evidence pertained to the period 1910 to WWII; the period for which Mansfield J ruled that there had been an interruption in the *Larrakia*'s traditional association with the claim area.²² The appellants submitted that Mansfield J insufficiently considered this and other such evidence in coming to this conclusion.²³

Their Honours believed that the process detailed by Mansfield J in his judgment proves that he did fully consider the body of oral evidence. Their Honours note that he explicitly or implicitly refers to all of the witnesses in the judgment including the witness


¹⁹ Submissions of the Attorney-General of the Commonwealth of Australia, Intervening, 3 November 2006.

²⁰ *Larrakia* [5], referring also to *Northern Territory v Alyawarr* (2005) 145 FCR 325 and *De Rose v South Australia (No 2)* (2005) 145 CLR 290 in the Full Federal Court, and *Sampi v Western Australia* [2005] FCA 777 and *Bennell v Western Australia* [2006] FCA 1243.

²¹ *Ibid* [8].

²² See above.

²³ *Larrakia* [36].



singled out in submissions, most of them several times.²⁴

Their Honours note that the submission is not that Mansfield J reached an incorrect conclusion, but that his decision-making process was flawed.²⁵ In rejecting this submission, their Honours ruled that:

[i]t is true that his Honour did not record or refer to all of it [the evidence]. But he was not obliged to. He did, however, make copious references to the essential parts of the evidence of most of the ochre [1910 – WWII] witnesses, and some reference to all of them.²⁶

Incorrect Application of Yorta Yorta: the ‘Book-End’ Approach

The appellants submit that Mansfield J adopted the ‘book-end’ error; comparing the current society with the traditional society, and assessing traditionality with reference to the correlation between the two. They submit that such an approach does not truly address the rule of *Yorta Yorta*, which requires the Court to determine whether the currently practiced laws and customs are borne from a normative system which has continued from pre-Sovereignty to the current day.²⁷

Their Honours noted that adopting the ‘book-end’ approach leads to two grounds of error.²⁸ Firstly, it allows for societies that have ceased and later been revived to be considered traditional. Secondly, it does not allow for the adaptation of laws and customs in the natural evolution of a traditional society. However their Honours felt that the detailed methodology of Mansfield J’s judgment in no way implied that he had adopted the ‘book-end’ approach in coming to his conclusions.²⁹

Further to this submission, the Larrakia appellants felt that the correct way to address the traditionality requirement was not to determine whether there had been a substantial interruption in the practice of laws and customs, but to inquire whether the laws and customs today had their origins in pre-Sovereignty.³⁰ Their Honours agreed, but felt that Mansfield J had, in keeping with *Yorta Yorta*, viewed continuity of practice of laws and customs without substantial

interruption as an integral (although not in itself disintitling) indicia of traditionality.³¹

Reliance on Physical Presence

The appellants submitted that Mansfield J had attached too much weight to the Larrakia’s perceived lack of continued physical presence in the claim area. By reference to the discussion of this issue in *Western Australia v Ward*,³² their Honours rejected this submission.³³ They ruled that Mansfield J had correctly concluded that

[i]t is not that the dispossession and failure to exercise rights has, *ipso facto*, caused the appellants to have lost their traditional native title, but rather that these things have led to the interruption in their possession of traditional rights and observance of traditional customs.³⁴

Requirement of Traditional Methods of Knowledge Transference

It was found at first instance that the Larrakia’s traditional word-of-mouth method of knowledge transference constituted a traditional custom that was no longer observed.³⁵ The appellants submitted that Mansfield J had erred by considering this a traditional custom, and that it should not have had a bearing on the question of interruption.

Their Honours viewed this submission as somewhat redundant, since Mansfield J’s conclusion was based on a more fundamental interruption to the Larrakia’s observance of traditional law and custom.³⁶ Regardless, the submission was found to be unsound, as there was no reason that knowledge transference could be considered not to be a traditional custom for the purposes of the NTA.³⁷

Non-Adoption of the Kenbi Land Claim Findings

The final submission of the Larrakia appellants was that Mansfield J had erred by not using his powers under s 86 of the NTA to adopt the findings of the Kenbi claim report.

²⁴ Ibid [38]-[66].

²⁵ Ibid [68].

²⁶ Ibid [69], drawing from the evidentiary consideration requirements of *Mifsud v Campbell* (1991) 21 NSWLR 725.

²⁷ See especially *Yorta Yorta* [46]-[47].

²⁸ *Larrakia* [82].

²⁹ Ibid [83].

³⁰ Ibid [77].

³¹ Ibid [96], quoting *Yorta Yorta* [86]-[88].

³² (2002) 213 CLR 1.


³³ Ibid [103].

³⁴ Ibid [104].

³⁵ *Risk v Northern Territory* [2006] FCA 404 at [823].

³⁶ *Larrakia* [106].

³⁷ Ibid [107].



Their Honours note that it is only with great difficulty that an act of judicial discretion can be overturned.³⁸ In conjunction they note that, although it will often be expedient to do so, the ultimate decision of whether to adopt such previous findings depends on the circumstances of each matter.³⁹ In this case, their Honours noted that, unlike the NTA, the Kenbi land claim report made no finding that the land holders were the traditional holders of land rights, as this is not a feature of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). They found that this, combined with the substantive difference between the evidence presented by the Larrakia at trial and that put forward in the course of the land claim, meant that Mansfield J had exercised his discretion correctly.⁴⁰

Grounds of Appeal – The Quall Applicants

The Quall applicants opposed the Larrakia's claim at first instance, asserting that native title rights were held by a wider Aboriginal society extending from the Cox Peninsula to West Arnhem Land, which encompassed the Larrakia. At first instance, Mansfield J quite briefly ruled that the insufficient and inconsistent evidence regarding this society meant that there could be no positive determination.⁴¹ He further found that, since the Quall applicants relied primarily on evidence relating to the Larrakia, the finding that the Larrakia society did not fulfil the requirements of s 223(1)(a) of the NTA dictated that the society put forward by the Quall applicants also fell short of these requirements.⁴²

The Quall appellants submitted that Mansfield J did not adequately assess their submission and was wrong to infer the wider society was not traditional as per the NTA simply because the Larrakia society was found to be wanting in this regard.⁴³ In response, their Honours noted that submissions are not evidence per se, and that the Quall applicants' submissions could only be examined to the extent that they had a basis in the presented evidence.⁴⁴ Further, it is noted that a case submitted at appeal must not be substantially different from the case

presented at first instance. By placing further reliance on different aspects of evidence, the Quall applicants advanced a case on appeal that differed from their submissions at first instance, and their Honours believed they could only assess the Quall applicants appeal in light of the claim they presented at first instance.⁴⁵

With this in mind, their Honours dismissed the appeal. They found the evidence presented by the Quall applicants was so brief that it could not be relied upon to prove the existence of a wider Aboriginal society prior to sovereignty and Mansfield J's considerations reflected this.⁴⁶

Orders

The appeal was dismissed with the Commonwealth as intervener ordered to pay costs.

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³⁸ Ibid [113], citing *Australian Coal and Shale Employees' Federation v The Commonwealth* (1953) 94 CLR 621 at 627.

³⁹ Ibid [111], citing *Phillips v Western Australia* [2000] FCA 1274 at [16].

⁴⁰ Ibid [114].

⁴¹ *Risk v Northern Territory* [2006] FCA 404 at [798].

⁴² Ibid [796].

⁴³ *Larrakia* [159].

⁴⁴ Ibid [166].

⁴⁵ Ibid, citing *Commonwealth Evidence Act 1995* (Cth) s 55.

⁴⁶ Ibid [175].

NTRU Project Report

National Native Title Conference 2007

The annual national Native Title Conference is the pre-eminent Indigenous policy conference in Australia. The Conference is held every year to bring together people who are involved in native title in Australia from Indigenous communities, government and the private sector. This year, AIATSIS was invited by the Gimuy Walubara Yidinji



Clockwise: Professor Mick Dodson delivering the Mabo lecture, conference organisers Craig Green and Amanda Fyfe and Gimuy Dancers.



For the annual Mabo lecture, Mick Dodson, Chair of the AIATSIS Council, Professor and Director of the National Centre for



achievements of Eddie Mabo and the other Meriam applicants some 15 years ago. The conference celebrated the achievements of the Wik and Thayorre peoples, the Miriuwung and Gajerrong peoples, the peoples of Croker Island, Blue Mud Bay mob, the Noongars, and the Yawarru people, among many others. The conference recognised that these great nations have struggled and won recognition as native title holders, and that there are many others continuing to struggle within the native title system to gain acknowledgement of their rights.

Indigenous Studies, Australian National University, and Rapporteur for the United Nations Permanent Forum on Indigenous Issues, emphasised how Aboriginal and Torres Strait Islander peoples are getting slaughtered by the colonial imperative to steal their land, to strip their culture, and to demoralise them as peoples and nations. Prof Dodson believes that native title is about self defence – defending Indigenous peoples' identity and inheritance in the land and sea.

people to hold the Native Title Conference on Gimuy country. The relationship established between the conference conveners, the North Queensland Land Council, and the Gimuy Walubara Yidinji people provided many opportunities for Gimuy Walubara Yidinji and local land council collaboration and input into the conference program and cultural events.

It is estimated that Indigenous people comprised around 50 percent of the conference delegates. Sponsorship funds were used to increase the number of Indigenous delegates who would otherwise have been unable to attend. Indigenous people also presented at least 50 percent of the sessions, workshops, and panels, as well as chairing these sessions. The program also included Indigenous only talking circles and sessions, including a women only session which proved to be a huge success.

The central theme of the Cairns 2007 conference – 'Tides of Native Title' focused on the ebb and flow of native title law, policy and practice since the High Court decision in *Mabo* 15 years ago and centred around the relationship between native title, Indigenous communities and the environment. The theme was also reflective of the hard work and

The full conference program and details of speakers is available at the conference website: <http://ntru.aiatsis.gov.au/conf2007/conference2007.html>



Prescribed Bodies Corporate

As part of our PBC research project, the NTRU has created new resources providing information about and for prescribed bodies corporate or registered native title bodies corporate (RNTBCs). The NTRU hopes that these resources will be useful to native title holders, staff of native title representative bodies and native title service delivery agencies, as well as staff from government and non-government organisations working with native title holders. There are three different types of resources:

[National Overview of Registered Native Title Bodies Corporate](#)

The NTRU has compiled information about registered native title bodies corporate as at **30 May 2007** to provide a national overview of claimant determinations recognising native title and the corporations arising from these determinations. The national overview includes hyperlinks providing access to:

- determination summaries and determination map on the [National Native Title Tribunal \(NNTT\)](#) website;
- relevant case law on the [Australasian Legal Information Institute \(Austlii\)](#) website;
- determination information on the [Office of Native Title Western Australia](#) (ONT) website (for determinations in WA only);
- determination & corporation information on the [Agreements, Treaties and Negotiated Settlements \(ATNS\)](#) website;
- corporation information on the [Office of the Registrar of Aboriginal Corporations \(ORAC\)](#) website; and
- native title representative body and native title service delivery agency websites.

This document includes a list of claimant determinations recognising native title, information about these determinations, a list of RNTBCs and information about these organisations.

Download national overview from the NTRU website:
http://ntru.aiatsis.gov.au/major_projects/psc_rntbc.html

[Registered Native Title Bodies Corporate National Overview \(May 2007\) - PDF FORMAT](#)

[Registered Native Title Bodies Corporate National Toolkit](#)

The NTRU has compiled the Registered Native Title Bodies Corporate National Toolkit in response to needs expressed by native title holders for better access to information and resources that may assist them in exercising their native title rights and interests. The toolkit provides information and access to resources about:

- establishing a RNTBC, including accessing assistance from the Office of the Registrar of Aboriginal Corporations;
- potential Australian Government and other funding sources (including a quick reference funding guide sorted by subject);
- accessing training;
- Australian Government and other national or multi-jurisdictional networks, programs and organisations that may be useful to RNTBCs; and
- links to relevant legislation, organisations and publications.

Download toolkit:

[Registered Native Title Bodies Corporate National Toolkit \(June 2007\) - PDF FORMAT](#)

Registered Native Title Bodies Corporate State & Territory Toolkits


The Native Title Research Unit is in the process of finalising State and Territory Toolkits. These toolkits will provide state and territory specific information about:

- claimant determinations recognising native title;
- registered native title bodies corporate;
- potential state or territory funding sources;
- state or territory training providers;
- networks, organisations and programs operating in the state or territory that may be useful to RNTBCs; and
- links to relevant legislation, organisations and publications.

These are available at:
http://ntru.aiatsis.gov.au/major_projects/psc_rntbc.html.

Request for assistance

The NTRU invites users of these resources to provide us with comments or suggestions about additional information that could be included or how they might otherwise be improved. The NTRU would also welcome advice from government and non-



government organisations about any funding, training or programs that should be added to the Toolkits. Please contact us on 02 6246 1161 or email ntru@aiatsis.gov.au.

Workshop Reports

The Reports detailing the workshops held at AIATSIS for NTRBs from 5-6 December 2006 and PBCs 11-13 April 2007 will be available online at http://ntru.aiatsis.gov.au/major_projects/psc_rntbc.html

Tax, Trusts and the Distribution of Benefits

At the Senior Professional Officers Workshop conducted at the University of New South Wales in September 2006, representatives from the national Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs) network met and discussed the problems that have emerged, the legal options available to claimants and the

outcomes this has produced. The outcomes and key themes of the workshop have been summarised in a research report.

The report is available online:

http://ntru.aiatsis.gov.au/major_projects/taxation_trusts.html

Staffing

Tony Lee has joined NTRU as a Visiting Research Fellow and will be working on the Prescribed Bodies Corporate Project. He is a Yawuru man from Broome and is the first Indigenous Member of the National Native Title Tribunal.

Corina O'Dowd and Thao Pham have joined the unit for six weeks as a part of the Aurora Project's student placement program. They are working on the NTRU's native title in the news service, case notes and updating the resource guide.

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WHAT'S NEW

Recent Cases

***Re Australian Jade Exploration Pty Limited & Ors* [2006] QLRT 78**

This case was heard by the Queensland Land and Resource Tribunal and concerns a mining lease application lodged by Australian Jade Exploration Pty Limited and native title groups, the Barada Barna and Kabalbara Yetimarla People, Durambal People #2, and the Koinjmal People. The State of Queensland is also a party.

***Re Carpentaria Gold Pty Ltd & Ors* [2006] QLRT 107**


This case concerns whether compensation should be paid under s 709 of the Mineral Resources Act 1989 by Carpentaria Gold Pty Ltd to the Birri People. It was noted by the Tribunal that an appropriate figure is reached having regard to the evidence that is adduced. It was found that since no evidence on the point was adduced, compensation could not be awarded.

***Lansen & Ors v NT Minister for Mines and Energy & Ors* [2007] NTSC 28**

The plaintiffs are registered Native Title Claimants to land and waters affected by the McArthur River Project. The court found that the defendants conceded the plaintiffs' had standing to bring the proceedings and that the first defendant, the Minister for Mines and Energy for the Northern Territory is and was at all material times responsible for the administration of the Mining Management Act 2001 (NT), the Mining Act 1980 (NT) and the McArthur River Project Agreement Ratification Act 1992 (NT). It was found that authorisation given by the Minister did not authorise the proposal for open cut mining. As a consequence, the proposed open cut mining operation is statutorily prohibited in the absence of an Authorisation: s 35(1) Mining Management Act 2001 (NT).

***Chapman on behalf of the Wakka Wakka People 2 v State of Queensland* [2007] FCA 597 (27 April 2007)**

Considered whether a person named as 'the applicant' unable or unwilling to act can continue to be authorised and consequently whether they are a proper or necessary party to the proceedings under O 6 r 9 FCR. The court also considered whether the



Register of Native Title claims can be amended to remove names of persons as applicant apart from s 66B.

Beattie on behalf of Western Wakka Wakka Peoples v State of Queensland [\[2007\] FCA 596 \(27 April 2007\)](#)

In this case the Federal Court considered whether a native title application can be struck out. This required a consideration of whether the application complies with s 61 of the Native Title Act, that is that authorisation requirements have been met. It was argued that the composition of claim group was based on families rather than a larger group. There was also a consideration of whether the claim was still properly authorised where the claim group is different from those identified as descendants. The issue was also raised in relation to whether there was a 'society' that continued to observe society laws. The court found that in the present case there is nothing to suggest the continued existence of a wider group, a society of Western Wakka Wakka persons who observe that society's laws. If such a group did once exist, all that remains are the descendants of one person and they are said to follow family customs and practices. Other issues considered by the court was whether the application complied with s 62 of the Native Title Act. It was found that s 62 had not been met in a number of respects including the failure to swear an affidavit by each of the persons who are said to be authorised, identify the area and boundaries. The court also noted that the case had been the subject of mediation since 1999 and there was an absence of any meaningful action to progress the matter and struck out the application under O 35 r 2.

Nicholson-Brown v Jennings [\[2007\] FCA 634](#)

This case involved an administrative review of the decision of the Minister to remove applicants from their position as inspectors under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth) ('the Act'). Given that the decision followed a change in governmental policy not yet implemented in legislation the court needed to consider whether the Minister took into account irrelevant considerations, that is, whether new criteria in policy constituted an irrelevant consideration and whether policy contrary to the subject-matter, scope or purposes of the Act. The court also considered the issue of whether there had been a failure to take into account relevant considerations or whether decision made for an improper purpose. The court also considered whether the decision of the minister ultimately constituted a denial of procedural fairness. The court was also required to interpret whether the decision to remove applicants was authorised by the Act. In particular it considered whether the power to

remove can be implied where there is a power to appoint.

Minara Resources Ltd (Acn 060 370 783) v Ashwin & ORS [\[2007\] WASCA 107](#)

This case concerns the validity of a Statement of Claim in representative proceedings over a contract.

Lansen & Ors v NT Minister for Mines and Energy & Ors [\[007\] NTSC 36](#)

This case concerns costs where it was noted that: In the circumstances it seems to me just that the plaintiffs should have their costs of the proceedings including the trial save those costs incurred with respect to the causes and issues abandoned prior to trial and the defendants should have their costs wasted on the causes and issues abandoned by the plaintiffs prior to trial [12]

Roy Kennedy v Director-General of the Department of Environment and Conservation and Another [\[No. 2\] \[2007\] NSWLEC 271](#)

This case concerns whether proceedings have been brought in public interest and whether additional or special circumstances are present. The court considered whether usual order as to costs should be made.

Corowa v Geographe Point Pty Ltd & Anor [\[No. 2\] \[2007\] NSWLEC 272](#)

This case concerns whether proceedings have been brought in public interest and whether additional or special circumstances are present. The court considered whether usual order as to costs should be made. It was noted that:

Mr Corowa's affidavit established that he brought the proceedings in the public interest and not for any private gain. Mr Corowa is a leader of his people born and raised on the Tweed. Mr Corowa's mother and other community members had tried to prevent the bulldozers clearing the land. He acted solely to obtain the rehabilitation of the land, which contained an endangered ecological community. He did this for the benefit of the wider community and future generations, indigenous and non-indigenous.

Native title determinations: Ngarla and Ngarla #2 (Determination Area A) [\(unreported, FCA, 30 May 2007, Bennett J\)](#)

Moses v State of Western Australia [\[2007\] FCAFC 78](#)

This involved a determination of native title rights and interests under s 223(1) of the NTA. The court considered whether the description of native title holders was sufficient. A determination was also made in relation to the prescribed bodies corporate under ss 56(2) and 57(2).



***Dale v Moses* [\[2007\] FCAFC 82](#)**

This involved an appeal from native title determination of a single judge who dismissed the appellants' claim to native title in the determination area but found another native title claim group, the Ngarluma people and Yindjibarndi people, held non-exclusive native title. The claim was dismissed on basis that they were not a group with continuing connection and were not differentiated from Ngarluma people and Yindjibarndi people. The case also considered the transmission of native title rights and interests. It was found that the appellants' case at trial regarding an area known as "the Burrup" was based on alleged transmission of native title rights and interests from two Aboriginal persons said to be sole surviving members of group which originally inhabited the Burrup. The court also considered whether Members of the Yorta Yorta Aboriginal Community v Victoria (2003) 214 CLR 422 precluded inter-societal transfer of native title rights and interests.

***Department of Land Affairs and Others v Goedgelegen Tropical Fruit (Pty) Limited.* [Constitutional Court of South Africa 6 June 2007](#)**

The Court gave judgment in a case concerning the rights of former labour tenants to restitution of land rights under the Restitution of Land Rights Act 22 of 1994. Section 2 of the Act provides for entitlement to restitution of rights in land where persons or communities were dispossessed of their rights as a result of past racially discriminatory laws or practices.

***Wilma Freddie and Others on behalf of the Wiluna Native Title Claimants/Western Australia/Globe Uranium Ltd.* [\[2007\] NNTTA 37](#)**

This case involves the proposed grant of exploration licence for uranium under the future acts regime. It concerns an expedited procedure objection application where the court considered whether the act is likely to interfere directly with the carrying on of community or social activities; whether act is likely to interfere with sites of particular significance; whether act is likely to cause major disturbance to land or waters; or whether the fact that the exploration is for uranium affects consideration of s 237.

***Native title determinations: Deniliquin Local Aboriginal Land Council v Minister for Lands & NSW Native Title Services Limited* [\(unreported, FCA, 14 June 2007, Jacobson J\)](#)**

***Guisepe v Registrar of Aboriginal Corporations* [\[2007\] FCAFC 91](#)**

This case concerns the validity of the appointment of an administrator to an Aboriginal corporation. The court noted that the period of one day to show cause against appointment of an administrator was not a

reasonable period as expressly required by the statute and that the consequent appointment of the administrator was invalid. It was found that the primary Judge underestimated the difficulties faced by the corporation in responding to the notice and overestimated the urgency of the situation. However it noted that there was no denial of natural justice where the show cause notice was based only on the decision to cease funding to the corporation and not the causes for that decision and no opportunity given to respond to those causes. The court also looked at whether the minister had the requisite authority to approve the appointment of the administrator where the approval was minuted prior to authorisation of minister in question.

***Mclvor v The Registrar, Indian and Northern Affairs Canada* [2007 BCSC 827](#)**

In considering the discriminatory effect of legislation, the Court found that that s. 6 of the 1985 Act violates s. 15(1) of the Charter in that it discriminates between matrilineal and patrilineal descendants born prior to April 17, 1985, in the conferring of Indian status, and discriminates between descendants born prior to April 17, 1985, of Indian women who married non-Indian men, and the descendants of Indian men who married non-Indian women.

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

Legislation

[Review of the Mineral Resources Act and the Fossicking Act \(Qld\)](#)


The Department of Mines and Energy (DME) is seeking feedback in its review of the Mineral Resources Act and the Fossicking Act. A discussion paper has been prepared to guide your feedback. The Review of Queensland mining legislation discussion paper (PDF, 372 kB)* includes details on how to reply. Closing date for submissions is 4.30pm 17 August 2007

[Victorian Heritage Services Overview: Aboriginal heritage legislation in Victoria](#)

The site has links to Information Sheets explaining the workings of the 2006 legislation which began on 28 May 2007.

[Aboriginal Cultural Heritage: A new era of heritage protection begins in Victoria](#)

On 28 May 2007, a new system of Aboriginal heritage protection in Victoria will come into force. Cultural heritage management plans are a significant feature of the new regime, with draft regulations setting out when these plans will be required. Arthur



Allens Robinson Partner Chris Schulz and Senior Associate Penny Creswell provide a summary of the proposed requirements for Aboriginal heritage plans.

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

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Productivity Commission 2007, [Overcoming Indigenous Disadvantage: Key Indicators 2007](#).

Federal Court

Federal Court Notice to practitioners - [Conduct of Native Title Proceedings in the Federal Court of Australia](#)

Other

[Cape York Institute. From Handout to Hand UP ; Cape York Welfare Reform Project](#) Aurukun, Coen, Hope Vale, Mossman Gorge Design Recommendations May 2007

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NATIVE TITLE IN THE NEWS

NATIONAL

1 May 2007 NATIONAL **Native Title legislation passed** The native title reforms have been passed under the *Native Title Amendment Act 2007* by the federal parliament. The key components of the legislation 'relate to the resolution of claims, native title representative bodies, prescribed bodies corporate and the provision of funding to respondents in native title claims'. *Law Institute Journal* (National, May 2007), 16.

1 May 2007 NATIONAL **Game technology restores virtual heritage** Computer gaming technology may become useful to 'mining companies and property holders wrestling with native title requirements to document traditional cultural heritage'. A computer simulation called Virtual Warren, developed by an Indigenous multimedia company Cyberdreaming, has the potential to 'capture knowledge about lands used for farming or mining and aid in the native title negotiation process between commercial enterprises and traditional owners'. The technology has been developed using a modified version of GarageGames' Torque Game Engine and the Digital Songlines toolkit. The company is currently working with one developer to see whether the technology can be used to fulfil native title obligations. *Sydney Morning Herald*, (Sydney, 1 May 2007), 22.

1 May 2007 NATIONAL **Call for native title review** Minter Ellison partner Ewan Vickery has called for the *Native Title Act 1993* to be reviewed for the benefit of the oil and gas sectors. 'From an industry perspective, one way to improve the process could be to introduce an optional national 'boiler plate' contract, just as exists for the construction and property industries,' he said. *Mining Chronicle*, (National, May 2007), 12.


1 May 2007 NATIONAL **Howard awakens to Indigenous workers** Prime Minister John Howard recently urged Australia's top 100 businesses to work harder at employing Indigenous workers. The Minerals Council of Australia replied that it has been working alongside Indigenous Australians for more than a decade, but welcomed the encouragement anyway. 'It does not hurt for added emphasis' Minerals Council chief Mitch Hooke said. The Minerals Council of Australia said it 'had been working alongside Indigenous Australians for more than a decade but welcomed the encouragement from Prime Minister John Howard. Chief Mitch Hooke said that 'it does not hurt for added emphasis'. Labour's Indigenous spokeswoman Jenny Macklin said 'its great to see so many businesses increasing the number of Indigenous people they employ.' *Mining Chronicle*, (National, May

2007), 15; 'Howard awakens to Indigenous workers' *Mining Chronicle* (National, May 2007), 15.

8 May 2007 NATIONAL **A better future for Indigenous Australians** The Australian government 'will provide \$47.6 million over the next four years to contract Indigenous Australians to deliver environmental services in remote and regional Australia'. In an announcement made by the Minister for the Environment and Water Resources, Malcolm Turnbull, 'Indigenous Australians will be engaged through the new initiative to work on the Government's environment priorities - from protection of threatened species, control of feral pests and weeds and protection of wetlands and sea country to conservation of national heritage sites'. The initiative will be combined with 'funding support from the Department of Employment Project and build on Community Development Employment Projects'. *Media Release Minister for the Environment and Water Resources* (National, 8 May 2007), 25.

9 May 2007 NATIONAL **Chance to fund Native Title bodies 'missed'** The federal budget 'missed a chance to add much needed resourcing to Native Title bodies - which would help speed up the approvals process for the mining industry'. In its pre-budget submission, the Mineral's Council of Australia (MCA) advocated for 'performance-based resourcing for Native Title Representative Bodies to better negotiate outcomes for the industry and Aborigines over new resource projects'. MCA Chief Executive Mitchell Hooke said that 'it was the only missing ingredient on what he termed a responsible budget for the resources industry'. Mr Hooke also said that 'in striving to meet increasing global demand, the industry faces the absolute limits of supply capacity - in export corridors, human resources and skills shortages, regulatory systems governing land access and use, social and physical infrastructure in regional communities and the overactivity of the native title system'. Rio Tinto iron ore chief executive Sam Walsh said that the lack of government funding for native title negotiations was 'as big as the skills shortage'. *The Australian* (National, 9 May 2007), 28; 'Native title woes stifle Rio Tinto' *Australian Financial Review* (National, 9 May, 2007), 10; 'Industry welcomes budget initiatives' *Kalgoorlie Miner* (Kalgoorlie, 10 May 2007), 11.

9 May 2007 NATIONAL **ATSIC Program Axed** The Government 'plans to scrap the Indigenous Community Housing and Infrastructure Program and replace it with a program which will focus on land tenure reform, mainstream public housing and private home ownership'. This coincides with the 'Government's drive to shift Indigenous affairs towards private ownership and individual responsibility and



away from cooperative programs'. *Canberra Times* (Canberra, 9 May 2007), 25.

9 May 2007 NATIONAL **Local elders silenced** Queensland Indigenous leaders are 'being stopped from making claims of native title by Aboriginal people with little or no established link to a tribe or its land'. Queensland Labor PM Andrew McNamara said that 'loopholes in Federal Government laws are allowing the elders to be removed from title negotiations in an emerging practice labelled as 'claim swapping'. The laws 'give some groups a lucrative income for advising the private sector and government agencies on culturally sensitive sites'. *Courier Mail* (Brisbane, 9 May 2007), 10.

21 May 2007 NATIONAL **Implications of land rights reform for Indigenous health** In August 2006, the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 introduced a system of 99-year leases over Indigenous townships. Although the Commonwealth claims that entry into the scheme is voluntary, the experience of Wadeye and Tiwi Island communities reveal a lack of consultation and the coercion of community acceptance. This leasing scheme is potentially detrimental to Indigenous health, as research indicates that an important determinant of Indigenous health is whether Indigenous groups retain genuine ownership and control over their traditional lands. Consequently, if existing land rights legislation is to be amended, it should be for the purpose of enhancing the decision-making powers of traditional owners. *Medical Journal of Australia*, (National, 21 May 2007), 534.

23 May 2007 NATIONAL **Land link to good health** Researchers from Charles Darwin University (CDU), the Northern Land Council and the Menzies School of Health Research have discovered that Indigenous people who continue to take part in traditional land and sea management lead healthier, happier lives. 'The expansion of natural and cultural resource management activities in remote Indigenous communities would deliver a healthier environment, sustainable economic development opportunities and also has the potential to deliver significant economic savings in health care expenditure,' CDU's Dr Garnett said. A recent report by the World Health Organisation found that Aboriginal life expectancy is almost 20 years less than other Australians. *Koori Mail*, (National, 23 May 2007), 40.


25 May 2007 NATIONAL **The real meaning of native title in Australia** The Federal Government's announcement of proposed changes to the native title process 'that favour mediation and dispute resolution over litigation which all parties acknowledge is time and cost intensive'. The Australian Journal of Mining Vickie Smiles said that the 'delays in the resolution of native title claims are more deeply embedded in the process than the level of the Government's proposed

changes'. Ms Smiles also said that 'the culture that has grown out of native title seems to be more mutually effective than the Native Title Act itself. That is the kind of agreements between mining bodies and Aboriginal groups that by pass the native title system and produce real benefits for local communities'. *Australian Journal of Mining* (National, 25 March 2007), 23.

28 May 2007 NATIONAL **Labor's slur on the people of Nguiu** Minister for Families, Community Services and Indigenous Affairs Mal Brough slammed Federal Labor Senator Trish Crossin over her suggestion in Senate Estimates that Tiwi Islander's had been bribed to accept an historic land agreement. 'This was a disgraceful line of questioning which implies that Traditional Owners of Nguiu are not capable of determining their own future. It questions the intelligence and character of the Traditional Owners of Nguiu,' Mr Brough said. 'The Traditional Owners of Nguiu have agreed to enter into a lease arrangement which will allow people, both TO's and historical residents, to buy their own homes, own and run their own businesses and work towards economic independence. The deal will also help attract business and investment to the region, in turn creating jobs and help build a sustainable future.' *Media Release, Minister for Families, Community Services and Indigenous Affairs* (National, 28 May 2007), 49.

29 May 2007 NATIONAL **Apology paves way for future** Prime Minister John Howard and Opposition Leader Kevin Rudd spoke at the 40th anniversary of the 1967 referendum on Indigenous Australians. While both conceded that more needs to be done to address the disparities between Aboriginal and non-Aboriginal Australians, the tone of the two addresses were subtly different. Mr Howard said that symbolic gestures don't count for much if they are 'accompanied by grinding poverty, overcrowding, poor health, community violence and alienation'. In contrast, Mr Rudd recognised that symbols are important and committed a Labor government to 'saying sorry'. *Daily Telegraph*, (Sydney, 29 May 2007), 17; 'Emotions run high on referendum anniversary' *Barrier Daily Truth*, (Broken Hill NSW, 28 May 2007), 1.

29 May 2007 NATIONAL **AAT deputy president reappointed** Howard William Olney QC has been reappointed as a part-time Deputy President of the Administrative Appeals Tribunal, Attorney-General Philip Ruddock announced today. Mr Olney has been a part-time Deputy President of the Tribunal since 15 June 2005 and was a Presidential Member of the Tribunal from 1988 until 2003. Mr Olney is also the Aboriginal Land Commissioner in the Northern Territory, and an Acting Judge of the Northern Territory Supreme Court. *Media Release, Attorney-General* (National, 29 May 2007), 15.



30 May 2007 NATIONAL **What youth want** Approaching National Reconciliation Week, a survey by the Australian Democrats has found that 68 percent of young Australians want the Government to enter into a treaty with Indigenous Australians. 'Youth Poll 2007 has found young, Australians feel very strongly about the Government entering into a treaty with Indigenous Australians,' Senator for South Australia Natasha Stott Despoja said. *Augusta Margaret River Mail*, (Augusta WA, 30 May 2007), 7.

2 June 2007 NATIONAL **High Court makes landmark ruling in Mabo case** Fifteen years on from the Mabo ruling, the alarm sparked by the decision has subsided but 'native title claims are still resolved largely by the tribunal and not through negotiation. Of the 95 native title determinations made by March 2007, 64 established that native title did exist. Another 600 were not fully resolved, while 265 land use agreements had been negotiated voluntarily.' *Weekend Australian* (National, 2 June 2007), 10.

7 June 2007 NATIONAL **Something to dance about** As much as \$3 billion in legal costs has been expended on native title cases since Mabo. Australian Institute of Aboriginal and Torres Strait Islander Studies chairman Mick Dodson blamed the federal government for the failure to streamline legal processes, adding that prescribed bodies corporate had to generate their own income with no access to a financial resource stream. *Cairns Post* (Cairns, 7 June 2007), 7.

14 June 2007 NATIONAL **Native title win** The determination of the Gunditjmarra people earlier this year marked the 100th native title determination since Mabo. A further determination was handed down in favour of the Ngarluma Yindjibarndi people. Dr Lisa Strelein, Research Director of AIATSIS has said that 'the year has also seen many small scale and some very significant large scale agreements in relation to exploration, pipeline and heritage agreements.' *National Indigenous Times* (Malua Bay, 14 June 2007), 11.

18 June 2007 NATIONAL **North faces climate disaster** Climate change could threaten 'national parks, reserves and World Heritage areas' in northern Australia. Rising sea levels could affect 'more than four million hectares of coastal freshwater wetlands, placing local barramundi fisheries and Aboriginal livelihoods at risk.' Torres Strait island communities are already being affected. Increased fire risk, loss of rainforest habitat and coral bleaching are also predicted. Ecologist Stuart Blanch said that it was 'vital to increase the meaningful involvement of northern Aboriginal communities in conservation land management programs'. *Canberra Times* (Canberra, 18 June 2007), 1.

20 June 2007 NATIONAL **Dodson in warning on justice** The Gimuy Walubara Yidinji people hosted the eighth annual National Native Title Conference. More than 580 native title determinations remain outstanding, but 275 registered Indigenous land use agreements and 102 registered native title determinations have been reached since 1992. Dr Lisa Strelein, Director of the Native Title Research Unit at AIATSIS said there had been 'changes in policy in very important areas like Prescribed Bodies Corporate funding and, quite importantly, changes in policy and legislation in relation to Native Title Representative Bodies'. Federal Indigenous Affairs Minister Mal Brough said that 'replacing the previous system of open-ended recognition with fixed terms will lead to better outcomes for native title claimants'. Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma said there had been 'massive improvements' but that 'outside of the native process we're seeing arrangements in relation to land being foisted upon Indigenous people.' AIATSIS Chairman Mick Dodson said governments at all levels were systematically opposing 'the recognition of native title, especially in Western Australia and Queensland'. *Koori Mail* (National, 20 June 2007), 9; 'Colonial ways 'slaughtering' Aborigines' Australian (National, 8 June 2007), 6; 'Native title recognition is opposed' Daily Telegraph (Sydney, 8 June 2007), 18; 'Conference commemorates 15 year Anniversary of Mabo decision' Media Release (National, 7 June 2007), 'Governments 'systematically opposing native title': Dodson' National Indigenous Times (Malua Bay, 14 June 2007), 7; Cairns Post (Cairns, 9 June 2007), 44; 'Native title conference starts today' Cairns Post (Cairns, 6 June 2007), 7.

20 June 2007 NATIONAL **Challenge by Neate** National Native Title Tribunal President Graeme Neate said understanding of native title is better than it was 15 years ago. He said that 'recent reforms to the native title system should lead to the achievement of more effective and timely outcomes' but 'it's up to the participants to look at the way in which they operate and harness these opportunities.' *Koori Mail* (National, 20 June 2007), 10.

14 June 2007 NATIONAL **Report finds joint economic aspirations are possible** The *Native Title Report 2006* includes a national survey of Indigenous land owners which found overwhelming support for economic development. 'Many of my people want to be self sustaining, but for many there is a gap between the government assistance on offer and the ability to access it' said Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma. The report shows 'that much is possible when governments and industry work with Indigenous people to achieve joint economic aspirations' he said. *Media Release* (National, 14 June 2007), 21.



NEW SOUTH WALES

2 May 2007 NSW **Land Claim Successful** The Dorrigo Plateau Aboriginal Land Council has 'been successful in a land claim over a parcel of vacant Crown Land' which has 'caused Councillors to seek clarification over access'. *Don Dorrigo Gazette* (2 May 2007), 1.

10 May 2007 NSW **Land Council Candidate** Robert Carroll, a 'former Narrandera man' will stand as a candidate for the upcoming Land Council elections in NSW. Mr Carol said that 'Local Aboriginal Land Councils need to immediately refocus and concentrate on carrying out their original objectives'. He said that the 'over the past 24 years Land Councils had become preoccupied with trying and in many cases failing to properly manage Aboriginal Housing'. *Narrandera Argus* (Narrandera, 10 May 2007), 8.

12 May 2007 NSW **White shoes shuffle off black land** Indigenous people will vote 'for a state council to manage more than \$1 billion in Aboriginal owned land in NSW'. The new system will 'now be safe from the "white shoe brigade: developers' according to the NSW Land Rights Act Registrar Stephen Wright. Mr Wright said that 'the largest issue we have had to deal with is developers coming in with wads of cash and the Local Aboriginal Land Council reacting to them'. Since the enactment of the Land Rights Act in 1983 'land claims have climbed from 9000 to 15 000 in the past year meaning a potential windfall in benefits for Indigenous people if the land can be fairly developed and distributed'. Minister for Aboriginal Affairs Paul Lynch 'said it was vital as many eligible people as possible cast their vote in May 19' and that the 'State Government supported the return of a democratically elected leadership'. *Sydney Morning Herald*, (Sydney, 12 May 2007), 10; 'Council resumes peak role' *Daily Liberal* (Dubbo, 16 May 2007), 5; 'Aborigines vote for new land council' *Border Mail* (Albury - Wodonga, 18 May 2007), 15; 'Indigenous Australians urged to use their voice' *Great Lakes Advocate* (Forster, 9 May 2007), 4; 'NSW to get back in the black with 9 new pollies' *National Indigenous Times* (National, 17 May 2007), 3.

17 May 2007 NSW **Bold native title claim: Elder Aims to stop project** An Aboriginal elder is planning to resubmit an outstanding native title claim on Killalea in order to protect a burial ground from development. The presence of the burial site 'means the developers preparing a development application for a tourist resort would have to apply to the Department of Environment and Conservation for a Section 90 permit to destroy Aboriginal objects'. This is separate from the native title claim but can also affect the development application. *Illawarra Mercury* (Wollongong, 17 May 2007), 6; 'Elder dusts off Killalea native title claim' *Wollongong Advertiser* (Wollongong, 23 May 2007), 5.


18 May 2007 NSW **Coastal land sales to kill native title** Indigenous activists are saying that a 'state government policy to encourage the development of coastal land will hit Aboriginal people hardest'. They argue that 'it is not only public spaces in places such as Coffs Harbour and Shellharbour that will be lost to fund infrastructure projects but Aboriginal land rights and hundreds of sacred sites'. The director general of the land's department Warwick Watkin said that 'he had instructed his staff to seek development options for coastal crown land' but Bundjalung man Robert Corow said that the Government's planning regime was 'extinguishing native title by the back door'. *Sydney Morning Herald*, (Sydney, 18 May 2007), 7.

25 May 2007 NSW **Cromelin wins vote** Craig Cromelin from Murrin Bridge, near Lake Cargelligo, has been elected as a state representative for the NSW Aboriginal Land Council in the Wiradjuri/Murray region. *Daily Advertiser*, (Wagga Wagga, 25 May 2007), 4.

25 May 2007 NSW **The fight goes on: Long walk to original justice** More than 5,000 out of 16,000 registered voters participated in the recent NSW Aboriginal Land Council election, a result commensurate with voluntary voting systems around the world. The vote is particularly significant because it marks the return of an elected leadership after 3½ years of administration. 'NSWALC supports a statewide network of 121 Local Aboriginal Land Councils' said NSW Aboriginal Land Council CEO Geoff Scott. 'The land council network oversees an Aboriginal-owned land estate of more than 616,460ha with an unimproved capital value of more than \$2 billion.' However, Mr Scott also emphasised that 'land rights alone cannot solve the deep-seated and complex disadvantages facing Aboriginal people. Working with government and most importantly, business, we must innovate to generate economic activity and deliver the socio-economic outcomes which have mostly eluded Aboriginal people to date'. *Daily Telegraph*, (Sydney, 25 May 2007), 29; 'Back in business NSW finally has an elected voice again' *National Indigenous Times*, (Malua Bay NSW, 31 May 2007), 3.

6 June 2007 NSW **It's a new era - NSWALC leader** Beverly Manton, newly elected chairwoman of the New South Wales Aboriginal Land Council 'said further amendments to the NSW *Land Rights Act* would soon be rolled out.' The main function of the Council is to progress land claims, with 'over 7000 new land claims that are waiting... to be processed so we'll be pursuing that rigorously' she said. *Koori Mail* (National, 6 June 2007), 5.

8 June 2007 NSW **'We will fight them' on the riverbanks** The Clarence Valley Aboriginal community is considering making a native title claim to prevent diversion of the Clarence River. 'There are at least six



Aboriginal communities that would be affected...and so far there has been no consultation on the issue with us as the traditional owners of the Clarence' said Bundjalung man Graham Purcell. The river is a sacred site for Aboriginal peoples, some of whom depend on it for their survival. *Daily Examiner* (Grafton, 8 June 2007), 1; 'Native Title may block dam' *Daily Examiner* (Grafton, 11 June 2007), 8.

14 June 2007 NSW **Aboriginal voice sought for Killalea Trust** The State government has been asked to provide two Indigenous positions on the Killalea State Park Trust. 'This is an area where there is a lot of Aboriginal significance' said Mayor David Hamilton. Trust chair Ed Gilmore said 'there's hardly any Aboriginal heritage there.' Aunty Mary Davis, Illawarra Aboriginal Land Council chair said it hoped to join the native title claim of Uncle Reuben Brown. *Illawarra Mercury* (Wollongong, 14 June 2007), 9.

25 June 2007 NSW **Untitled** A native title claim expected to be resolved by the end of the year will make way for the completion of an 18-hole golf course. An appeal was lodged with the Land and Environment Court after the initial claim was refused. 'The extension of the golf course was likely to proceed regardless of the outcome of the appeal.' *South Coast Register* (Nowra, 25 June 2007), 11.

NORTHERN TERRITORY

1 May 2007 NT **Native Title - Exclusive Possession - Intertidal Zone** In *Gumana v Northern Territory* the full court considered 'whether there could be possession of inter-tidal land' and concluded that the 'grant of native title in respect of the inter-tidal land prevented the operation of the *Fisheries Act 1978* (NT) to authorise fishing licenses'. *Law Society Journal* (May 2007), 87.


1 May 2007 NT **Expectations high for new acreage release** Thirty four new 'offshore exploration areas have been released by the Commonwealth Government across six basins off the coasts of the Northern Territory, Western Australia and Victoria and within the Ashmore Cartier area'. Queensland Minister for Mines and Evert Geoff Wilson said that '41 news areas would be available for exploration under the two separate calls for tenders covering the under explored Advale and Georgina Basins in central and western Queensland. Mr Wilson said that 'there will be two separate calls for tenders which have been grouped according to those that will be and those that will not be required to undertake a native title process'. *Oil and Gas Australia* (National, May 2007), 4.

1 May 2007 NT **Traditional skills to protect iconic biodiversity Area** The Northern Tanami Indigenous Protected Area (IPA) has been declared and will 'receive resources from the federal Department of the Environment for land protection and skills training with

the Wulain Rangers managing the country'. This is the largest IPA in the Northern Territory covering an area of 40 000 square kilometre. The IPA was launched in Lajamau by Federal Family and Community Services Minister Nigel Scullion who said 'there were positive aspects of the IPA that went beyond caring for country'. *Northern Territory News* (Darwin, 1 May 2007), 4.

1 May 2007 NT **Mine approval 'invalid'** A 'legal victory by Aboriginal traditional owners has thrown into doubt plans by international mining giant Xstrata for a \$110 million expansion'. Last year, Xstrata 'gained Northern Territory government approval to transform the McArthur River Mine from an underground to open cut mine'. The Northern Territory Supreme Court ruled that the approval process was invalid by failing to 'follow the proper procedures under the Mines Management Act'. *Adelaide Advertiser* (Adelaide, 1 May 2007), 41; *Coffs Coast Advocate* (Coffs Harbour, 1 May 2007), 8; 'Mine Approval Overturned' *Australian Financial Review* (National, 1 May 2007), 4; 'Mining Giant Suffers Blow' *Bendigo Advertiser* (Bendigo, 1 May 2007), 14; *Toowoomba Chronicle* (Toowoomba, 1 May 2007), 16; *Daily Examiner* (Grafton, 1 May 2007), 10; *Daily Mercury* (Mackay, 1 May 2007), 10; *Daily News* (Warwick, 1 May 2007), 12; 'No to zinc mine plan' *Daily Telegraph* (Sydney, 1 May 2007); *Fraser Coast Chronicle* (Hervey, 1 May 2007), 16; *Gladstone Observer* (Gladstone, 1 May 2007), 12; *Gympie Times* (Gympie, 1 May 2007), 6; 'Court Sinks Mine' *Illawarra Mercury* (Wollongong, 1 May 2007), 9; *Morning Bulletin* (Rockhampton, 1 May 2007), 18; *News Mail* (Bundaberg, 1 May 2007), 12; *Northern Star* (Lismore, 1 May 2007), 22; 'Court overturns zinc mine bid' *Northern Territory News* (Darwin, 1 May 2007), 2; 'Xstrata back in court over \$110m McArthur mine' *Sydney Morning Herald* (1 May 2007), 30;

3 May 2007 NT **Native title win over historic land** The Yungngora people have 'scored a historic native title win' over the Noonkanbah in the Kimberley Region which is the site of 'violent clashes between police and protestors over drilling oil at the Noonkanbah sacred site'. The consent determination 'follows a history of confrontation from the 1970s over the use of 1811 square kilometres of land which has attracted mining and pastoral activity'. Noonkanbah Community Chairman Dickey Cox said 'it puts the struggles that we have gone through in the past when the government and miners tried to override our people and our culture for the sake of the so-called public good'. Under the agreement, 'non-exclusive rights have been agreed over two areas of crown land, a stick route and an aerodrome. This means that native title holders can visit, camp, erect shelters, take fauna and flora and other natural resources such as ocre, stones, soils wood and resin for non-commercial purposes and protect significant sites'. *National Indigenous Times*, (National, 3 May 2007), 3;



'Noonkanbah victory' *Koori Mail* (National, 9 May 2007), 7; 'Noonkanbah traditional owners recognised' *Halls Creek Herald* (Western Australia, 8 May 2007), 5; 'Noonkanbah land triumph' *Broome Advertiser* (3 May 2007), 8.

8 May 2007 NT **Excellent Adventure** Bill Heffernan has convinced Lachlan Murdoch and Noel Pearson to join him in 'transforming the north of Australia...into Asia's food and water bowl. Australia will be transformed into a major water exporter by harvesting monsoonal rains'. The project aims to 'guarantee Australia's water, agricultural and exporting future'. According to Mr Heffernan, 'somewhere between 4 million and 600 million people in northern China are going to run out of water [and that] there's going to have to be some drastic reconfiguration of the use of water'. He also said that plan 'will change the fortunes of Aborigines who are "sitting on one of the world's largest undeveloped resources"'. *Bulletin with Newsweek* (National, 8 May 2007), 27; 'Murdoch in task force' *Daily Telegraph* (Sydney, 2 May 2007), 11; 'Top end water boost' *Northern Territory News* (Darwin, 2 May 2007), 10; 'Murdoch, Pearson taskforce' *Courier Mail* (Brisbane, 2 May 2007), 2.

8 May 2007 NT **Minister slams Govt 'disrespect'** Barbara McCarthy has 'lashed out at her Government colleagues for overturning her brother's court victory before the community could hold a funeral'. Ms McCarthy told the 7:30 report that she crossed the floor because the 'government was rushing through the legislation to re-open the McArthur River Mine'. She said that 'it was the lowest form of disrespect against Indigenous people in this country'. *Northern Territory News* (Darwin, 8 May 2007), 4.

9 May 2007 NT **NT mine anger** The Northern Territory Government has 'passed a Bill to override the effects of last week's supreme court ruling that the Government's approval process for expansion of the Territory's [McArthur River Project] was flawed'. The Amendments that have been made to the McArthur River Project Agreement Ratification Act will 'allow types of mining at the McArthur River Mine near Borroloola and 'relevant traditional owners or anyone else from launching legal action to prevent the expansion'. The parliament has 'quickly rushed through legislation to side step the ruling, despite the protests of two Independents and three Indigenous MLAs'. The NT Bar Association President Jon Tippett said 'there were still environmental concerns before the court which can no longer be considered because of this law'. *Koori Mail* (National, 9 May 2007), 1; 'NT lawyers cane McArthur 'deal' *Northern Territory News* (Darwin, 15 May 2007), 6.

9 May 2007 NT **Illegal fishing fears in protected areas** Fishing permits will come into force at the start of June following the Federal Court ruling in favour of Aboriginal people in the Blue Mud Bay Case.

13 May 2007 NT **Historic week as grog banned and Tiwis lease land** The Mantiyupwi traditional owners of Tiwi island have 'agreed to lease their land to the Federal Government for 99 years'. Under the agreement they will receive 'a \$5 million upfront payment, 25 new houses, repairs to dozens of derelict dwellings, and major upgrades to sports and health facilities'. The agreement also creates the opportunity for home ownership. The 'move allows the land to be subleased for commercial business development under the Federal Government's controversial changes to the Land Rights Act'. Some traditional owners 'who accepted a 99 year lease...thought they were signing for a benefit payment'. *Sunday Territorian* (Darwin, 13 May, 2007), 19; 'Confusion on Tiwi land deal' *Northern Territory News* (Darwin, 12 May 2007), 14; 'Home, sweet home for Mavis' *Weekend Australian* (National, 12 May 2007), 7; 'Islanders divided as land leasing plan goes through' *Sydney Morning Herald* (Sydney, 18 May 2007), 7; 'Breakthrough agreement on Aboriginal Land in the NT' *Media Release, Minister for Families, Community Services and Indigenous Affairs* (National, 9 May 2007), 47.

22 May 2007 NT **Land Council extends fishing permit amnesty** The Northern Land Council has extended the amnesty period for anglers to fish in tidal zone without a fishing permit for two months. After the end of the amnesty period, 'permits will be require to fishing in waters affected by the tide and adjoining Aboriginal land'. This follows a Federal Court decision in March that the area of the Blue Mud Bay Claim were the 'exclusive property of the Aboriginal landowners and that the Fisheries Act NT had not application in these waters'. NLC Chief Executive Norman Fry said 'the scheme is free and subject to one specific exemption, the interim recreational license will commence on the date on which the application is made and be valid until two months after the...decision'. A spokesman from the Amateur Fishermen's Association said that 'it's all well and good for the Federal Court to decide a fine point of law and declare the NT Fisheries Act null and void in these waters but when the law is wrong it needs to be fixed.' *Northern Territory News* (Darwin, 8 May 2007), 4; 'Illegal fishing fear in protected areas' *Northern Territory News* (Darwin, 9 May 2007), 9.

25 May 2007 NT **ERA shares' decline gathers pace** The share price of Rio Tinto's uranium subsidiary, Energy Resources of Australia, has fallen sharply in the wake of a dispute with the traditional owners of the Jabiluka uranium deposit in the Northern Territory. Rio's energy chief executive Preston Chiaro pre-empted the mine's reopening by suggesting that development approval could be received in the 'near-term future'. The Mirarr people issued a statement that their approval is 'not forthcoming'. Jabiluka is one of the world's richest undeveloped uranium deposits.



However, despite a potential royalty flow of more than 5 per cent of net revenue, the Mirarr people have made it clear that their ultimate goal is the return of their traditional lands for inclusion in the neighbouring Kakadu National Park. The pro-nuclear Northern Land Council (NLC) plans to broker a meeting between Rio Tinto and the Mirarr Indigenous owners of Jabiluka, reviving hopes of reopening the \$50 billion uranium deposit in the Kakadu National Park. NLC chairman John Daly said that Aboriginal people wanted and were ready to do business on their land, including uranium mining. 'We need an economy out here so our kids can get something out of it,' he said. The NLC also formally nominated Aboriginal land near Tennant Creek to be developed as Australia's first national nuclear waste dump. The \$12 million deal would see the Ngapa traditional owners give up their land for 200 years. *Age* (Melbourne, 25 May 2007), 5; 'Mine a royalty bonanza' *Age*, (Melbourne, 31 May 2007), 3; 'Jabiluka may still be goer: land council' *Age*, (Melbourne, 29 May 2007), 3; 'Jabiluka talks urged in push to reopen mine' *Sydney Morning Herald*, (Sydney, 29 May 2007), 4; 'NLC seeks talks on Kakadu uranium' *West Australian*, (Perth, 29 May 2007), 36; 'Owner lashes out over Jabiluka bid' *Age*, (Melbourne, 31 May 2007), 3; 'NLC uranium stance queried' *Northern Territory News*, (Darwin, 31 May 2007), 11.

25 May 2007 NT **Brough accused of pressuring camps to accept deal** Indigenous Affairs Minister Mal Brough has been accused of bullying town camps in Alice Springs after the Tangentyere Council rejected a \$60 million funding offer. The offer required the Council to sublease its land to the Northern Territory Government for 99 years. The Council said that they were not given time to properly consider its implications. In addition, they said that the offer did not guarantee the \$60 million funding, and involved no proper negotiation process, no compensation and no protection for sacred sites. Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma said that similar complaints have been raised in other communities, such as Tiwi and Hopevale. Despite initial threats that the funding would be re-allocated unless accepted, Mr Brough now says that negotiations with the camps will continue. *Sydney Morning Herald*, (Sydney, 25 May 2007), 2; 'NT govt factored over Tiwi: CLP' *National Indigenous Times*, (Malua Bay NSW, 31 May 2007), 8.

29 May 2007 NT **99-year Tiwi Islands lease 'not in place'** On May 9, Indigenous Affairs Minister Mal Brough issued a media release proclaiming the signing of Australia's first 99-year lease. 'I am delighted that Nguiu is the first community to take advantage of 99-year leasing,' he said. However, the Tiwi Land Council has now told a Senate committee that no 99-year lease is in place. A Memorandum of Understanding has been signed, but it is not legally binding in the way


a lease would have been. 'Mal Brough ... has given people the impression that 99-year leases are now in place on the Tiwi Islands,' Opposition Indigenous affairs spokeswoman Jenny Macklin said. 'And that's just not the case.' *Northern Territory News*, (Darwin, 29 May 2007), 4.

30 May 2007 NT **Larrakia Corporation development opportunity** The Larrakia Development Corporation is 'applying to take on the development of the new Palmerston suburb'. The development project is 'estimated to be worth about \$70 million, will go towards relieving the land shortage in the Darwin-Palmerston region'. It is anticipated that the government will 'reserve some lots for low income earners and first home buyers'. *Northern Territory News* (Darwin, 20 May 2007), 20.

31 May 2007 NT **Aboriginals will be losers in nuke deal: Greens** Indigenous people would be the losers in a proposed deal allowing a nuclear waste dump on their land in the Northern Territory, Greens senator Christine Milne said. Senator Milne also questioned the adequacy of the consultation process. 'They took away procedural fairness by preventing traditional owners from taking action in the courts to appeal any decision.' Senator Milne added that long-lived intermediate nuclear waste was harmful for 250,000 years and the \$12 million compensation package equated to a paltry \$48 a year for the traditional owners. *National Indigenous Times*, (Malua Bay NSW, 31 May 2007), 5; 'Waste dump is thin edge of nuclear wedge' *Newcastle Herald*, (Newcastle NSW, 2 June 2007), 19.

6 June 2007 NT **Deal on tidal waters** 'Tidal waters overlying Aboriginal land will be extended to the Anindilyakwa and Tiwi Land councils regions' following an agreement for the interim licensing scheme, implemented in response 'to the Federal Court's decision in the Blue Mud Bay case.' The scheme will be administered by the Northern Land Council. *Koori Mail* (National, 6 June 2007), 34.

6 June 2007 NT **Nuclear dump backed** Traditional owners of Muckaty Station have nominated their land for a nuclear waste repository with backing from the Northern Land Council. The site will be returned to traditional owners in 200 years when it is expected to be declared safe. Traditional owners will receive \$1 million for education and \$11 million on trust. Amy Lauder, Ngapa traditional owner has said 'we feel it will be all right for the environment in our country'. Dianna Stokes from the Muckaty Land Trust and spokeswoman for the Warramunga and Warlmanpa tribes has said that the deal negotiated with the Federal Government for a nuclear waste dump in the Northern Territory 'was made by just one of the 16 family groupings represented on the trust.' The Northern Land Council, which backed the deal, had 'failed to listen to the other families'. The site has also



had two earth tremors and Ms Stokes is concerned that the dump 'would kill the area environmentally and culturally.' The deal has been opposed by the NT government. *Koori Mail* (National, 6 June 2007), 11; 'Traditional owners warn of tremors at nuclear waste dump site' *Age* (Melbourne, 20 June 2007), 4.

7 June 2007 NT **NT push for gas industries** Northern Territory Chief Minister Clare Martin has met with senior executives from the major Browse Basin producers as part of a strategy 'to develop gas fields off northern Australia.' Producers face the possibility of having to reserve 15 per cent of supply for domestic use if processing facilities are required in Western Australia. 'Territory officials and federal Resources Minister Ian Macfarlane have been quick to point out that Browse Basin gas could be piped across the Timor Sea, thus escaping the WA reservation policy, native title issues and the looming debate over developing in sensitive onshore environments.' *Australian* (National, 7 June 2007), 22; 'Woodside looks to extend Shelf life of gas projects' *Weekend Australian* (National, 16 June 2007), 43.

10 June 2007 NT **Granny locked in land battle** Marjorie Foster is fighting the Northern Land Council to negotiate directly with the Australian Pipeline Trust. Foster was recognised by the Federal Court as a Kamu traditional owner over the Daly River region. The Council obtained a statutory declaration from other members of the Kamu tribe claiming Foster does not act in their interests and does not have their support. The Native Title Act says the Council can only negotiate on behalf of traditional owners where invited to do so. *Sunday Territorian* (Darwin, 10 June 2007), 4.

13 June 2007 NT **A step backwards for land rights** Changes to the Land Rights Act will create an entity to hold and administer 99 year township leases over Aboriginal land in the Northern Territory. Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs Warren Snowdon says this will undermine Indigenous land rights. 'People shouldn't be forced to choose between their land rights and economic development' he said. Aboriginal activist Pat Turner accused the federal government of using child sexual abuse to take back land rights of 70 remote Indigenous communities. Indigenous Affairs Minister Mal Brough has denied the claim. Backed by Noel Pearson, Mr Brough has urged aboriginal people 'to consider transferring collective land ownership into private ownership based on 99-year leases' and said 'he might use the land takeover as an opportunity to persuade communities to accept its benefits.' Both the Prime Minister and the Opposition Leader declined to comment on the accusations. *Media Release* (National, 13 June 2007), 1; 'Howard, Rudd dodge Indigenous 'land grab' claims' *Australian* (National, 29 June 2007), 1; 'Activists claim plot to roll back land

rights' *Adelaide Advertiser* (Adelaide, 27 June 2007), 4.


14 June 2007 NT **Hapless Burke sparked off national parks grab** Senator Nigel Scullion is opposed to a transfer of 'Territory National Parks, including the West MacDonnells, into Aboriginal ownership', despite an undertaking made by the Prime Minister to 'schedule the parks under the Land Rights Act'. Senator Scullion wants the Prime Minister to reconsider in light of 'the feelings of people, which seems to run in the face of so-called consultation from the Northern Territory Government' he said. Few parks will be affected in the north, but the transfer will affect almost all the parks in Central Australia. 'It would be followed by a 99 year lease-back to the NT Parks Service but Aborigines, represented by the Central Land Council, would have wide ranging influence over the running of the parks.' *Alice Spring News* (Alice Springs, 14 June 2007), 1.

15 June 2007 NT **Government sidelines Indigenous people again as Land Rights Bill passes Senate** Democrats' Deputy Leader Andrew Bartlett has criticised the government for failing to properly consult Indigenous people on amendments to the Land Rights Act allowing 99 year leases.' This latest Bill was not even subject to an Inquiry' he said. *Media Release* (National, 15 June 2007), 1.

18 June 2007 NT **Australian, US troops build airstrip on the double** A 1.3-kilometre airstrip has been built in the Northern Territory as part of a joint exercise between Australia and the US. It took seven years for a land-use agreement to be negotiated between the traditional owners of the Bradshaw station where the strip is built and the Australian Defence Force. 'The Australian Defence Force will maintain the airstrip when the exercise is over.' *Age* (Melbourne, 18 June 2007), 5.

21 June 2007 NT **Brough says Aboriginal permits scrapped 'soon'** Federal Indigenous Affairs Minister Mal Brough says the Northern Territory's permit system will soon be scrapped, saying 'it prevented external scrutiny'. Supporters of the system say it is 'designed to protect the privacy and culture of Indigenous people.' The Minister said 'he had great respect for sacred sites and Indigenous law and culture, and those things would be taken into account in his announcements.' It is understood that other states may be asked to follow. *Northern Territory News* (Darwin, 21 June 2007), 5; 'Minister floats changes to Aboriginal land' *Courier Mail* (Brisbane, 21 June 2007), 19; 'Changes to Aboriginal land access' *Courier Mail* (Brisbane, 21 June 2007), 18.

21 June 2007 NT **Elder voices objection to nuclear waste site** The Radioactive Waste Management Act was amended last November, allowing for site nominations for nuclear waste storage without the



approval of traditional owners. Aboriginal elder Dianne Stokes says 'she was given little information about the site, and was not consulted before the decision was made.' Peter Garrett, Labor's environment spokesman said the amendments are contrary to 'the spirit of the Land Rights Act'. Senator Rachel Siewert, the Greens' Indigenous affairs spokesperson said Indigenous people had 'been effectively stripped of their rights'. *Canberra Times* (Canberra, 21 June 2007), 9.

21 June 2007 NT **Scullion in probe about CLC's role in Centrecorp** Senator Nigel Scullion is seeking advice about 'whether or not the three fifths share held by the Central Land Council (CLC) in Centrecorp is illegal.' The CLC says its investment is in accordance with the Land Rights Act and the profits 'are distributed according to its charitable trust deed for the benefit of Aboriginal people'. Senator Scullion says 'everyone needs to know how the profits from a major shareholder of [an Indigenous company] are dispersed among these Indigenous people.' *Alice Spring News* (Alice Springs, 21 June 2007), 1.

23 June 2007 NT **Scepticism, distrust greet latest reforms** Central Land Council director David Ross said the Federal Government's intervention in the Northern Territory to curb child abuse was to undermine land rights. 'About 60 communities have also been seized for control by the Government under a five-year lease scheme.' Mr Ross said neither the measures regarding leases or permits were recommended in the child abuse inquiry report. *Border Mail* (Albury-Wodonga, 23 June 2007), 8; 'Aboriginal groups howl down reforms' *Northern Daily Leader* (Tamworth, 23 June 2007), 15; "Quick-fix' aimed at election, says CLC' *Northern Territory News* (Darwin, 23 June 2007), 5; 'Push to change land rights 'under smokescreen of helping children'" *Weekend Australian* (National, 23 June 2007), 7.

26 June 2007 NT **Mining, oil changes soon** Amendments to the Northern Territory Mining and Petroleum Acts are expected to be passed next month. NT Minister for Mines and Energy Chris Natt said the changes will 'bring the Territory law into line with recent changes to the Federal Aboriginal Land Rights (Northern Territory) Act'. They include 'new powers to the Territory to withdraw or re-issue consent to negotiation between a mining or exploration applicant and the land councils.' *Centralian Advocate* (Alice Springs, 26 June 2007), 14.

30 June 2007 NT **Land grab claims ludicrous: Howard** The Prime Minister has denied allegations of a land grab. He 'conceded the intervention could involve the seizure of some Indigenous land but said that was not the intention.' Compensation would be available where land is seized for more than five years. The Opposition Leader 'said it was important the land rights of Indigenous communities be protected under

the plan.' *Barrier Daily Truth* (Broken Hill, 30 June 2007), 6.

QUEENSLAND


1 May 2007 QLD **Changes could curb councils** Local councils 'will struggle to carry out routine health and safety work if proposed amendments to the Native Title Act go ahead'. Under the amendments councils will need to 'give native title holders at least 28 days notice' for low impact work which includes 'everything from tree lopping to the spraying of weeds'. Greg Hoffman from the Local Government Association of Queensland said that 'local government would be severely hamstrung from carrying out routine work'. *Courier Mail* (Brisbane, 1 May 2007), 8.

May 2007 QLD **Expectations high for new acreage release** The Queensland Government is releasing some 150,000 square kilometres of land for competitive tendering for petroleum exploration. 'There will be two separate calls for tenders, which have been grouped according to those that will be and those that will not be required to undertake a native title process,' Qld Minister for Mines and Energy Geoff Wilson said. *Oil & Gas Australia*, (National, May 2007), 4.

May 2007 QLD **Signing ceremony in Western Kangoulu** On 17 March 2007, Ensham Resources signed a significant Cultural Heritage Management Plan with the Western Kangoulu peoples, the Indigenous traditional owners of the areas covered by Ensham's mining leases north of the Nogoia River. Both parties affirmed their aims of protecting and preserving cultural heritage associated with the earlier Aboriginal history of the mine site. *Mining Chronicle*, (National, May 2007), 68.

9 May 2007 QLD **New ILUA for Mer** John Toshie Kris from the Torres Strait Regional Authority has congratulated the traditional owners of Mer Island who have recently negotiated an ILUA with Ergon Energy. This is the 33rd ILUA in the Torres Strait Region and will allow Ergon Energy to lease a part of the land in Mer where a new power station and power lines will be built. This will 'enhance the Mer Community's electricity supply providing greater access and improved essential services to the island's people'. *Torres News* (Thursday Island, 9 May 2007), 5.

9 May 2007 QLD **Wake up, Cape told** Attempts by the Queensland Government to enact the Wild Rivers legislation has 'triggered an attempt by traditional owners to 'grab hold' of the environmental agenda on Cape York'. Noel Pearson head of the Cape York Institute said that 'his concern about the Government's Wild Rivers legislation was that it affected native title rights and potentially 'locked away' future economic opportunities.' Mr Pearson said that 'the protection of these rivers needs to take into account that you cannot discriminate, you cannot just set aside our existing



rights, you cannot not take account of future opportunities for our people and others that use these rivers'. *Koori Mail*, (National, 9 May 2007), 11.

9 May 2007 QLD **Gurang executive position** The Gurang Land Council (Aboriginal Corporation) is 'currently seeking an executive officer to assist Indigenous people with land interests under the Native Title Act'. The land council is located in Bundaberg. *News Mail* (Bundaberg, 9 May 2007), 4.

15 May 2007 QLD **Coalroc supports program** Indigenous people are benefiting from partnerships between industry, the Department of Employment and Workplace Relations, private trainers and job opportunities. In particular, Coalroc has formed a company called Dugine Mine Services which is part owners by Coalroc Contractor's Pty Ltd and the BBKY traditional owners. The company is 'primarily employs Indigenous people'. *Daily Mercury* (Mackay, 15 May 2007), 15.

23 May 2007 QLD **Cairns to host native title gathering** The eighth annual National Native Title Conference 'Tides of Native Title' will be hosted by the Gimuy Walubara Yidinji people in Cairns from 6-8 June 2007. The focus of discussion will be on the ebb and flow of native title law, policy and practice since the Mabo High Court decision 15 years ago. The conference will also look at self-reliance, sustainable land and water management and cultural, economic and community development through native title. The Conference is the primary Indigenous land conference in Australia each year, attracting more than 500 delegates. *Koori Mail*, (National, 23 May 2007), 41; 'Celebrating 15 years since Mabo' *National Indigenous Times* (17 May 2007), 42.

25 May 2007 QLD **Merge plan includes Aboriginal councils** Local Government Reform Commission chairman Bob Longland has announced that the Commission could amalgamate some or all of Queensland's 32 Aboriginal and Torres Strait Islander councils with neighbouring councils. Aboriginal councils that could face amalgamation with neighbouring shires under the reforms include Palm Island, Lockhart River, Cherbourg, Hope Vale, Kowanyama, Mapoon, Pormuraaw, Woorabinda, Yarrabah, Doomadgee, Injinoo, Napranum and Wujal Wujal. However, Mr Longland also said that the Commission has not yet made a decision, and that 'land issues have their cultural roots, many of which would be difficult to unravel'. If an Aboriginal and Torres Strait Islander council was abolished, the state would have to establish an organisation to hold the land in trust. *Courier Mail*, (Brisbane, 25 May 2007), 8.


25 May 2007 QLD **NRW keeps track of state land** The Department of Natural Resources and Water handles native title claims on behalf of the Queensland government. Its policy is to work with all affected

groups to encourage the settlement of claims through mediation rather than litigation. At present, nearly 150 Indigenous Land Use Agreements have been registered in Queensland - more than half of the total agreements registered across Australia. More than 193,000 hectares of land were granted to traditional owners in North Queensland during 2006. The NRW has also set up a cultural heritage database to inform landholders of the existence of cultural heritage on their land and encourage consultation and negotiation with traditional owners. It lists approximately 21,000 entries collected over the past 80 years. *North Queensland Register*, (Townsville, 25 May 2007), 23-4.

29 May 2007 QLD **Indigenous workers cash in on mining boom** A report by the Minerals Industry Indigenous Employment Research Project found that the mining industry has boosted its Indigenous workforce to 8 per cent, with some companies planning to increase numbers further over coming years. This is a dramatic increase from 1.9 percent in 2001 and 4.6 percent in 2002. According to the report, key factors driving companies to employ Indigenous Australians include social and demographic changes, predicted Indigenous population growth and skills shortages. Vocational and Further Education Minister Andrew Robb said the time is right for more Indigenous employment in the mining sector. *Cairns Post*, (Cairns, 29 May 2007), 16; 'Indigenous workforce increasing' *Kalgoorlie Miner*, (Kalgoorlie, 29 May 2007), 7; 'Mining industry more Indigenous staff' *Adelaide Advertiser*, (Adelaide, 29 May 2007), 16; 'Mines increase Indigenous employment' *Australian Financial Review*, (National, 29 May 2007), 8.

30 May 2007 QLD **Chalco signs deal with Wik people** Plans for the proposed bauxite mine at Aurukun on Cape York have passed another milestone after the signing of a land-use agreement with the local Wik and Wik Way people. The deal with the Indigenous landowners will reap job and business development opportunities and \$60 million in royalties. The agreement is the first of its type in Queensland. *Bowen Independent*, (Bowen QLD, 30 May 2007), 5; 'Bauxite mine for Cape York moves a step closer' *National Indigenous Times*, (Malua Bay NSW, 31 May 2007), 7; 'Mine boon for Aurukun' *Tablelands Advertiser*, (Mareeba QLD, 30 May 2007), 11; 'Signing paves way for Chinese bauxite mining project in Qld' *Western Cape Bulletin*, (Weipa QLD, 30 May 2007), 1.

June 2007 QLD **Mining law review ordered for Queensland** Queensland's *Mineral Resources Act* is expected to be reviewed for the first time in 17 years. Minister for Mines and Energy Geoff Wilson said 'more streamlined procedures for mining and petroleum tenure processing, improved mining title registration and management, better security of tenure and the transfer of mineral rights will all be addressed.' State



and Commonwealth native title acts were not included in the review. *Mining Chronicle* (National, June 2007), 3.

4 June 2007 QLD **Don't overlook Aboriginal policy success** An Indigenous Land Use Agreement 'for the proposed Aurukun bauxite project and the sustainable development of the Aurukun region' was signed by the Queensland Deputy Premier, the Aurukun community and the Chinese Aluminium Company, Chalco. 'A program of co-ordinated government activity to assist Aurukun residents to benefit from the significant economic opportunities offered by the project' was also announced, including the launch of the Centre for Aboriginal Independence and Enterprise. *Courier Mail* (Brisbane, 4 June 2007), 17; 'A new chapter for Wik people' *Lawyers Weekly* (National, 15 June 2007), 8.

6 June 2007 QLD **Qld local govt changes: Councils state their cases** Queensland's Indigenous Shire Councils have lodged their submissions to the Local Government Review Commission, setting out options for the Yarrabah Shire that 'take in non-rateable land such as state forests, national parks and Aboriginal land (and) also encompass freehold land being included in our shire boundaries as well as the coastal islands that lie directly off Yarrabah' said Vince Mundraby, Yarrabah Shire Council Mayor. *Koori Mail* (National, 6 June 2007), 34.

6 June 2007 QLD **Cape wild over rivers** Gerhardt Pearson, CEO of the Balkanu Cape York Development corporation has accused green groups and the Queensland government of denying the economic, social and health needs of Aborigines. The wild rivers legislation passed in February prevents Aboriginal people from using the areas for mining, tourism or farming. 'The current proposal basically permits Aboriginal people to use water like we did 40,000 years ago...it is a warped position....we have communities that have evolved' said Mr Pearson. *Koori Mail* (National, 6 June 2007), 4.

8 June 2007 QLD **Cape native title 'crusade' won** After 17 years native title has been won in Cape York. The Queensland government has tabled legislation handing over all Cape York land to traditional owners. It provides specific land use arrangements, amending the Wild Rivers Act 'to recognise prior native title rights', gives Aboriginal people joint management of national parks and ensures sustainable development, said Premier Peter Beattie. Aboriginal leader Noel Pearson said they could now put land rights behind them. Pastoralist leader Peter Kenny said pastoralists would now have more security. *Australian* (National, 8 June 2007), 6; 'Historic land use accord for Cape' *Cairns Post* (Cairns, 8 June 2007), 3; 'Cape York deal seals land rights' *Courier Mail* (Brisbane, 8 June 2007), 6; 'Historic deal for Cape York' *Townsville Bulletin* (Townsville, 8 June 2007), 6; 'The ideal equilibrium' *Weekend Australian* (National, 9 June 2007), 21; 'Land

rights in Cape no longer an issue: Pearson' *National Indigenous Times* (Malua Bay, 14 June 2007), 7; 'Agreement on Cape Bill' *Cooktown Local News* (Cooktown, 13 June 2007), 5; 'New blueprint for the Cape, claims Premier Beattie' *Western Cape Bulletin* (Weipa, 13 June 2007), 4; 'Significant land management agreement reached' *Tablelands Advertiser* (Mareeba, 27 June 2007), 19..


11 June 2007 QLD **Deal on land care** The Gangalidda, Garawa, Waanyi, Lardil, Yangkaal, Kaiadilt, Gkuthaarn, Kukatj and Kurtijar peoples are set to benefit from an agreement between the Southern Gulf Catchments and the Carpentaria Land Council. Catchments CEO Claire Rodgers said 'the agreement represents a new era in Southern Gulf Catchments' investment in Indigenous management of land and sea.' Spokesman Murradoo Yanner said the agreement 'recognises the vital role Gulf Aboriginal people have as managers and custodians of an ancient pristine environment.' *North West Star* (Mount Isa, 11 June 2007), 8.

13 June 2007 QLD **Indigenous communities benefit from Budget** The State Budget has been welcomed by Member for Cook Jason O'Brien for its increased focus on Indigenous communities. Funding includes '\$547,000 for the Yalanji Indigenous Land Use Agreements' and '\$570,000 to support Indigenous land and sea management centres'. *Western Cape Bulletin* (Weipa, 13 June 2007), 3.

23 June 2007 QLD **Palm Island may benefit from amalgamation** Townsville Mayor Tony Mooney says Palm Island could gain from amalgamation with Townsville City Council. Palm Island Mayor Delena Oui-Foster criticised the proposal saying 'we are not stupid, we know we are living on a gold mine'. Former NSW ATSIC officer David Huggonson 'has proposed creation of an East Cape Shire Council merging the Aboriginal Community Councils of Wujal Wujal Hope Vale, Lockhart River and New Mapoon and Cook Shire.' *Townsville Bulletin* (Townsville, 23 June 2007), 89.

27 June 2007 QLD **Lease loophole in Cape laws, warns Council** Cook Shire Council is concerned that the Cape York Heritage Bill will threaten the region's pastoral industry and economy. The provision for the surrender of pastoral leases does not require 'the State Government to obtain expert advice or consult stakeholders before removing pastoral leases.' Executive assistant Bob Norris said the Council should recommend changes to reflect concerns. *Cooktown Local News* (Cooktown, 27 June 2007), 16.

29 June 2007 QLD **Native title talks** An Indigenous land use template that may be used across Queensland has been approved by Councillors and native title groups. Gurang Land Council legal officer Margarita Escartin said it 'would set out how native



title rights and interests may be exercised in the groups' claim areas.' *News Mail* (Bundaberg, 29 June 2007), 4.

SOUTH AUSTRALIA

1 May 2007 SA **New boost for SA search** South Australia's Mineral Resources Development Minister Paul Holloway 'has announced the award of two new petroleum exploration licences' which will increase the total area under exploration in SA to 155 000 square kilometres. This announcement follows the agreement between Adelaide Energy and the native title claimants, the Yandruwandha/Yawarrawarrka people'. *Oil and Gas Australia* (National, May 2007), 4.

1 May 2007 SA **Red heart blue sky** Frontier Exploration in Australia has become more appealing 'because exploration technology has vastly improved, enabling locations and de-risking of potential prospects and targets in little known areas'. However in 'geographically isolated areas..the lack of infrastructure and poor access scan be a deterrent and pose big problems'. There is also the 'skills shortage to contend with, as well as costly exercise of moving rigs and Native title issues that can often take months of negotiations'. *Petroleum* (National, 28 May 2007), 28.

10 May 2007 SA **Exploring for jobs** The Maralinga Tjarutja community may benefit from minerals exploration. The MT corporation, which manages the community is looking to access road and track construction in traditional lands. The aim of the project is to 'provide permanent employment opportunities for members of the community'. MT General Manager Bob Ramsey said 'the corporation had agreements in place with three exploration companies and is negotiating with another two which will see it as preferred contractor for roads construction and other works associated with the search for oil and minerals' *West Coast Sentinel* (Ceduna, 10 May 2007), 1.

25 May 2007 SA **Native Title Talks Continue** A successful negotiation meeting between the First Peoples of the River Murray and Mallee Native Title Management Committee, local Government, Aboriginal Legal Rights Movement (ALRM) and State Government representatives was held on 10-11 May at Barmera. *Lakeland*, (South Australia, 25 May 2007), 8.

June 2007 SA **Rann's mission accomplished** South Australian Premier Mike Rann has welcomed the end of the ALP policy of no new mines. 'Today, about 60 companies and individuals hold a total of more than 160 exploration licences for uranium in South Australia, and more than 100 further licences are being sought' he said. Mineral projects include 'Illuka's Jacinth, Ambrosia and Tripitaka discoveries in the Eucla Basin, to project Magnet at Whyalla.' *Paydirt* (National, June 2007), 42.

26 June 2007 SA **Explorers looking under SA bringing jobs to the surface** An increase in exploration spending is translating into new mine developments for South Australia. The 23 new or expanded mines are expected to bring in extra royalties for the government and 'environmental initiatives, regional development and economic activity and employment opportunities for Indigenous communities.' *Adelaide Advertiser* (Adelaide, 26 June 2007), 56.

TASMANIA

17 June 2007 TAS **Aboriginal land vow** Spokeswoman for the Tasmanian Aboriginal Centre Trudy Maluga has launched a campaign to protect Aboriginal heritage from the Tamar Valley pulp mill. Speaking at an anti-pulp mill rally, she has said that 'even if the mill does go ahead, we will be down there fiercely protecting our heritage...We will protect that land at any cost.' *Sunday Examiner* (Launceston, 17 June 2007), 5; '11,000 clog Launceston's streets to oppose pulp mill' *Media Release* (National, 16 June 2007), 1.

18 June 2007 TAS **Framework** Aboriginal tourism is being promoted with the launch of an Aboriginal tourism development plan which sets out 'protocols to ensure proper respect is shown to Aboriginal people, land and heritage' and 'encourages an accreditation system for Aboriginal tourism products.' *Burnie Advocate* (Burnie, 18 June 2007), 5.

VICTORIA

30 May 2007 VIC **Gunditj Mirring to be Aboriginal custodians** The Aboriginal Heritage Act came into effect on Monday, with the Gunditj Mirring Native title-holders expected to be the registered Aboriginal party for the Glenelg Shire to the east of the Glenelg River. Native title holder spokesman Damein Bell said that their status means they are now recognised as the Aboriginal custodians of crown land in the region, and will also automatically be the group to be consulted when new developments occur which may impact on Aboriginal cultural heritage sites. *Portland Observer*, (Portland VIC, 30 May 2007), 5.

20 June 2007 VIC **Condah track under dispute** Aboriginal elder Keith Saunders says a fire access track built at Lake Condah covers an area of enormous cultural significance. Gunditj Mirring Traditional Owners Aboriginal Corporation chairman Damien Bell says they have worked closely with traditional owners and information was 'presented to the Gunditjmara Native Title Group, as the representative of the traditional owners'. Elder Jimmy Onus 'claimed that more than 50 Native Title holders from their families were also kept in the dark' over the plan. *Portland Observer* (Portland, 20 June 2007), 3;



'Condah debate heats up' *Portland Observer* (Portland, 22 June 2007), 3.

22 June 2007 VIC **Heritage Act will cause problems for council staff** The Aboriginal Heritage Act and recommendations were debated by the Swan Hill Rural City Council. Introduced on May 28, the Act 'provides for the protection of aboriginal places, objects and human remains, regardless of registration or land tenure.' Council is concerned it will bear the brunt of applications now that larger property developments are required to have their land inspected under the Act. *Swan Hill Guardian* (Swan Hill, 22 June 2007), 4.

28 June 2007 VIC **Jabiru ready for Benambra exploration** The Victorian Department of Primary Industries has granted Jabiru Metals an exploration licence for the development of Benambra after notifying the company that 'Native Title does not exist over the tenement'. *Kalgoorlie Miner* (Kalgoorlie, 28 June 2007), 13.

WESTERN AUSTRALIA

May 2007 WA **Oil Basins to dance with Selene** Melbourne-based Oil Basins has further strengthened its ties with David Archibald's unlisted Backreef Oil. The moves mean Oil Basins has the option of funding 100 per cent of the drilling of Blina Back Reef-1 and 33 per cent of Selene-1. According to Backreef, the permit is at an advanced stage of native title discussions with the Kimberley Land Council and subject to satisfactory finalisation of regulatory approvals, the Selene-1 exploration wildcat well could be drilled later this year. *Oil & Gas Australia*, (National, May 2007), 8.

9 May 2007 WA **Councils to litigate over cattle station charity** The Town of Port Hedland 'has joined the fight to overturn a State Administrative Tribunal decision giving an Aboriginal cattle station charity status'. The decision will exempt the Noonkanbah Station from rates due on the property. Town of Port Hedland Chief Executive Chris Adams said that 'he was concerned the decision might set a precedent'. *North West Telegraph* (South Hedland, 9 May, 2007), 2.


9 May 2007 WA **Wongatha findings concerns** The Goldfields Land and Sea Council has warned that 'a chaotic situation is looming with development project approvals and protection of Aboriginal heritage in the north east Goldfields unless the State Government intervenes to ensure commonsense and consistency amongst Government agencies'. Executive Director Brian Wyatt said that 'if it isn't, the mining sector, government and Aboriginal people will all be burdened with unnecessary delays and higher costs'. The follows the Wongatha decision handed down by Justice Lindgren which dismissed the claim but said 'native title probably did exist in the area for individuals and

much smaller groups'. Deputy Premier Eric Ripper has said that 'Justice Lindgren's decision has presented some challenges but we are working to resolve them'. Mt Ripper said that 'soon after the Wongatha claim was removed from the National Native Title Tribunal Register of claims, the State Government instigated a meeting with the Goldfields Land and Sea Council to explore options and to develop an ordered approach to possible new claims'. He said that 'the State Government wanted to avoid the filing of multiple claims over the relevant area and to prevent, where possible, any further litigation in the area'. *Koori Mail* (National, 9 May 2007), 34; 'Government leadership sought on title' *Business News* (Perth, 10 May 2007), 9; 'Ripper: native title claims not in chaos' *Kalgoorlie Miner* (Kalgoorlie, 1 May 2007), 3.

10 May 2007 WA **Circling sacred ground** The development of the Browse self in the Kimberley 'would elevate Australia to become the world's second biggest supplier of LNG'. One of the biggest issues is whether the Western Australian Government will allow the construction of a gas plant in the area. Deputy Premier Eric Ripper said that the 'government supports LNG processing in the Kimberley'. Major companies interested in the region include Shell, Chevron, BP, BHP Billiton, Santos, ENI and Total. Mr Ripper said 'the companies are expressing some urgency to get decisions on these matters...but they cannot only go ahead with the informed consent of Aboriginal people and with the substantial participation in the developments. We think it will provide much needed income and training for Indigenous people and others in the West Kimberley'. Kimberley Land Council Executive Director Wayne Bergman said that he was 'furious that the native title future act, under which proponents of exploration or mining activity must consult with registered Aboriginal claimants was sidestepped by INPEX' which had begun geo-technical drilling at the Maret Islands. *The Australian* (National, 10 May 2007), 14.

10 May 2007 WA **Miner puts case for gas jobs** INPEX 'claims that up to 4000 jobs could be created in the Kimberley during the construction of a processing plant for Browse Basin gas'. External Affairs Manager Sean Kildare said that 'the time frame for this project is tight...we are looking at by the end of 2008, a native title agreement with Uunguu, all of the environmental approvals from both the Commonwealth and State Agencies are achieved and we have commenced our production license'. Mr Kildare said that the 'Kimberley community would benefit from the construction of the gas plant'. *Broome Advertiser* (Broome, 10 May 2007), 4.

12 May 2007 WA **Rio ends lull of Kintyre** Rio Tinto has 'taken a crucial step towards developing its Kintyre uranium deposit in Western Australia, less than a fortnight after the Labor Party reversed its



opposition to new uranium mines'. The company has started a pre-feasibility study which will be used to develop a 'resource estimate'. The company has the support of the local Aboriginal community even though the Premier Alan Carpenter has 'vowed that no new mine will be built on his watch'. *Herald Sun* (Melbourne, 12 May 2007), 93.

12 May 2007 WA **Chaney: too many lawyers** Former Aboriginal Affairs Minister Fred Chaney has said that native title 'needs a lot more planners and a lot less lawyers.' Mr Chaney said that 'you can relatively easily make determinations on native title in places where there's nobody living. Unfortunately this does not provide an economic way forward'. Mr Chaney 'laid a transparent map of settled native title claims atop maps of Australia's population centres and water resources. He said 'authorities fight to the death to ensure the use relates only to traditional use [and] the closer you are to human activity, the less imagination we have shown'. *Perth Voice* (Perth, 12 May 2007), 5.

14 May 2007 WA **GLSA executive for UN forum** The Goldfields Land and Sea Council executive Director Brian Wyatt will 'represent the National Native Title Council at the United Nations Permanent Forum on Indigenous Issues'. The main purpose of the conference is to 'allow delegates from organisations for Indigenous people to respond to their Government's report to the Economic and Social Council of the UN'. *Kalgoorlie Miner* (Kalgoorlie, 14 May 2007), 5.

15 May 2007 WA **Pilbara boom at risk from shortages** The Chamber of Commerce and Industry of Western Australia has called for 'the establishment of a state government working group to tackle logistical problems in the Pilbara' to address the 'Chronic labour and accommodation shortages in the booming Pilbara' which may put 'major development and prospects at risk'. *Australian* (National, 16 May 2007), 36.

30 May 2007 WA **Remote court sitting to end long wait for Pilbara native title rights** The Ngarla people's native title rights has been recognised over 10 806 square kilometres of land and water in the Pilbara. A consent determination will be delivered by the Federal Court between the Ngarla community, the State Government, pastoralists and mining companies. The determination 'grants the Ngarla people non-exclusive rights to camp, hunt and fish on the land, engage in rituals and ceremonies, gather and use resources except for minerals, protect areas of cultural significance and make decisions about the use of the land in accordance with traditional law. Ngarla elder Charlie Coppin said that the 'determination was the most significant native title advance made by the community and he hoped the decision would benefit future generations.' *West Australian* (Perth, 30 May 2007), 10; 'Land title' *Adelaide Advertiser*, (Adelaide, 31 May 2007), 11; 'Title deals struck' *Northern Territory News*, (Darwin, 31 May 2007), 15; 'Ngarla


native title determination' *Media Release, Attorney-General* (National, 31 May 2007), 43.

June 2007 WA **Aim to embrace environmental concerns** Atlas Iron Ltd managing director David Flanagan said the company has a sound relationship with the EPA, communities and regulators. The Pardoo Iron Ore operation in the Pilbara is 'working towards setting a new environmental and Native Title cooperative standard for iron ore projects.' Mr Flanagan says they have had 'regular consultation with the local Ngarla people on heritage issues at the project area.' *Mining Chronicle* (National, June 2007), 113.

2 June 2007 WA **Rio after ruling on uranium** Following a precedent set in South Australia, Rio Tinto may be able to develop the Kintyre uranium project in Western Australia without approval from the state government. It was granted mining licences by the Liberal government in 1998 over at least three areas at Kintyre. This means it could fall outside the ALP's 'no new mines' policy. 'Legal advice is believed to have been sought on issues including mining lease structures, native title, heritage and environmental procedure.' *Courier Mail* (Brisbane, 2 June 2007), 78; 'Rio seeks ruling on Kintyre' *Herald Sun* (Melbourne, 2 June 2007), 95.

6 June 2007 WA **Native title win** A consent determination was reached with Pilbara native title claimants. Except for two mines, the Federal Court decision gave the Ngarla people 'ultimate rights to about 11,000 square kilometres of land, including entitlement to mining royalties gathered on Ngarla land and the right to fish and hunt native fauna.' Pilbara Native Title Service special counsel Carolyn Tan said 'the process of getting to this consent determination has not been a smooth one and has involved sacrifices by the claimants.' *Pilbara News* (Pilbara, 6 June 2007), 13; 'Ngarla people win native title' *Koori Mail* (National, 6 June 2007), 4; 'Pilbara historic native title agreement signed' *North West Telegraph* (South Hedland, 6 June 2007), 1; 'Pilbara native title granted' *Farm Weekly* (WA, 7 June 2007), 122.

6 June 2007 WA **Pilbara anger over 'drowned' spring** Martu Idja Banyjima elder Slim Parker has called on the government to 'act on possible breaches of the Aboriginal Heritage Act' by mining companies over damage to Weeli Wolli Spring. Traditional owners were not consulted by the community liaison board before excavation for iron ore on the sacred site. 'We want to make the mining companies and the Government accountable, to force them to comply with the approvals' said Mr Parker. A spokesman for Rio Tinto has said that 'miners had worked closely with environment authorities and traditional owners to see that heritage and environmental values were respected.' *Koori Mail* (National, 6 June 2007), 17.



7 June 2007 WA **New native title agreement** Despite ongoing appeals against the Federal Court's native title determination over Broome and surrounding land, the State government and Rubibi have signed new native title and heritage agreements. Future negotiations will be conducted through a committee of representatives from government and the Yawuru native title holders. Rubibi negotiator Patrick Dodson is pleased that 'the State's taken this constructive approach.' Both sides agree that concessions will need to be made. The government will commit \$150 000 for the management of Minyirr Park. 'The negotiation protocol provides a framework that will lead to the resolution of native title Future Act matters in and around Broome' said Deputy Premier Eric Ripper. *Broome Advertiser* (Broome, 7 June 2007), 6; 'Rubibi Agreements' *Farm Weekly* (WA, 14 June 2007), 123.

9 June 2007 WA **Canning permits system online** Travellers who wish to visit sites of interest where native title rights and interests have been granted to the Martu people will now require a permit. A claim for native title is still being considered for land on the Canning Stock Route. *West Australian* (Perth, 9 June 2007), 16.

12 June 2007 WA **Elders do hold native title** Robert Bropho responded to a claim that his group 'does not officially hold native title.' He said that the Federal Court decision in *Bennell v State of Western Australia* recognised 'the named elders who represent the family groups of the Nyungar people of the Swan River, Coastal Plains and Darling Ranges...as native title holders...to Crown lands and waters in the wider Perth region.' *Midland Reporter* (Perth, 12 June 2007), 11.

13 June 2007 WA **Plan to address water needs** Native title engagements in the Esperance Groundwater Area has formed one of the considerations in the new Water Management Plan. 'Using our most up-to-date data, allocation limits have been set with consideration for the ecological, social and economic values of the area, and to determine how much water is available for use' said Sharon Stratico, Department of Water District Manager. *Esperance Express* (Esperance, 13 June 2007), 2.

14 June 2007 WA **New native title claims** The Goldfields Land and Sea Council will lodge up to four claims in the High Court after the Wongatha claim was dismissed in February. The decision left open the possibility for multiple smaller claims. 'The State has not ruled out either a large scale alternative resolution or some determination on smaller areas' said a spokesperson for Eric Ripper, the government's native title spokesman. *Kalgoorlie Miner* (Kalgoorlie, 14 June 2007), 5.

14 June 2007 WA **Chairman back** Patrick Dodson was reappointed chairman of the Kimberley Development Commission Board. It 'coincides with the

signing of native title and heritage agreements for Broome two weeks ago'. Mr Dodson wanted to ensure that young people 'have a basis and a stake in the economic development of this part of the Kimberley.' *Broome Advertiser* (Broome, 14 June 2007), 4.

18 June 2007 WA **WA exploration 'getting harder'** Exploration in Western Australia is declining, with the trend being attributed to 'native title and governmental approvals'. Royal Resources exploration manager Brian Burke claims that too much red tape in WA is making it 'one of the hardest places to do business.' As a result, companies are looking elsewhere for better opportunities. *Geraldton Guardian* (Geraldton, 18 June 2007), 7.

19 June 2007 WA **Bigger Ord River plan includes NT** The WA government has decided to draw up a new proposal for the second stage of the Ord River irrigation scheme, relying on 'developing land in the Northern Territory, which has made no commitment to the expansion'. The project could now take 'a number of years' said NT Primary Industry Minister Chris Natt with the expansion of the scheme facing 'unresolved environmental and native title issues in the NT'. *West Australian* (Perth, 19 June 2007), 6; 'Stage II dumped' *Kimberley Echo* (Kununurra, 21 June 2007), 3.

21 June 2007 WA **Lease land to ease squeeze** With support from traditional owners, Broome Shire president Graeme Campbell said they could 'lease blocks (to people) on a long-term basis, which he claimed could make housing more affordable by working around the high cost of land.' WA Planning and Infrastructure Minister Alannah MacTiernan said the government has been 'trying to get as much land released as possible but we are having to deal with native title issues'. *Broome Advertiser* (Broome, 21 June 2007), 3.

28 June 2007 WA **KLC negotiates gas** The Kimberley Land Council and Japanese resource company Inpex are expected to 'work on a final agreement ..in the next 12 to 18 months' for the construction of an LNG plant on the Maret Islands. KLC executive director Wayne Bergmann said the land 'is still providing for us, it's providing in a different way.' Protester Richard Costin said 'only a few of the native title holders in these areas are being consulted'. State Development Minister Eric Ripper 'claimed it was not appropriate for the Government to comment' on the negotiations. *Broome Advertiser* (Broome, 28 June 2007), 1, 'Aborigines invite LNG players to table' *Australian* (National, 19 June 2007), 4.

28 June 2007 WA **Reef plan going to Land Council** The Department for Planning and Infrastructure are planning to remove a section of reef to expand a natural channel at the mouth of the Murchison River. Despite the significance of the river to the Nanda traditional owners, the native title council voiced

concerns last week that they were not consulted. The Department will now make a 'formal request to Yamatji Land and Sea Council so they could commence discussions with the Nanda people.' The plan is supported by tourism operators and fishermen but the Mid West Department of Environment and Conservation said they have yet to be consulted regarding the plan. *Mid-West Times* (Geraldton, 28 June 2007), 3; 'Clash over reef blast plan' *Mid-West Times* (Geraldton, 21 June 2007), 1.

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APPLICATIONS LODGED WITH THE FEDERAL COURT

DATE FILED	APPLICATION NAME	APPLICATION TYPE	STATUS	STATE/ TERRITORY	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.
1/06/2007	Gregory & Donna Pitman	Non-claimant application	Active	NSW	NN07/4	NSD983/07
24/05/2007	Kokatha Nation Claim	Claimant application	Active	SA	SC07/1	SAD85/07

Native title applications lodged by date

(This information has been extracted from the National Native Title Tribunal website 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

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REGISTRATION TEST DECISIONS

Registration test decisions by decision date

DECISION DATE	APPLICATION DATE	APPLICATION NAME	STATE/ TERR.	DECISION	NNTT FILE NO.	FEDERAL COURT FILE NO.
23/05/2007	27/11/2006	Wanamara People Core Country Claim	QLD	Accepted	QC06/18-1	QUD460/06
23/05/2007	28/09/2001	Bar Barrum People #6	QLD	Accepted	QC01/34-2	QUD6032/01
24/05/2007	2/01/1998	Wiri People #2	QLD	Not Accepted	QC98/11-4	QUD6251/98
6/06/2007	17/01/2007	Mardigan People	QLD	Accepted	QC07/1-1	QUD26/07
22/06/2007	29/09/1998	Jinibara People	QLD	Accepted	QC98/45-2	QUD6128/98
25/06/2007	19/08/1996	Mullewa Wadjari Community	WA	Accepted	WC96/93-2	WAD6119/98

(This information has been extracted from the National Native Title Tribunal website 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

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APPLICATIONS CURRENTLY IN NOTIFICATION

Native title applications by current notification of applications

NOTIFICATION CLOSING DATE	APPLICATION NAME	APPLICATION TYPE	DATE FILED	STATE/TERRITORY	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.
3/10/2007	Johnson and Kendall Grange	Non-claimant application	27/04/2007	NSW	NN07/3	NSD729/07

(This information has been extracted from the National Native Title Tribunal website 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

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ILUAS

Registered Indigenous Land Use Agreements by date

TRIBUNAL FILE NO.	NAME (NNTT HYPERLINK)	TYPE	STATE/TERR.	REGISTRATION DATE	SUBJECT MATTER
SI2006/023	The Wintinna Pastoral ILUA	Area agreement	SA	19/6/2007	Access
VI2005/002	Porepunkah Crown Land	Area agreement	VIC	19/6/2007	Development
SI2006/021	The Evelyn Downs Pastoral ILUA	Area agreement	SA	19/6/2007	Access
SI2006/022	The Arckaringa-Coorikiana Pastoral ILUA	Area agreement	SA	19/6/2007	Access
SI2006/019	The Welbourn Hill Pastoral ILUA	Area agreement	SA	04/6/2007	Access
SI2006/020	The Lambina Pastoral ILUA	Area agreement	SA	04/6/2007	Access
SI2006/006	The Allandale Pastoral ILUA	Area agreement	SA	04/6/2007	Access
QI2006/051	Enertrade - PCCC CQGP Agreement	Area agreement	QLD	24/5/2007	Pipeline

(This information has been extracted from the National Native Title Tribunal website 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

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DETERMINATIONS

Native title determinations by determination date

SHORT NAME	CASE NAME	DATE	STATE/TERR.	OUTCOME	LEGAL PROCESS
Deniliquin Local Aboriginal Land Council	Deniliquin Local Aboriginal Land Council v Minister for Lands & NSW Native Title Services Limited (unreported, FCA, 14 June 2007, Jacobson J)	14/6/2007	NSW	Native title does not exist	Consent determination

Ngarla and Ngarla #2 (Determinati on Area A)	Ngarla and Ngarla #2 (Determination Area A) (unreported, FCA, 30 May 2007, Bennett J)	30/5/2007	WA	Native title exists in parts of the determination area	Consent determination
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(This information has been extracted from the National Native Title Tribunal website 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

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ITEMS IN THE AIATSIIS CATALOGUE

The following list contains either new or recently amended catalogue records relevant to Native Title issues. Please check MURA, the AIATSIIS on-line catalogue, for more information on each entry.

The AIATSIIS Library holds three CDs, both audio and video, of the proceedings of the Guditjmarra judgment and the Mount Eccles National Park determinations in 2007.

Audiovisual material of interest to native title include 49 hours of recordings of Bundjalung language elicitation, cultural discussions, oral history accounts and genealogical information spanning the time periods of 1985-2004.(WEEBOONNGUL_01) and recordings of oral history interviews with William (Nyapuru) Gardiner.(WANGKAMAYA_26.) The field recordings of L.R. Hiatt from the 1960s of Gidjingali word lists, texts, songs, conversations and oral history interviews can be found as HIATT_L04.

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Peterson N, 'Early 20th century photography of Australian Aboriginal families: illustration or evidence?' *Visual Anthropology Review* vol. 21, issues 1 and 2, 2006. pp. 11-26.

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