



# Native Title Newsletter

## CONTENTS

FEATURES..... 2

WHAT'S NEW..... 5

    Recent Cases (Australia) ..... 5

    Recent Cases (International) ..... 7

    Legislation..... 7

    Publications ..... 7

    Online Publications ..... 10

    Recent and Upcoming events..... 12

    Opportunities ..... 13

NATIVE TITLE IN THE NEWS..... 15

APPLICATIONS LODGED WITH THE NNTT ... 39

REGISTRATION TEST DECISIONS ..... 40

APPLICATIONS CURRENTLY IN NOTIFICATION ..... 41

INDIGENOUS LAND USE AGREEMENTS ..... 42

NATIVE TITLE DETERMINATIONS ..... 42

ITEMS IN THE AIATSIIS CATALOGUE ..... 42

WHAT'S NEW WITH THE NTRU ..... 45

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## WHAT'S NEW WITH THE NTRU!

The NTRU **PBC Project** is underway see page 45 for more details.

The North Queensland Land Council to co-host the **Native Title Conference 2007**, 6-8 June 2007.

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.



## FEATURES

### The Noongar decision: *Bennell v State of Western Australia*

(19 September 2006) (Wilcox J)

#### Lisa Strelein AIATSIS

The decision of the Federal Court in *Bennell v WA* (the Noongar decision) has received a significant amount of coverage in the media since it was handed down in September 2006. The decision was a determination of fact in relation to proof of connection over part of the claim area of the Single Noongar Claim. It is not a final determination of native title. The decision related to a portion of the claim area in and around the Perth metropolitan area, while the whole Single Noongar Claim involves a much larger area covering most of the southwest of Western Australia. The current decision resulted from a very complex procedural history that illustrates the progressive amalgamation of most claims in the southwest.<sup>1</sup>

The State pressed for the 'Perth metro' portion of the claim to continue to be heard. Justice Wilcox therefore identified a 'separate question' for consideration, which was, 'whether native title existed in the Perth area and, if so, who were the persons who held native title and what rights and interests it included'.<sup>2</sup> In doing so, the Court left aside issues of extinguishment and the relationship between any other rights and interests in the claim area.

The applicants needed to show:

- 'The identity of the community whose laws and customs governed the use and occupation of the claim area at the date of settlement
- That this community continues to exist today and continues to acknowledge and observe those laws and customs, albeit perhaps in ...[a] somewhat changed form'<sup>3</sup>

The trial involved only 20 days of hearings, 11 of those held on country in 8 different locations across the whole Single Noongar Claim area. The applicants called only 30 Noongar witnesses, while a large number of other written witness statements were also lodged. Only three experts from the applicants and two from the State were heard – each put forward an historian and an anthropologist

<sup>1</sup> [14].

<sup>2</sup> See Wilcox J, statement at the handing down of the decision. For the technical drafting of the question, see [47].

<sup>3</sup> Statement of Wilcox J on handing down of the judgment.

and the applicants also put forward a linguistic expert.

The judge and the experts all commented that the determination of the factual situation at the time of first settlement was greatly assisted by the large number of commentaries and observations of Aboriginal society, particularly in comparison to other areas of Australia.<sup>4</sup> The judge took the view that the most important material for his purposes was the material that described the situation at the time of first settlement and shortly thereafter; and the evidence about current observance or acknowledgement of laws and customs.

#### The findings

To determine how to approach the question, Wilcox J relied on the decision of the High Court in *Yorta Yorta*, supported by *Yarmirr* and *Ward*, and the interpretation of those decisions by the full court of the Federal Court in recent decisions such as *Alyawarr* and *De Rose*.<sup>5</sup> Placing s 223(1) of the NTA at the centre of the inquiry, his Honour turned to *Yorta Yorta* to explain the meaning of 'traditional laws and customs' as a constituted body of normative rules that give rise to rights and interests; that is, an identifiable system of rules, having normative content and that derive from a body of norms that existed before sovereignty. The judge noted that the Court in *Yorta Yorta* had introduced the term society in order to explain what 'binds' the group. They said, 'in this context, "society" is to be understood as a body of persons united in and by its acknowledgment and observance of a body of law and customs'.<sup>6</sup>

The judge was therefore primarily interested in whether the applicants could show two things, first that there was a single 'community' for native title purposes (that is, a community that shared laws and customs through which they had a connection to land and waters) at the time sovereignty was asserted in 1829; and, second, whether that same community now existed and had continued to acknowledge those same laws and customs substantially uninterrupted since that time.

<sup>4</sup> Wilcox J [85].

<sup>5</sup> *Members of the Yorta Yorta Aboriginal Community v State of Victoria* (2002) 214 CLR 422 at [32] (*Yorta Yorta*), *The Commonwealth v Yarmirr* (2001) 208 1 at [7] (*Yarmirr*), *Western Australia v Ward* (2002) 213 CLR 1 at [16] (*Ward HC*), *Northern Territory of Australia v Alyawarr, Kaytetye, Warumungu, Wakaya Native Title Claim Group* [2005] FCAFC 135; 145 FCR 442 (*Alyawarr*), *De Rose v South Australia* (No 2) [2005] FCAFC 110; 145 FCR 290 (*De Rose* (No 2)).

<sup>6</sup> *Yorta Yorta* at [49], per Gleeson CJ, Gummow and Hayne JJ.



On this latter point, the respondents argued that the Noongar community could not have passed the 'Yorta Yorta test'.<sup>7</sup> But, Wilcox J adopted the explanation of the High Court in *Yorta Yorta* to determine the meaning of 'substantially' maintained:

It is a qualification that must be made to recognise that European settlement has had the most profound effects on Aboriginal societies and that it is, therefore, inevitable that the structures and practices of those societies, and their members, will have undergone great change since European settlement.<sup>8</sup>

In relation to the changes in laws and customs his honour noted four things:

- In time, the laws and customs of any people will change and the rights and interests of the members of the people among themselves will change too;
- Universal observance is not necessary. The inquiry is directed to possession of the rights under law and customs, not their exercise;
- The rights and interests must be currently possessed and give rise to a current connection between the claimants and the land and waters claimed;
- The acknowledgement of laws and customs must have continued substantially uninterrupted.<sup>9</sup>

The State also argued that the 'Noongar people' were not a sufficiently coherent group to be considered a normative society. After examining journals and early writings through to the turn of the 20<sup>th</sup> century, the judge concluded that at 1829 the laws and customs governing land throughout the whole claim area were those of a single community, based on:

- Shared language;
- Shared laws and customs;
- Internal social interaction; and
- Internal consistency

And, he concluded it is appropriate now to call this society the Noongar community.

The judge was impressed by the evidence of the witnesses that demonstrated the continued vitality of the Noongar society. He found evidence of the continuity of society in the fact that Noongar families, despite the impacts of white settlement and government policies have kept in contact with each other. He observed that 'most if not all' of the witnesses have learned some Noongar language, traditional skills in hunting and fishing, traditional Noongar beliefs.

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<sup>7</sup> Wilcox J [83(g)].

<sup>8</sup> *Yorta Yorta* [89].

<sup>9</sup> *Yorta Yorta* [85-9], also *Mabo*, 61.

The judge found, more specifically, that the applicants had also proved continuity of connection to land through law and custom. He noted that changes in land rules were unavoidable. Nevertheless, those laws and customs currently observed and acknowledged are a 'recognisable adaptation' of the laws and customs existing at settlement. In particular, 'Noongars continue to observe a system under which individuals obtain special rights over particular country – *their Boodjas* – through their father or mother or occasionally a grandparent.'<sup>10</sup> In addition, Noongars maintain rules as to who may 'speak for' country.

His Honour specifically acknowledged that a native title claim may fail because of a discontinuity in acknowledgement and observance of traditional laws and customs even though there has been a recent revival in them and current acknowledgement and observance, noting the decisions in *Yorta Yorta* and the *Larrakia* case.<sup>11</sup> But, his Honour noted in this case the primary witnesses were able to attribute their knowledge to what they had learned as a child, long before the resurgence of interest.<sup>12</sup>

He concluded that the native title holders are the whole Noongar community on whose behalf the Single Noongar application was made. The Commonwealth had argued that 'it does not necessarily follow that the society is the native title holding group'.<sup>13</sup> The State argued that the native title holding group was something smaller than the Noongar community, although they could not pinpoint what that group might be.<sup>14</sup> In essence both the State and Commonwealth, with other respondents, were arguing that not all Noongar people held rights in the Perth area and therefore, the communal title should be held, and proof of connection (including descent) should be determined at a different, more localised recognition level.<sup>15</sup>

They claimed that the distribution of rights and interests (to the Perth area) should not be left to internal mechanisms of law and custom, but should be determined by the Court. Wilcox J disagreed, concluding that, while 'it is necessary for the Court to determine whether the claimed native title extends to the whole, or any part, of the claimed area... [I]t is not necessary (and it would be inappropriate) for the Court to become involved in issues as to the intracommunal distribution of special rights over portions of the total area, in relation to which native

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<sup>10</sup> Statement of Wilcox J. See also [764-91].

<sup>11</sup> *Risk v Northern Territory* [2006] FCA 404.

<sup>12</sup> Wilcox J [449-50].

<sup>13</sup> Wilcox J [77].

<sup>14</sup> Wilcox J [83(e)].

<sup>15</sup> Wilcox J [75-7].



title has been established. The Court leaves it to the community to determine those issues.<sup>16</sup>

This is consistent with the full Federal Court decision in *De Rose* and a number of determinations, such as *Alyawarr* that specifically include in the rights and interest identified, the right to determine the rights and interests among the group.<sup>17</sup> The judge was in no doubt that the applicants must demonstrate a connection with the area that is subject of the separate question. But, it is not necessary for the applicants to prove a connection that is 'specific' to the Perth area, distinct from their connection to whole claim area.

Without purporting to specify the final terms of a formal Determination of Native Title, the judge observed what the rights and interests under native title would be (absent of any extinguishing acts). These were said to be non-exclusive communal rights to occupy, use and enjoy the area, including living on the area, conserving and using natural resources, protecting sites, carrying on economic activities education about laws and customs.

Despite the finding that the Noongar have proved that native title has continued in the southwest, the impact of extinguishment would mean that very little remains to be enjoyed. In the area around Perth that is the subject of this decision there are very few parcels of claimable land, and indeed throughout the whole of the Single Noongar Claim area there is little that would not be wholly or substantially impacted. To this end, the judge encouraged the parties to return to the negotiating table to resolve the matter. The State, joined by the Commonwealth, quickly moved to appeal the decision although they have also indicated that they wish to negotiate.

[Back to contents](#)

### **Australian Anthropological Society Annual Conference and Native Title Colloquium**

26-29 September 2006, James Cook University, Cairns

**Benjamin Richard Smith**

This year's AAS Conference took place at the Cairns campus of James Cook University. Considering the distance from the major cities (but perhaps unsurprisingly given the tropical location) the conference was extremely well attended. Certainly the Conference itself made the trip to Cairns

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<sup>16</sup> Wilcox J [82].

<sup>17</sup> Wilcox J *ibid*, *Alyawarr*: see [81], [110]-[112] and paras 2 and 6 of the formal determination, which is set out at 504-505. See also *Western Australia v Ward* (2000) 99 FCR 316 (*Ward (FC1)*) at [202].

worthwhile. Rosita Henry and the rest of the JCU team put together a stimulating and enjoyable meeting which will take some beating by next year's less exciting location – the 2007 meetings will take place in Canberra!

The Conference began with a Native Title Colloquium and a Post-Graduate Colloquium, which took place in parallel on the day preceding the Conference proper. The Native Title Colloquium, convened by David Martin and David Trigger (who stepped in relatively late to replace Craig Jones), included academics, staff from Native Title Representative Bodies and State Government Native Title Offices, as well as several independent consultants. Most – but not all – of those attending were anthropologists, with a smattering of lawyers also participating.

The Colloquium was split into two sessions, the first dealing with issues pertaining to connection reports and the second addressing 'Anthropology in the future of native title'. Both had good audiences, and useful questions and discussions followed the presentations. The morning session on issues of connection began with my own paper, which dealt with the involvement of 'diaspora' or 'stolen generations' families' in native title claims in northern Queensland. Other presenters included David Thompson, who presented case material outlining the (apparently successful) arguments for a composite argument for connection in a claim that includes members of three distinct 'tribal' groups in north-eastern Cape York Peninsula.

Jodi Neal outlined some of the problems with the concept of 'society' in the native title context, presenting a useful critique of the impractical and conceptually unsustainable definition of 'society' as being identical to the claimant group. Neal's discussion of society echoed David Martin's later discussion of the 'normative system' in accounts of connection, which combined his usual analytic clarity with a number of useful pointers for anthropological practitioners. Peter Blackwood (presenting material from joint work with Paul Memmott) also presented a useful analysis of traditional decision making processes, including case material from the Quandamooka claim. The circulated version of Blackwood and Memmott's work – like Martin's discussion of 'norms' – is likely to inform the writing of connection reports by many of the anthropologists who attended the session.

The second panel on connection included Wendy Ashe's overview of the changes in the ways that anthropologists working for the Northern Land Council have researched and presented anthropological material. Ashe noted the early continuities from Aboriginal Land Rights Act 'claim books' and the increasing sophistication of



engagement with the legislative context (notably through the citation of detailed evidence for anthropological findings in native title reports) as the 'native title era' has developed.

In the first of the day's presentations by an employee of a State native title office, Liz Dalgleish (from Victoria's Department of Justice) discussed the role of inference in demonstrating connection in native title. Both Dalgleish's presentation and the later presentation by Debbie Fletcher from Western Australia's Office of Native Title (on flexibility and transparency) spurred a number of questions about the assessment of connection materials from members of the audience. Whilst their inclusion in the Colloquium usefully added insights on State Governments' role in assessing arguments about connection, it was also obvious that some members of the audience were unconvinced by the presentation of the State Governments' good faith in the native title process.

The current state of native title anthropology was perhaps best summed up by Lee Sackett and Phil Vincent's presentations, which were the last two papers of the Colloquium. Sackett's paper was a passionate argument for the benefits of native title for anthropologists, which he suggested provides both opportunities for fieldwork in a range of Indigenous contexts and intellectual challenges for anthropologists. Taking a somewhat different view, Vincent argued that the usefulness of native title was increasingly questionable – not least to many potential or actual claimants – and that we should not be surprised that Indigenous Australians are increasingly seeking to have their interests confirmed outside of the framework of the Native Title Act. Certainly, the problems are now evident to all of those involved in native title, whether as claimants, other parties or professionals. However, the intellectual challenges of native title work are also evident – even if, as many argued, native title is

now predominantly a 'lawyer's game' – and anthropologists continue to engage usefully with native title practice, both as practitioners and in thinking more broadly about native title's social effects.

Beyond the Native Title Colloquium, the main Conference also had much to offer participants working in 'Indigenous Australia'. Perhaps in spite of a relatively loose theme ('Beyond Art and Science'), the keynote speech by Bruce Kapferrer (on the substance underlying the 'anthropological attitude'), the plenaries and the various parallel sessions maintained the interest and enthusiasm of audiences. A number of papers dealt with research undertaken with Indigenous Australians, including papers on the Palm Island 'riots', the bureaucratization of Aboriginal knowledge, personhood, the use of kava in Arnhem Land, the relationship between aesthetics and affect in Aboriginal art, and the relationship between ghosts and photographs in Arnhem Land and in Cape York Peninsula, and 'joking' in Aboriginal Australia and the Torres Strait Islands. Papers by a number of younger scholars, notably Tony Redmond, Katie Glaskin and Yasmine Musharbash, made it clear that Australian Aboriginal Studies is entering an exciting new phase.

Outside of the formal conference sessions the location of most of the participants at Trinity Beach allowed the conference to continue informally across the week. I am certain I was not the only participant who enjoyed a number of meals and late night discussions while listening to the sound of waves breaking on the beach nearby! James Cook University are to be congratulated for hosting such a successful event, and many of those who attended will be looking forward to another Cairns-based Conference in the future.

[Back to contents](#)

## WHAT'S NEW

### Recent Cases (Australia)

#### ***Bennell v State of Western Australia* [2006] FCA 1243**

Overlapping claimant applications in respect of land and waters in and around Perth - Applications in respect of five areas made on behalf of Bodney Family Group claim based on descent from Ballarruk and Didjarruk 'clans' - Whether these were land-holding groups at sovereignty or moiety groups - Lack of evidence of connection between members of

claimant group and any Ballarruk or Didjarruk person alive at sovereignty - Lack of evidence of continued acknowledgement and observance of traditional laws and customs - These claims dismissed - Consideration of separate question arising out of application by the Noongar community in respect of an extensive area of south-west Western Australia - Separate questions related only to land and waters in and around Perth, however the claim was that this was part of a greater area in respect of which the Noongar community held native title rights and interests - Whether at sovereignty the normative system governing the whole of south-west Western Australia was that of a single Noongar community or whether there were a series of separate normative systems of smaller communities - Whether the single Noongar community has continued to acknowledge



and observe some traditional laws and customs concerning land and waters - Identification of persons entitled to native title rights and interests - Identification of surviving rights and interests - Discussion of, and orders about, belated motion to strike out single Noongar claim for lack of proper authorisation.

***Yankunytjatjara/Antakirinja Native Title Claim Group v The State of South Australia*** [\[2006\] FCA 1142](#)

An application for a determination of native title the *Native Title Act 1993* (Cth) over part of central northern South Australia that covers approximately 19,000 sq km over Alberga Creek and Neales Creek and the catchment areas of Arkaringa Creek. The application was filed with the National Native Title Tribunal on 21 November 1997 and referred to the Court on 30 September 1998.

The claimants are members of the Western Desert Social and Cultural Bloc. The claim group comprises 19 families and approximately 1300 people. It is predominantly made up of claimants identifying as Yankunytjatjara. The main respondents to the application are the State of South Australia and the owners of several pastoral leases over the claim area.

The principal parties to the proceeding have agreed that a determination should be made that native title exists in the claim area other than that part of the claim area comprising the Marla Township, and have negotiated a consent determination.

***Cruse v New South Wales Native Title Services Ltd*** [\[2006\] FCA 1124](#)

***Hillig as Administrator of Worimi Local Aboriginal Land Council v NSW Native Title Services Ltd*** [\[2006\] FCA 1184](#)

***Griffiths v Northern Territory of Australia (No 2)*** [\[2006\] FCA 1155](#)

Involved discussion of post determination matters. It was held that the native title is not to be held in trust and an Aboriginal Corporation whose name is to be provided within 12 months, or such further time as a Judge of the Court to be the PBC and carry functions of the PBC according to s 57(2)-(3) of the NTA. In the interim, any notices required under the act will be accepted by the Northern Land Council.

***Wakaman People # 2 v Native Title Registrar and Authorised Delegate*** [\[2006\] FCA 1198](#)

This case involved the delegate's refusal to accept claim for registration. It discusses the nature of court's jurisdiction to review the requirements for registration and whether it is a matter for the registrar or delegates. It also looks at certification of application by representative body and whether registrar may consider authorization process where application certified or whether earlier certification may apply to later application. The case also considers the meaning of 'cognatic descent' and whether delegate may consider change of description and effect.

***Akiba and Others on behalf of the Torres Strait Regional Seas Claim People v State of Queensland (No 2)*** [\[2006\] FCA 1173](#)

Parties - joinder - Torres Regional Seas Claim - nationals of Papua New Guinea having traditional connection with parts of the claim area - claim for joinder based on 'interests' of PNG nationals in relation to the pursuit of traditional activities - Torres Strait Treaty - recognition by exchange of notes between governments of certain PNG communities as traditional inhabitants - applicants for joinder not included under Treaty - native title determination proceedings inappropriate vehicle for resolution of disputes between PNG village communities - inappropriate vehicle for advancing case for recognition by executive governments under Treaty - Commonwealth appropriate party to ensure protection of traditional activities of PNG nationals in Torres Strait - joinder application refused on discretionary grounds.

***Dann on behalf of the Amangu People v State of Western Australia*** [\[2006\] FCA 1249](#)

Native title determination application - parties - interest - industry association - insufficiency of direct interest based on members' interests - participation of industry association in statutory committees - whether sufficient interest - interest insufficient - joinder refused - association able to act as agent if so requested by parties.

***Wakaman People # 2 v Native Title Registrar and Authorised Delegate*** [\[2006\] FCA 1251](#)

Registration of native title claim - whether court has authority to direct the Registrar to make a back-dated entry on the Register - purpose of Register and registration - notification of future acts and ability to negotiation.



## Recent Cases (International)

***The Concerned Land Claimants' Organisation Of Port Elizabeth v The Port Elizabeth Land And Community Restoration Association and Ors*** [Constitutional Court of South Africa CCT 29/06 21 September 2006](#)

The applicant is an association of land claimants who were dispossessed of their land under a racially oppressive law (Community Development Act 3 of 1966)

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

## Legislation

[Aboriginal Land Rights \(Northern Territory\) Amendment Act 2006](#) Number: No. 93, 2006

**Amending Act Consolidated version of the Aboriginal Land Rights (Northern Territory) Act 1976** [Explanatory Memorandum](#)

**Native Title (Tribunal) Amendment Regulations 2006 (No. 1)** Number: SLI 2006 No. 244

These Regulations amend the *Native Title (Tribunal) Regulations 1993* to enable a more flexible means of exempting persons or bodies assisted by Native Title Representative Bodies (NTRBs), or bodies performing NTRB functions, from the application fee in respect of right to negotiate applications to the National Native Title Tribunal.

[Corporations \(Aboriginal and Torres Strait Islander\) Consequential, Transitional and Other Measures Bill 2006](#)

The *Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill 2006* supports implementation of the *Corporations (Aboriginal and Torres Strait Islander) Bill 2005 (CATSI Bill)*. The CATSI Bill will replace the Aboriginal Councils and Associations Act 1976 (ACA Act) and was introduced into the Australian Parliament on 23 June 2005. The Bill comprises three parts: consequential amendments, transitional provisions and amendments to the *Native Title Act 1993* (Native Title Act).

[Back to contents](#)

## Publications

### BOOKS

Marnie Leybourne and Andrea Gaynor (eds) **Water: histories, cultures, ecologies** Nedlands, UWA Press, 2006

A new book of likely interest to those working in the interdisciplinary fields of human/environment relationships (focusing on water) in Australian and other settings (e.g. in Brazil, England, Israel, North America, Syria, Vietnam).

Christa Scholtz **Negotiating claims: the emergence of indigenous land claim negotiation policies in Australia, Canada, New Zealand, and the United States** New York; London: Routledge, 2006.

This book explores the development of Indigenous land claims politics in four countries, primarily since the Second World War: Australia, Canada, New Zealand, and the United States. It looks at the response of States to Indigenous peoples claims for recognition of their land rights. These responses of states have 'varied in form, timing, intent, and effects.' This book asks 'what factors in each country truncated the set of considered policy options, and whether the negotiation option was among them'. It also examines 'the legacies of previous policy choices in light of the set of options available at later choice opportunities.' (p. 4)

Toni Bauman & Samantha Wells **Aboriginal Darwin: A guide to exploring important sites of the past and present** Aboriginal Studies Press 2006

*Aboriginal Darwin* provides insights into the enormous economic, cultural, social and historical contributions of Aboriginal people to the city. It includes contemporary and historical sites that range from the harbour to the beaches, monsoon forests, gardens, parks, camping places, exhibitions, cultural displays and buildings in the CBD, supplemented by information about sites not accessible to visitors.

**The new approach revisited: a discussion paper on the Waitangi Tribunal's current and developing practices** Waitangi Tribunal, 2005

'This publication updates the Tribunal's new approach to the conduct of inquiries into historical claims. It appears in the aftermath of an election in which much attention was focused on the Treaty sector, and especially on accelerating the negotiation of Treaty settlements.' (pg 1)



## REPORTS

### **Administration of the Native Title Respondents Funding Scheme** Canberra: Australian National Audit Office, 2006

Report of audit conducted by the Australian National Audit Office into the administration of the Native Title Respondents Funding Scheme. The Scheme was established by Section 183 of the *Native Title Act 1993* (Cth), and provides for the Attorney-General to formulate Guidelines which set out criteria for grants for financial assistance to respondents in native title matters. Respondents to native title matters include pastoralists, miners, fishers and local government councils. The objective of the audit was to assess the effectiveness of the AGD's administration of grants provided under the Respondents Scheme. The ANAO concluded that, overall, AGD effectively manages the administration of grants under the Scheme. However, the ANAO identified key areas of AGD's administration of the Scheme that could be strengthened. In particular, clearer specification of performance measures; closer monitoring of grant commitment (individually and in total); and enhancements to AGD's Data and Workflow Grants System.

### Allison Rickett and Sean Brennan **Aboriginal Land Rights (Northern Territory) Amendment Bill 2006: report on parliamentary process** The Gilbert + Tobin Centre of Public Law, 2006

'The *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)...is the high water mark in Australian land rights legislation and for much of its history it has enjoyed bipartisan political support. The *Aboriginal Land Rights (Northern Territory) Amendment Bill 2006* introduced some of the most dramatic changes yet proposed to the Act but for the most part they slipped under the radar of media and public scrutiny. ...this summary document is designed to provide a factual report on what happened to the Bill in Parliament.' (pg 1).

### [Reforms to improve management of native title rights](#) Commonwealth of Australia, 2006

Mr Ruddock and Mr Brough have released a report examining the current structures and processes of PBCs, the bodies established to manage native title where it is found to exist. 'PBCs are a key element in the native title system and need to operate effectively so native title holders can utilise their native title rights to gain economic and other benefits, and discharge their obligations regarding management of land,' Mr Ruddock said. Mr Brough said the reforms would provide native title holders

with better access to services and 'promote better access to existing resources and enable some reduction in the demands placed on PBCs in performing their functions'.

The Government will implement all of the report's recommendations, which include measures to:

- improve the ability of PBCs to access and utilise existing sources of assistance, including from Native Title Representative Bodies (NTRBs)
- improve the information available to PBCs on their statutory roles and responsibilities
- authorise PBCs to recover costs reasonably incurred in performing specific functions at the request of third parties
- encourage greater State and Territory government involvement in addressing PBC needs
- improve the flexibility of the PBC governance regime while protecting native title rights and interests, and
- clarify the circumstances under which NTRBs may assist PBCs.

The recommendations, which were developed following targeted consultation with key stakeholders, comprise a significant element of the Government's package of reforms to ensure the native title system delivers better and more expeditious outcomes.

## CASE NOTES

**Jango v Northern Territory of Australia** *Australian Indigenous Law Reporter* (2006) Vol 10 No 2 pp 23-40

**Rubibi Community v State of Western Australia (No 7)** *Australian Indigenous Law Reporter* (2006) Vol 10 No 2 pp 43-54

## JOURNAL ARTICLES

Marshall McKenna **A note on the Native Title Claims Resolution Review and the government response to it** *Native Title News* (2006) Vol 7 Iss 10 pp 180-181

The Government response to the Native Title Claims Resolution Review by Graham Hiley and Ken Levy, was published on 21 August 2006. This article lists and briefly discusses the key recommendations of this review that have been accepted by the government, as well as those that were not accepted or which the government has identified that it will give further consideration.



**Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 (Cth)** *Australian Indigenous Law Reporter* (2006) Vol 10 No 2 pp 70-73

Article detailing some of the concerns raised by the Northern Land Council regarding the recent *Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 (Cth)*.

**Addressing Aboriginal land rights in Ontario: an analysis of past policies and options for the future---- Part II** *Queens Law Journal* (2006) Vol. 31 No. 2 pp. 796-845

This paper 'outlines the development and operation of the Aboriginal land claims processes at the federal and provincial level and their inadequacy in reaching timely and cost effective solutions.' It 'discusses past efforts to remedy the system failings, and suggests that a number of systemic disincentives may be at the core of the government's resistance to change. Alternative approaches that offer practical solutions for improving the claims resolution process are identified.' The paper 'argues that an effective land claims process should satisfy five criteria: (i) it should be timely, (ii) it should be fair and should be seen to be fair by all parties, (iii) it should be designed to strengthen the relationship of the parties, (iv) the division of constitutional responsibilities should not delay settlements or valid claims against the Crown, and (v) claims processes should address the interests of the public. While reforms to the aboriginal claims process will require substantial investment, the author concludes that continued deferral of the adjudication of claims will also have high costs in both financial and human terms.' (p 796)

Thomas Isaac and Anthony Knox **Canadian Aboriginal law: creating certainty in resource development** *Journal of Energy & Natural Resources Law* (2005) Vol. 23 No. 4 .pp. 427-464

'This paper discusses legal developments relating to the relationship between Canadian governments and Canada's Aboriginal peoples regarding certainty of access to natural resources.' The influence of the common law and Canadian administrative law 'have moved Canadian Aboriginal law from a comfortless uncertainty to a legal certainty in which Canadian governments continue to manage natural resources, but do so subject to fair treatment of Aboriginal peoples.' (p 427)

Bruce Harvey and Simon Nish **Rio Tinto and Indigenous community agreement making in Australia** *Journal of Energy & Natural Resources Law* (2005) Vol. 23 No. 4 .pp. 499-510

'The common law and statutory recognition of Aboriginal land rights and native title in Australia have had a profound impact on the minerals industry. In particular, the High Court's recognition of native title in *Mabo v Queensland (No 2)* has changed the social landscape for mining company/indigenous agreement making in Australia. At the same time Rio Tinto has undertaken a programme of internal cultural change focused on improving community engagement exemplified in its direct agreement-making with indigenous communities. The Argyle Participation Agreement signed in September 2004 between Argyle Diamond Mine, local Aboriginal people and the Kimberley Land Council, and registered as an Indigenous Land Use Agreement in March 2005, illustrates this change. The agreement herein described, is the most progressive, mining company/Aboriginal community agreement negotiated to date in Australia and represents a business-oriented and community empowered approach that complements statutory consent for mining development.' (p 499)

Judge Antonie Gildenhuys **Indigenous People's rights to minerals and the mining industry: current developments in South Africa from a national and international perspective** *Journal of Energy & Natural Resources Law* (2005) Vol. 23 No. 4 .pp. 465-481

'There is a distinct difference between the recognition of customary law title in countries where the indigenous population constitutes a small minority within the total population and in countries (particularly African countries) where it constitutes a vast majority. In post-colonial Africa the focus is not so much on the recognition of customary law title as it is on providing access to land and natural resources to local (mostly black) people, as distinct from the immigrant population (mostly white people). Indigenous customary law rights over land can co-exist with civil law rights over the same land, and need not vest in the same persons. Developers of projects on such land will have to accommodate both customary law and civil law title holders over the land.' (p 465)

Alto BíoBío **Indigenous peoples, energy and environmental justice: the Panguel/Ralco hydroelectric project in Chile's** *Journal of Energy & Natural Resources Law* (2005) Vol. 23 No. 4 .pp. 511-528

'In recent months, the reservoir of the Ralco dam, one of a series of dams along the Alto BíoBío River in Southern Chile, has destroyed a pristine mountain ecosystem and permanently and irreversibly disrupted the semi-nomadic lifestyle and world view



of the Mapuche/Pehuenche people. At the same time, the communities affected by the dam will attempt to reconstruct their lives and culture using resources and rights provided by a 'friendly settlement' reached by them with the Chilean Government and approved by the Inter-American Human Rights Commission (IACHR). This is the aftermath of a decade long struggle by indigenous communities and environmental groups in defence of their rights against the project sponsor Endesa (a formerly public but now privatised company), the Chilean Government and the World Bank's International Finance Corporation (IFC).' (p 511)

## DISCUSSION PAPERS

[Access To Aboriginal Land Under The Northern Territory Aboriginal Land Rights Act - Time For Change?](#) Department of Families, Community Services and Indigenous Affairs, 2006.

The purpose of this discussion paper is to examine options for an improved system of access to Aboriginal land under the ALRA and related legislation that both respects the integrity of Aboriginal land and facilitates the normal interactions necessary for social and economic development. Comment is invited from interested parties on these and any other options for addressing the problems identified with current arrangements.

## OTHER

[Crown Land Administration and Registration Practice Manual](#) WA. Dept of Planning & Infrastructure

The practice manual sets out everything you need to know about Crown Land procedures for reserves, roads, sales, leases and licenses, easements and repeals or transitions. It also provides a point of reference for the processing of Crown Land transactions under the Land Administration Act 1997 and Transfer of Land Act 1893.

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

[Back to contents](#)

## Online Publications

### AIATSIS

Toni Bauman ['Waiting for Mary: Process and Practice Issues in Negotiating Native Title](#)

[Indigenous Decision-making and Dispute Management Frameworks'](#) (2006) *Land, Rights, Laws: Issues of Native Title* 3(6).

Michael Dodson and Diana McCarthy ( 2006 )  
[Communal land and the amendments to the Aboriginal Land Rights Act \(NT\)](#) Discussion Paper 19

### CAEPR

Foley, Dennis *Indigenous Australian entrepreneurs : not all community organisations, not all in the outback* Centre for Aboriginal Economic Policy Research, 2006

Available online: [Series Discussion paper; no. 279/2006](#)

### NATIONAL NATIVE TITLE TRIBUNAL

#### [Talking South Australia - September 2006](#)

Issue No 20 of Talking Native Title has been published and includes:

- Attorney-General's proposed changes to the claims resolution process
- South Australia's first native title determination by consent for the Yankunytjatjara and Antakirinja peoples
- Youth gain skills caring for country
- National native title statistics

#### [Talking native title: news from the National Native Title Tribunal](#)

Issue 20. September 2006

Contents:

- More agreements, better system
- From the President Graeme Neate
- Gold Course agreement tees off -- Landmark struggle for recognition ends
- Blueprint for comanagement
- Hope and prosperity for the future
- Northern Territory industry guide
- Native title exists in Timber Creek
- Native title and land rights are different
- Youth gain skills caring for country
- Waterhole celebration closes ten-year journey
- Explorers use regional agreements to fast track licences -- Native title statistics

#### [Talking native title in Western Australia](#)

Contents:

- Future act activity
- What's happening in the regions?
- South West and Goldfields
- Kimberley and Central Desert
- Pilbara and Geraldton
- Notification
- Legal workshops
- Contacts in the WA Registry

### Hot Spots

Issue 21 of Native Title Hot Spots includes summaries of cases about:

- The interim decision in relation to the Single Noongar application covering parts of Perth
- The determination that native title exists at Timber Creek in the Northern Territory
- The Yankunytjatjara/Antakirinja determination by consent in South Australia
- Federal Court decisions about matters such as the registration of an ILUA, imposition of split proceedings and the application of the registration test
- A National Native Title Tribunal decision in relation to the validity of a future act notice.

### What's new in the Library

This issue details new items in the NNTT Library.

### A Guide to Developing Indigenous Shared Management Arrangements for Conservation Areas in Queensland. NNTT Research Unit

The guide brings together a number of key issues about Indigenous shared management of conservation areas in a format that is accessible and relatively easy to understand.

### **OTHER**

Anthony Smith [Indigenous development-Without community, without commerce](#) Australian Review of Public Affairs Sept 2006-09-25

There is much discussion about policy alternatives, but the growing separation between the commercial aspirations of Indigenous business and the need to deal with the negative effects of economic development remains largely unexplored. On one hand is a call for Indigenous business interests to be released from responsibility for solving community problems and administering government welfare and employment programs. In other words, Indigenous business needs to be set on a more equal footing with mainstream business. On the other hand is a call for greater focus on law and order to combat

lawlessness. How these divergent policy goals might be reconciled is not clear.

### Fisheries Research and Development Corporation [Atlas of Australian Marine Fishing and Coastal Communities.](#)

This Atlas focuses on mapping and analysis of Australian wild capture commercial, recreational and Indigenous fisheries and their adjacent coastal communities. The Atlas is the first Australia-wide, comprehensive and authoritative mapping of fishing activities and their related coastal communities and provides decision makers with a valuable scientific resource to inform current and future marine and coastal planning initiatives.

Ian PS Anderson [Mutual obligation, shared responsibility agreements & indigenous health strategy](#) Australia and New Zealand Health Policy 2006, 3:10

Since 2004 the Howard Coalition government has implemented a new policy framework and administrative arrangements as part of its program of reform in Indigenous affairs. This paper describes both the parameters of this reform program and review the processes established to support the implementation of national Indigenous health strategy. It considers both the shift from a policy framework based on self-determination to one based on mutual obligation, and the implementation of Shared Responsibility Agreements (SRAs) that are based on the latter principle. It focuses on the example of the Mulan SRA to illustrate the difficulties in articulating the new arrangements with current approaches to Indigenous health planning and strategy implementation.

### Davies, Jocelyn. 2006. **"Addressing Uncertainty in Multiple Use Landscapes of Desert Australia."**

Presented at "Survival of the Commons: Mounting Challenges and New Realities," the Eleventh Conference of the International Association for the Study of Common Property, Bali, Indonesia, June 19-23, 2006.

In South Australia, native title groups decided in 2000 to participate in a statewide approach to resolution of their native title claims with the vision that it would restructure the state's institutions 'with native title built in'. Five years on there has been some significant progress on this aim on pastoral lands, as well as other sectors, through negotiation at local and statewide levels. A strategic two-tiered approach to the negotiations has enabled legislative



change to create incentives for local agreements and address barriers to sustainability of agreements.

[Back to contents](#)

## Recent and Upcoming events

### [Respect and care for the land and waters we share: Rick Farley Lectures 2006](#)

**When:** 13 October – 9 November 2006

**Where:** Various (see [program](#) for details)

Focusing on the need for sustainable management of our natural resources the Natural Resources Advisory Council (NRAC) supported by the NSW Government has held six lectures honouring Rick Farley's commitment to natural resource management.

Speakers included:

- Professor Ian Lowe – *How can we create a sustainable future for Australia*
- Professor Michael Archer – *The importance of protecting Australia's threatened eco systems*
- Professor Larrisa Behrendt – *Sharing the country co-existence, reconciliation and the environment*
- Robyn Williams – *inventing the future: what is our future? Where are we headed?*
- Wendy McCarthy – *women and leadership in rural Australia's future*
- Phillip Toyne – *Rick Farley: His vision and place in the History of land management: Linkages with indigenous people*

### [Native Title and cultural heritage](#)

**When:** 28 – 30 November 2006

**Where:** Carlton Crest Hotel, Brisbane

The Native Title and Cultural Heritage Conference organised by the Institute for International Research will explore current issues in managing native title and resources with the interests of traditional owners. The conference program is available on the conference website.

### [Norman B Tindale Memorial Lecture](#)

**When:** 02 Dec 2006 (04:00 PM to 05:30 PM)

**Where:** South Australian Museum Armoury Building

To commemorate the work of the South Australian anthropologist, Norman Tindale, the Anthropological Society of South Australia presents an annual lecture on a topic relating to Australian Aboriginal anthropology or archaeology. It will be presented by Professor Peter Sutton (Research Fellow University of Adelaide & South Australian Museum) "Norman Tindale and Native Title: His Appearance in the Yulara Case"

### [Australian Archaeological Association Conference 2006](#) *Modern Humans in Asia, Australia and Oceania: Timing, Impact, Signatures and Spread*

**When:** 8-10 December 2006

**Where:** La Trobe University, Beechworth Campus

This year's conference explores a wide range of issues relating to the settlement of Asia, Australasia and the Pacific by populations of modern humans. It is designed to broaden ongoing discussion about the dispersal of modern humans and the origins of behavioural modernity by enrolling the archaeological record of our own region into those debates. Topics for discussion include the timing and palaeoenvironmental context of initial settlement, dispersal through the region, human impacts on the region and the idea that the modern behavioural repertoire has a single, diagnostic signature.

### [Negotiating Native Title Forum](#)

**When:** 26 – 27 February 2007

**Where:** Rendezvous Hotel Melbourne

The forum focuses on agreement making, joint venture business partnerships and a cooperative approach towards native title. Key discussion themes include:

- What is native title?
- The Full Court as the source of contemporary native title jurisprudence
- The proposed technical amendments to the Native Title Act
- Analysing institutional policy and agreement making
- Analysing the potential new powers and functions of the NNTT
- Managing the administrative, financial and legal burdens requires for Indigenous communities to enjoy their legal rights to land
- Various case studies

### [Cosmopolitanisms and Indigenities](#)

**When:** 8-11 May 2007



**Where:** Toronto,

The Department of Anthropology at the University of Toronto is organizing a joint conference of the Canadian Anthropology Society (CASCA) and the American Ethnographic Society (AES).

The "indigenous" and the "cosmopolitan" seem to exist as oppositional formations in the imaginary field demarcated by the local and the global. While the former seems rooted, timeless, and traditional; the latter appears mobile, contemporary, and (post)modern. As recent work by anthropologists has shown, both of these characterizations are quite deceptive. "Indigeneity" is a deeply current issue, which, over the past decade, has relentlessly forced itself onto social, political and academic agendas across the planet. While the question of who is and who is not "indigenous" was never innocent, it is becoming increasingly crucial in today's global and globalising world. At the same time, the genealogy of the "cosmopolitan" has been moved back in time. It now appears as a quasi-primordial reference point for a social and political vision beyond the nation-state and empire.

#### **Native Title Conference 2007**

**When:** 6-8 June 2007

**Where:** Cairns Convention Centre

The annual national Native Title Conference remains the leading Indigenous policy conference in Australia and a flagship event for AIATSIS. The Conference will be co-convened by Queensland South Native Title Services and hosted by the native title claimants/holders on whose land the conference is held. The Conference is the primary professional development and capacity building opportunity for people working in the native title system as well as a strategic opportunity to discuss native title policy and directions. For further information contact 02 6246 1161 or [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au).

#### **[The Oral, The Written, and Other Verbal Media: Interfaces and Audiences": A Conference and Festival](#)**

**When:** 19 – 21 June 2008

**Where:** University of Saskatchewan, Saskatoon, Saskatchewan, Canada

The organizers of the first international, interdisciplinary, cross-cultural, and trans-historical conference and festival focusing on the interface of the oral and the written invite proposals for participation.

**Contact:** Professor Susan Gingell Professor Neal Mcleod, Department of English Department of Indigenous Studies, University of Saskatchewan First People's House of Learning Saskatoon, SK Canada S7N 5A5 Peter Gzowski College  
[sag178@mail.usask.ca](mailto:sag178@mail.usask.ca)

Enweying Building  
1600 West Bank Drive  
Peterborough, ON K9J 7B8  
[nealmcleod@trentu.ca](mailto:nealmcleod@trentu.ca)

[Back to contents](#)

## Opportunities

### **NTRU Call for Publications**

The Native Title Research Unit is calling for papers to be published as a part of its *Land, Rights, Laws: Issues of Native Title* series. Papers should be approximately 3000 – 3500 words. The Issues Papers series is a multi-disciplinary series of short research papers. Issues Papers allow the NTRU to target a number of emerging issues in native title research, reflecting on 'bigger picture' issues in a form that is of high academic quality but in a size and format that is useful to practitioners and researchers.

Papers can be submitted to the editor for consideration, the editor can also invite papers from certain people or on certain topics. Papers are peer reviewed by two independent experts in the area the paper covers.

**Contact:** 02 6246 1161 or [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au).

### **[Australian Institute of Aboriginal and Torres Strait Islander Studies Research Grants 2007](#)**

**Applications close:** 15 December 2006

The Australian Institute of Aboriginal and Torres Strait Islander Studies is calling for applications for research grants. Research can be conducted on topics including history, politics, law, public policy, health, education, linguistics, social anthropology, archaeology and the arts.

Applications with an emphasis on Indigenous wellbeing, Indigenous knowledge systems and intellectual property and strengthening community are encouraged.

Contact [the research grants administrator](#) if you require further information about the AIATSIS



Research Grants Program , assistance with completing your Research Grants Program Application Form or a hard copy of the Research Grant Application Information Package.

### ***Balayi: Culture, Law and Colonialism Call for Publications***

The editors of *Balayi* are seeking submissions of articles, reports, commentaries, viewpoints, book reviews and poetry that fit the [theme of the journal](#).

All enquiries regarding contributions should be directed to:

The Journals Co-ordinator  
Jumbunna Indigenous House of Learning  
University of Technology, Sydney  
PO Box 123 Broadway NSW 2007  
Ph: 02 9415 1902  
Fx: 02 9514 1894  
Email: [jumbunna.journals@uts.edu.au](mailto:jumbunna.journals@uts.edu.au)

### **Indigenous Law Reporter for Publications**

**Volume 11, issues 1–4 (2007)**

#### **Deadlines:**

Vol 11.1 – 23 February 2007

Vol 11.2 – 27 April 2007

Vol 11.3 – 31 August 2007

Vol 11.4 – 30 November 2007

The *Australian Indigenous Law Reporter* is a quarterly DEST-approved publication of the Indigenous Law Centre, which aims is to provide access to a broad range of legal information and commentary on issues affecting Indigenous peoples in Australia and around the world.

The publishers are looking for new and different perspectives on issues and debates in Indigenous law including:

- commentary articles,
- case notes and
- introductory notes relating to current Australian and international legislation, policies, inquiries and reports.

**Submissions** should be addressed to the Editor, Erin Mackay, and submitted in Word format via email to [air@unsw.edu.au](mailto:air@unsw.edu.au) . Suggestions as to content and general enquiries should be addressed to the Editor and made via email or telephone (02) 9385 1496.

### **Regional Recruitment Services**

Regional Recruitment Services are calling for applicants: Regional

Recruitment Services is a joint venture between WorkBase and Nyaarla Projects. This joint venture company aims to bring together the expertise of recruitment (WorkBase) and Indigenous community links and experience (Nyaarla) to support the recruitment, selection and retention of staff at remote communities and organisations.

**Further information:** contact Tina Pickett [admin@regionalrecruitment.net.au](mailto:admin@regionalrecruitment.net.au)

### **OIPC Leadership Program**

The Australian Government delivers innovative leadership programs for Indigenous women, men and youth. Places are now being offered to individuals to undertake the program. All travel and accommodation costs associated with the program will be met by the Office of Indigenous Policy Coordination (OIPC).

**Further information:** available on the OIPC Website at [www.oipc.gov.au](http://www.oipc.gov.au) or by calling them on their toll free number: 1800 202 366 or by emailing them on: [leadership@oipc.gov.au](mailto:leadership@oipc.gov.au)

### **HRC activities in 2008: Visiting Fellowship Program**

**Closing date:** 5 January 2007

The Humanities Research Centre was established by the Australian National University in 1972 to foster innovative research in the Humanities and provides funds to support both scholars of demonstrated achievement and promising younger scholars to work in the Centre. The HRC will fund a number of short-term [Visiting Fellows](#) (of up to 12 weeks) to take up residence at the HRC. The [Freilich Foundation](#) will fund a few scholars (up to 12 weeks).

Application forms for HRC 2008 Visiting Fellowships are available at: [http://www.anu.edu.au/hrc/grants/2008app\\_form.doc](http://www.anu.edu.au/hrc/grants/2008app_form.doc)  
Referees Comment Form is available at: [http://www.anu.edu.au/hrc/grants/2008referees\\_comment.doc](http://www.anu.edu.au/hrc/grants/2008referees_comment.doc)

2008 Visiting Fellows Guidelines are available at: <http://www.anu.edu.au/hrc/grants/2008VFGuidelines.doc>

### **PHD In Anthropology at the University of Maryland**

**Closing date:** 15 January 2007

A major focus of the Doctor of Philosophy (Ph.D.) program is to direct original research and to



encourage theoretical and methodological advancement in such a way as to reflect upon the specific practices of anthropology, with the aim of improving those practices and thereby increasing the value and usefulness of the discipline. Doctoral students are typically prepared for research and development careers outside of academic settings, as well as for academic careers in anthropology departments and other disciplinary settings.

**Contact:** [Michael Paolisso](#) , Graduate Director  
0131 Woods Hall College Park, MD 20742

Phone: 301-405-1433  
Fax: 301-314-8305

### [ANU's Master of Applied Anthropology and Participatory Development \(MAAPD\) program](#)

This program is aimed directly at development practitioners including Government, NGO, and consulting company staff who have to grapple with the issues of designing, implementing, monitoring, and evaluating development programs and projects on an everyday basis.

The MAAPD program has a very practical focus, and it increasingly attracts experienced development practitioners to its courses. It also has an added advantage in that the core courses in the general MAAPD and the Gender Specialisations can be taken through distance education, and there are also intensive on campus electives also available.

**Contact:**  
Dr. Patrick Kilby  
Master of Applied Anthropology and Participatory Development (MAAPD) Program  
Room G24 A.D. Hope Building  
Australian National University ACT 0200, Australia  
Ph: (612) 61254041  
Fax (612) 61252711

### **Research Training Opportunities Tropical Rivers and Coastal Knowledge Research Hub**

The Tropical Rivers and Coastal Knowledge (TRACK) research hub has recently been established with significant funding from the Commonwealth Department of Environment and Heritage, Land and Water Australia, and other research partners.

The partner Universities of the TRACK consortium (Charles Darwin, Griffith and Western Australia) are seeking applications from prospective PhD and research Masters students who are interested in contributing to this program. Co-supervision by researchers in our research agency partners will also be encouraged.

Candidates will need to complete an application for admission and for a scholarship following the process at each partner University, noting their respective closing dates for applications.

**Contact:**  
Professor Stuart Bunn  
Australian Rivers Institute Griffith University  
NATHAN, Qld, 4111  
Ph: 07 3735 7407  
Email: [ari@griffith.edu.au](mailto:ari@griffith.edu.au)

Professor Peter Davies  
Centre of Excellence in NRM, The University of Western Australia Albany, WA, 6330  
Ph: 08 9842 0836  
Email: [pdavies@cyllene.uwa.edu.au](mailto:pdavies@cyllene.uwa.edu.au)

Dr Michael Douglas  
Theme Leader, Aquatic Ecosystems & Water Resources, Charles Darwin University  
Darwin, NT, 0909  
Ph: 08 8946 7261  
Email: [michael.douglas@cdu.edu.au](mailto:michael.douglas@cdu.edu.au)  
TMP D030300

[Back to contents](#)

## **NATIVE TITLE IN THE NEWS**

### **NATIONAL**

1-Sep-06 **Change to native title claims** The Federal Government's 'proposal to reform the native title claims resolution process last week aimed to improve the system'. Labor 'expressed concern over

the ability of the government to increase its control of native title representative bodies'. Graeme Neate president of the National Native Title Tribunal has said that the reforms 'have the potential for positive outcomes to be reached by agreement'. Labor Senator Chris Evans said that the 'government is considering using the review recommendations to justify resurrecting the so-called Wik 10 point plan'. Lawyers Weekly, 1-Sep-06, pg 8; 'Outcomes will be streamlined' Koori Mail, 13-Sep-06, pg 35.



7-Sep-06 **Overhauls of Aboriginal Corporations** Under the new proposal 'Aboriginal corporations will be subject to the same rules as mainstream companies...[forcing] company directors to fulfil certain duties or risk legal action'. The new rules also require approval from members before directors can receive financial benefits. The corporations will have two years to comply with the laws. Age, 7-Sep-06, pg 8.

13-Sep-06 **Flaws in program to fight native title** The Australian National Audit Office has 'uncovered flaws in the administration of a \$77 million Federal Government grants program that helps pastoralists, miners, fishers and local government councils respond to native title claims'. The review found that '\$43 million was paid in advance to respondents, with more than \$10 million sitting in trust funds and some organisations collecting the interest earned off the money'. It also found that the Attorney General's Department had failed to 'specify performance indicators for the expenditure' and that there were cases where the department 'held no details in the recipients of the funding'. Senator Chris Evans said that while the Government had been 'happily advancing millions of dollars to peak lobby groups opposing native title claims, with few strings attached, it had been systematically under-funding the Indigenous groups making the claims'. Koori Mail, 13-Sep-06, pg 29.

21-Sep-06 **Negotiation smoothes way for Canadian settlement** The Tsawwassen First Nation of Canada lodged a claim over Vancouver, the Capital of British Columbia. In contrast to the Noongar claim which 'faces the prospect of even more litigation' the 'Tsawwassen and the provincial and federal governments are putting the final touches on comprehensive treaties for the Vancouver group and a number of other groups'. In contrast to Australian Governments which 'have tended to leave difficult legal issues to the court, in British Columbia everything has been on the negotiating table and the settlements have been part of a broader reconciliation process'. BC Minister of Aboriginal Relations and Reconciliation Michael de Jong said that 'at the end of the day, the challenge in part is to ensure that the settlement provides a sufficient economic base and that the First Nation can establish a degree of self-sufficiency and economic sustainability'. He said that the 'negotiators for the parties need to be prepared to sit down and be imaginative about creating the appropriate mix [of cash and land] and doing so in a way that meets the needs of First Nations but is also affordable to government'. Australian Financial Review, 21-Sep-06, pg 61.

06-Oct-06 **Waking native title's great sleeper** The States and the Commonwealth are still 'haggling' over who is meant to be responsible for the compensation bill for native title. As a part of the Wik legislation the Commonwealth had promised that it would 'pay 75 per cent of the compensation bill for native title that had been wiped out by governments...Fast forward eight years. How many millions in compensation have flowed from determinations under the Native Title Act? None.' However 'indigenous groups have been concentrating on the expensive time-consuming - a it turns out - very difficult ask of getting their native title claims recognised rather than trying to claim compensation for lands where native title has been wiped out'. Currently, of the 599 native title claims, only 12 include a compensation claim. The recent Noongar decision has raised this debate since they will be 'eligible for compensation is land over which they held native title after 1975 when the Racial Discrimination Act came into effect'. Both the State and Federal Government had claimed that their appeal is not 'inconsistent with their stated goal of settling claims by negotiation'. However the task of mapping out the tenure of each parcel of land in the region is likely to be prohibitive and 'it doesn't take much imagination at all to realise how unworkable this would be'. If the appeal is overturned then the Noongar's will be found not to hold native title in the first place, but if it is upheld, then 'the only people likely to have benefited...will be the lawyers'. Australian Financial Review, 6-Oct-06, pg 83.

10-Oct-06 **Mining boom a bucketful of legal gold** Finlayson's partner George McKenzie has said that 'the demand for resources lawyers had increased in the past two years'. This is mainly due to 'native title issues, legislative requirements and contractual matters' that needed legal expertise. West Australian, 6-Oct-06, pg 37.

14-Oct-06 **Properties of integration** Noel Pearson has argued that 'Aboriginal communities living on Aboriginal lands are not integrated into the Australian property system.' This means that 'billions of dollars transferred from government to Aboriginal communities end up in the form of dead capital'. He also notes that a further 'complicating factor' is the 'dual role' of Indigenous land: 'facilitating economic independence and at the same time securing the connection with...ancestral land'. He argues that there is a need to 'map' the 'different species of indigenous land holdings against their present and likeliest future use in economic development'. He says that 'if the Nyoongar are to participate in the economic life of Perth and to integrate into the Australian economy, they will need to own their



homes and businesses'. Weekend Australian, 14-Oct-06, pg 28.

27 October 2006 **Reforms to Improve Management of Native Title Rights** Improved flexibility and better access to resources for native title holders will be the key outcomes of reforms to Prescribed Bodies Corporate (PBCs) announced by the Attorney-General, Philip Ruddock, and Minister for Indigenous Affairs, Mal Brough. 'PBCs are a key element in the native title system and need to operate effectively so native title holders can utilise their native title rights to gain economic and other benefits, and discharge their obligations regarding management of land,' Mr Ruddock said. Mr Brough said the reforms would provide native title holders with better access to services.

## ACT

27-Sep-06 **Native title breakdown** Chief Minister Jon Stanhope said that 'negotiations between the ACT government and a family that lodged a native title claim over the territory broke down because the family failed to meet deadlines'. The claim made on behalf of the Ngunnawal traditional owners encompasses 'Namadgi National Park and all vacant Crown land within the ACT'. The claim was lodged by Damien Bell four years ago which was rejected by the National Native Title Tribunal which ordered the claimants and the government to enter into mediation. Canberra Times, 27-Sep-06, pg 3.

## NEW SOUTH WALES

5-Sep-06 **Aboriginal heritage study of Bago area** An archaeological study of the Bago Plateau has been commissioned by the High Country Conservation Alliance Inc after concerns 'about appropriate management of these non-renewable cultural heritage resources.' There are also important issues over the patterns of Aboriginal land use in the area and persons of Aboriginal descent are encouraged to contact the archaeologist. Tumut & Adelong Times, 5-Sep-06, pg 1.

### 6-Sep-06 **Land use study to identify heritage**

A study undertaken by the Coffs Harbour City Council in the area of Corindi and Red Rock will 'determine future land uses and identify heritage features that may need protection'. The study will 'assist in determining the most appropriate zones for land' and Indigenous community stakeholders

including the Yarrowarra Aboriginal Corporation and the Garby Elders the Coffs Harbour and District Aboriginal Land Council, were given an outline of the study brief and asked for comment. Coffs Coast Advocate, 6-Sep-06, pg 6.

### 14-Sep-06 **Land Council hails regulation changes**

New rules governing land councils have been welcomed by Dubbo's land council chairman Stephen Ryan who said that 'the Aboriginal Land Act was brought in to help Aboriginal people obtain land but instead some land councils had been selling off that land without accountability or scrutiny'. He said that he was concerned that the 'Aboriginal community of NSW put itself in a position where the government was able to amend legislation some people thought might have been working'. Daily Liberal, 14-Sep-06, pg 4.

### 25-Sep-06 **Land council to start a new era**

The Worimi Local Aboriginal Land Council's administration will end. And general manager Andrew Smith said 'the land council had a new corporate structure that would help it manage both business and cultural heritage interests'. The new community business plan is meant to be reflective of the 'true needs of the Worimi people and Aboriginal communities'. Newcastle Herald, 25-Sep-06, pg 14.

### 27-Sep-06 **Major changes for the Land Rights Act**

After a two year review of the legislation, the NSW Government is set to introduce major changes to the Aboriginal Land Rights Act 1983. These changes, according to State aboriginal Affairs minister Milton Orkopouous are designed to 'address shortfalls in the NSW land council system, which has been dogged for years by allegations of corruption, nepotism and mismanagement.' Local councils hold 1 per cent of NSW land and at April this year the Statutory Investment Fund stood at \$638 million. The changes include Local Aboriginal Land Councils will need approval for business and investment activities, board members and councillors must take training to understand their responsibilities under the act, and the number of regions will be reduced from 13 to six. Koori Mail, 27-Sep-06, pg 6; 'State plan to stamp out black cronyism' Australian, 13 Sept, 06, pg 8.

### 01-Oct-06 **Aboriginal claim**

Hawkesbury Land Council will 'consider a recommendation to negotiate an Indigenous Land Use Agreement over more than 380 hectares of Crown reserves under its control'. The land is a part of a claim lodged by the Darung people in 1997 which covers a 'stretch from the Colo River to Appin and from Mount Victoria to Port Jackson'. Hawkesbury Independent, Oct-06, pg 3.



02-Oct-06 **Greens say mine opening is a setback** Greens MP Lee Rhiannon said that the opening of the Lake Cowal goldmine is 'not a good news story for western NSW'. She said that they may be 'damage to the Indigenous heritage and the environment'. Ms Rhiannon said 'in opening this mine Premier Iemma has associated himself with a company that had a notorious international record for disregarding the health and welfare of the people living near its mines'. Cowra Guardian, 2-Oct-06, pg 5.

04-Oct-06 **Cowal is the golden bridge between past and future** The Cowal Gold Mine has been officially opened with NSW Premier Iemma saying: 'today's mining companies understand that in order to be truly successful they must have a strong environmental track record show a willingness to invest in local communities and leave a positive legacy'. The mine has been made possible with the cooperation of the Wiradjuri Indigenous community. Wiradjuri Elder and caretaker of Wiradjuri Yalbalinga-da Flo Rant said: 'we realise the mine was inevitable as it is an economic boom for West Wyalong and the central west of NSW and it would give the Wiradjuri people the opportunity to be involved in all aspects of the mine and gain economic benefits'. Under the agreement 'young people are gaining scholarships into Universities, people are being employed and training is taking place'. West Wyalong Advocate, 4-Oct-06, pg 1; West Wyalong Advocate, 6-Oct-06, pg 7.

04-Oct-06 **Another win for Darkinjung** The Darkinjung Local Aboriginal Land Council has won another land claim at San Remo valued at \$10 million. The land had previously been claimed but was 'compulsorily acquired...by the Wyong Council for development' however Land and Environment Court Judge Nicola Pain said that the 'council did not have the power to acquire the land.' The decision to grant the land has been applauded by elder Jack Smith who said that 'the council has not negotiated with the Darkinjung and has wasted ratepayers money'. He said that their 'claim to land was completely legitimate under the 1983 Land Rights Act and the council should have known that'. Central Coast Express-Advocate, 4-Oct-06, pg 19; 'Victory has restored faith in the system' Central Coast Express Advocate, 4-Oct-06, pg 19.

05-Oct-06 **Looking after land: native title claim aims to preserve the environment** Tweed-Byron Aboriginal Land Council chairman Russell Logan has said that the claim by the Gold Coast Native Title Group is not aimed at 'locking up vacant crown

land'. He said: "there's a lot of misinformation that this is some sort of land grab and that we intend to erect fences around these lands but nothing will really change'. Mr Logan said 'all we're about is gaining some official recognition that we're the traditional owners so that we can be included in the decision-making process about the future uses of the land'. Border Tweed Mail, 5-Oct-06, pg 9.

07-Oct-06 **Aboriginal land councils, fast bucks and a coastal controversy: an unexpected development** The NSW Land Rights Act predates native title and enables 'local Aboriginal councils...to claim any crown land not being used for an essential purpose at the time the claim was made'. This means that some Indigenous groups have been able to claim 'scarce and environmentally sensitive coastal property' that has made them the target of big developers such as Macquarie Bank. To date, 80,000 hectares of land have been 'handed over'. Geoff Scotte Deputy Chief Executive of the NSW Aboriginal Land Council said: 'we are swamped by developers every day' the 'land rights legislation is supposed to be more than just a form of compensation. It was also supposed to be a way for Aboriginal communities to make themselves self-sustaining economically viable and able to afford decent services'. However there is continuing controversy over how the money is spent and the 'minefield of animosities and family rivalries'. ALP president Warren Mundine said: 'its a bizarre concept...the practical result is that we have a whole heap of money in the land council system and Aboriginal people still living in poverty.' Australian Financial Review, 7-Oct-06, pg 24.

08-Oct-06 **Plan to create national park** The 'first national park in NSW to be created from scratch with Aboriginal and white management' will be located in Port Stephens covering 4000 hectares in the Stockton Bight. The new management measures will be designed to stop 'uncontrolled four-wheel-drive vehicles, dumping of rubbish and degradation of vegetation'. Negotiations are still continuing between the State Government Worimi Local Aboriginal Land Council and an Aboriginal negotiating panel. The co-management scheme will give Aboriginal people a 'higher profile in land care management'. Sun Herald, 8-Oct-06, pg 16; 'Plan to create national park marks historic joint venture', Sun Herald, 8-Oct-06, pg 16

11-Oct-06 **NSW denigrates land council scheme** Darkinjung Chairman David Pross has said that there is a 'myth of Aboriginal naivety when it comes to sound business decision making - a myth that is becoming entrenched in contemporary "wisdom". He



said that 'apparently its fine for anyone other than Aboriginal people to sell land without cultural significance and excess to their needs. Aboriginal groups are 'granted' an old quarry or tip site, apparently they must hang onto it in case it turns out to be valuable and someone wants it back'. He said that political criticisms of the land council for spending money on 'due diligence, feasibility studies, seed funding, management systems and attendant legal fees' is 'deliberate hypocrisy'. Australian Financial Review, 11-Oct-06, pg 60.

12-Oct-06 **Title decision appeal made** The 'Tweed native title fight could be derailed with the Attorney General Philip Ruddock appealing a recent precedent which paved the way for the local claim'. If the appeal is successful the 'the Gold coast and Tweed position in Court could be substantially weakened'. Claim group spokesman Wesley Aird said that 'it was important to understand the Tweed and Gold Coast claim was not about seizing land but about the right to be consulted about any developments which affect traditional rights'. Tweed Sun, 12-Oct-06, pg 15.

13-Oct-06 **Aborigines desert Labor after trust fund ruling** The Darkinjung land council is leading a campaign to 'get Indigenous residents, traditionally Labor voters, to boycott the party' after what 'they believe are continuing attacks by the State Government on Aboriginal land rights'. The announcement came after a 'Supreme Court ruling last week that the land council board had acted improperly under land rights legislation in authorising the transfer of \$27 million in funds from the sale of land at Magenta to the Darkinjung trust fund'. Central Coast Express -Advocate, 13-Oct-06, pg 5; 'Court rules trust payments were for 'improper purpose'', Central Coast Express-Advocate, 6-Oct-06, pg 7

## NORTHERN TERRITORY

1-Sep-06 **Time to examine land rights changes "totally inadequate"** A parliamentary committee has said that the time it was allowed to scrutinise the proposed changes to the *Aboriginal Land Rights (Northern Territory) Amendment Bill 2006* was 'totally inadequate'. The committee of coalition majority lent its 'guarded support' to the bill whereas Labor and other minor parties said that it should be rejected. Labor had proposed that the bill be split with further debate and consultation allowed for the more controversial provisions. This included the 'removal of guaranteed funding for land councils' and '99 year leases on Aboriginal townships'.

Central Land Council director David Ross said that the 'amendments could leave mining companies dealing with very small under-resourced and ill-informed bodies and pave the way for bitter disputes within families and communities'. Mining Chronicle, Sep-06, pg 2; 'Call for halt to spending' Central Coast Express Advocate, 1-Sep-06, pg 10.

1-Sep-06 **Indigenous Surveillance and Conservation Program** The Minister for the Environment and Heritage Senator Ian Campbell has said that the Government would 'help with the publication of the Dhimurru Sea Country Plan which identifies opportunities for cooperation in marine and coastal management using traditional knowledge and contemporary science'. The plan involves both the Federal and Territory government as well as non-government interests in the management of 'marine and coastal areas for which the Yolngu people have custodial responsibilities'. So far the Government has contributed \$100 000 through the Department of the Environment and Heritage and the Office of Indigenous Policy Coordination and the Northern Land Council has contributed \$20 000 to the Dhimurru Land Management Aboriginal Corporation. Australian Maritime Digest, Sep-06, pg 6.

2-Sep-06 **In ore of win** A partnership between Alcan Gove and the Yothu Yindi Foundation has been selected as the NT winner of the Prime Minister's Awards for Excellence in Community Business Partnerships. Alcan has a cultural awareness program which has been attended by more than 1500 employees aiming to 'foster relations by giving Alcan workers better practical knowledge of the indigenous culture and laws of the area'. Yothu Yindi foundation director Mandawuy Yunupingu said that the cultural awareness program fulfils the Foundation's aims of 'nurturing traditional culture, creating economic opportunities for Yolgnu and sharing knowledge'. Northern Territory News, 2-Sep-06, pg 24.

13-Sep-06 **Permit for indigenous land to be scrapped** The Minister for Indigenous Affairs, Mal Brough said that he 'wanted more changes to the Land Rights Act' and 'appears set to again clash with state and territory leaders'. He said 'we can no longer allow the situation where children are being abused, where these various serious crimes are being perpetrated on people and where the full glare of Australia's public, through its media, cannot be brought to bear'. He said that if the permit system was scrapped, 'journalists and the public would have greater access to communities where abuse and violence were commonplace'. The Northern Land Council said that 'Country Liberal Senator Nigel



Scullion supported the permit system and journalists were granted ample access to communities'. The Territory's permit system was established in 1976 and was originally designed to prevent exploitation. Mr Brough's proposal angered Labor MPs Warren Snowdon and Kim Wilkie who were asked to leave parliament. Mr Snowdon said that 'the community [in Maningrida] is already dealing with the tragic set of circumstances. the last thing they need is the intrusion of political games'. Chief Minister Claire Martin said that she supported the permit system. Sydney Morning Herald, 13-Sep-06, pg 3; 'Scrap permits plan' Courier Mail, 13-Sep-06, pg 9; 'Brough to scrap land permits', Australian, 13-Sep-06, pg 8; 'Push to end Aboriginal Permit System' Age, 13-Sep-06, pg 3; 'Rights in Doubt' Bendigo Advertiser, 13-Sep-06, pg 15; 'Snowdon Evicted' Northern Territory News, 15-Sep-06, pg 13; 'Aboriginal permits to go' Central Western Daily, 14-Sep-06, pg 4; 'Plan to scrap Aboriginal community permit system' Launceston Examiner, 13-Sep-06, pg 5; 'NT Permit system to be axed: Brough' National Indigenous Times, 21-Sep-06, pg 1.

14-Sep-06 **Groote mining pact** The Anindilyakwa people will sign an agreement with mining company GEMCO 'securing ongoing mining operations on Groote Eylandt'. GEMCO, operated by BHP Billiton has been mining manganese on the island since 1969 and has agreed to continue employing indigenous people and commit to rehabilitation. Northern Territory News, 14-Sep-06, pg 4.

15-Sep-06 **Land use deal signed** Traditional owners have signed an indigenous land use agreement covering the Desert Knowledge precinct south of Alice Springs. The agreement 'recognises native title holders' prior ownership and occupation of the 73 hectares allows development of the block to go ahead providing Aboriginal body Lhere Artepe is consulted'. Minister for Regional development Kon Vatskalis said that the agreement was a 'step forward in creating more jobs for Territorians' and that it gives priority to the Aboriginal body. The NT government has committed \$16.7 m for capital works in the area for the next two financial years. Centralian Advocate, 15-Sep-06, pg 17.

29-Sep-06 **99-year land lease disquiet** Lingiari MHR Warren Snowdon said 'NT cabinet Minister Marion Scrymgour was reflecting indigenous feelings when she said there had not been enough consultation.' He said that 'people are genuinely worried the lease proposal will mean they lose control of their land'. Leasing itself is not the problem since Aboriginal people have been leasing land for commercial and resource development 'but the fact

that they would be expected to sign over their land to a body that they don't control or own'. He said that 'it's nothing less than a fundamental assault on the nature of Aboriginal land ownership.' Ms Scrymgour said that it is imperative we involve Indigenous people in the process, including the traditional owners of the land'. Northern Territory News, 29-Sep-06, pg 4.

02-Oct-06 **Owner's fight miner's river plan** Traditional Aboriginal owners near the McArthur river where Xstrata is proposing an open cut mine has said that it could 'seriously damage wildlife and increase heavy metal pollution' in the area. The company is planning to 'divert the McArthur River' which could potentially lead to flooding in the area. Sydney Morning Herald, 2-Oct-06, pg 2.

4 October 2006 **Discussion Paper on Indigenous Permit System released** A discussion paper on 'reforming the permit system that restricts the public's access to some indigenous land has been released' by the Indigenous Affairs minister. He said that his 'concern is that the permit system has created closed communities which are restricting the ability of individuals to interact with the wider community and furthermore to participate in the real economy'.

4 October 2006 **Minister Prejudices the case for change to the permit system** Senator Chris Evans has said that the Howard Government's *Discussion Paper on Aboriginal Land* 'fails to make a coherent case for a change to the permit system'. He said that the paper is a 'hastily drafted collection of unsubstantiated and sometimes contradictory claims and assertions that prejudices the need for a significant winding back of the rights of indigenous land owners', He said that 'if there are problems with the permit system that the Minister should detail them and engage with the traditional owners in dialogue to resolve them'.

05-Oct-06 **End to permits 'a disaster', says council** Plans by the Indigenous Affairs Minister, Mal Brough, to scrap the permits system, which 'prevents unwanted visitors - including politicians, journalists and tourists - from entering Aboriginal land' have been criticised by the Central Land Council (CLC). The CLC said that 'Aboriginal people should have the right to decide who entered their land' and that the 'permit system allows them some privacy over curious onlookers, allows them some control over people such as unscrupulous art dealers and it allows them to protect sacred sites and special places'. Ballarat Courier, 5-Oct-06, pg 10; 'Keep



permits: owners', Sydney Morning Herald, 5-Oct-06, pg 2; 'Permits must go: PM', Adelaide Advertiser, 5-Oct-06, pg 35; 'Retain land permits please', Courier Mail, 5-Oct-06, pg 2; 'Council outraged on permit scrapping', Northern Territory News, 5-Oct-06, pg 2; 'NT vows to keep permits system', Centralian Advocate, 6-Oct-06, pg 2; 'Permit plan not needed: Ross', National Indigenous Times, 19-Oct-06, pg 12.

**05-Oct-06 Aboriginal permits backed by states**

Mal Brough's move to abolish the permit system has been rejected by the states. Mr Brough says that 'permits have created closed communities contributing to the economic disadvantage and isolation of indigenous people'. He also said that it by 'preventing scrutiny by journalists and others permits have contributed to problems such as drug abuse in communities'. While the Commonwealth can change the permits in the Northern Territory it does not have the same power in other States. WA Indigenous Affairs Minister Sheila McHale said that 'Brough's proposal to scrap the permit system showed 'a lack of understanding around the nature of Aboriginal communities'. SA Aboriginal Affairs Minister Jay Weatherill said that 'his government has not seen anything that suggested the permits in South Australia were creating problems'. He also questioned 'how the Commonwealth 'proposes to override these rights for Aboriginal land owners in a way which is not discriminatory on the grounds of race'. Age, 5-Oct-06, pg 8; 'Aboriginal Permit Change Short Sighted' Barrier Daily Truth, 14-Sep-06, pg 7; 'Indigenous land plan 'not on': WA, Maitland Mercury, 14-Sep-06, pg 8' 'Scrapping permit system criticised' North West Star, 14-Sep-06, pg 2.

**05-Oct-06 Permit system 'denies court access'**

Journalists in the Northern Territory have argued that the permit system violates the 'long held and deeply entrenched' principle that courts be open to the public'. Court hearings are held 'in remote Indigenous communities where, under the *Aboriginal Land Act* the media and the public can be prevented from attending the proceedings'. In a submission to the NT Government the journalists said that the effect of the legislation was that the NT is the only place in Australia where court hearings can be closed to members of the public and the media and therefore not subject to scrutiny, without any power of the court to make such an order'. Open access to the courts have been supported by the 'NT Chief Judge Brian Martin and many other judges, magistrates and lawyers in the NT'. Age, 5-Oct-06, pg 8; 'No' to plea on permits' Centralian Advocate, 27-Oct-06, pg 12.

**05-Oct-06 Breaking ranks over leases** NT Environment Minister Marion Scrymour has 'expressed concern her electorate will become the first Aboriginal community in Australia to allow for individual ownership on Indigenous land.' The traditional owners of the Tiwi Islands have 'committed to negotiate an agreement by the year's end to allow for private homes and commercial business development on their land at Nguuu, on Bathurst Island'. In exchange the federal government has pledged '\$10 million to help the islanders establish their own college on the islands'. Ms Scrymour said: 'the problem I have is that this is Tiwi Land. this is our land. We have total ownership. That land will then become the ownership of a body that the Tiwi's have no control over'. She also questioned whether the Federal Government was using the funds from the Aboriginal Benefits Account to pay for the new school saying that 'it shouldn't come out of specific Aboriginal money that should be used to better the economic opportunities of Aboriginal communities' but the 'mainstream'. National Indigenous Times, 5-Oct-06, pg 3.

**05-Oct-06 Land permits a barrier: PM**

John Howard has said that the 'permit systems for Aboriginal land creates barriers 'both real and perceived' that prevent indigenous people engaging with the rest of the nation'. He said that 'I think indigenous Australians should as far as possible become part of the mainstream community' and that the 'future of indigenous Australians lies in them sharing the benefits and bounty that this country has to offer and the more and more they're segmented and the more and more they're kept separate and apart...from the rest of the community, the less likely that is to occur'. He said that 'nobody wants Indigenous people to jettison their Aboriginality but if they are to enjoy the employment, health and educational opportunities of the broader Australian community they must participate in that broader community'. The Government's current proposals include expanding the 'categories for exemptions to allow free access by the media' and 'replacing the permit system with the law of trespass'. Australian, 5-Oct-06, pg 6; 'Scrap Aboriginal permits says PM' Daily Telegraph, 5-Oct-06, pg 2; 'PM calls to scrap permits' Kalgoorlie Miner, 5-Oct-06, pg 6.

**05-Oct-06 What permit system offers is not protection**

Mal Brough has argued that the 'permit system has been in place in the NT for almost 30 years. It has not protected them from exploitation, abuse and unscrupulous operators. However it does serve to reduce public scrutiny of conditions in those communities already isolated because of their geographic remoteness'. He said that there was no clear linkage 'between permits and prosperity' citing



the neighbouring communities of the Daly River and Wadeye. He rejected the CLC arguments that 'Aboriginal land is private land and like all private land the owner should have the right to determine who enters the land'. Australian, 5-Oct-06, pg 10; 'Howard says land permits wrong', North West Star, 5-Oct-06, pg 5; 'Aborigine permit battle; Govt may abolish ban on outsiders visiting native land', Sunshine Coast Daily, 5-Oct-06, pg 16; 'Permits may be scrapped', Townsville Bulletin, 5-Oct-06, pg 6; 'Push to Scrap permit system', Border Mail, 5-Oct-06, pg 18.

05-Oct-06 **Cape Lambert management appointment** Cape Lambert Iron Ore has appointed Dudley Kingsnorth to 'oversee native title and environment functions and provide technical supervision for the feasibility assessment of the company's exploration project in the Pilbara region'. Business News, 5-Oct-06, pg 38.

11-Oct-06 **Anger at permit plan** The Northern Territory Government and the Central Land Council have responded 'angrily' to the federal Government's discussion paper 'Access to Aboriginal land under the Northern Territory Land Rights Act - Time for Change?' which has called for comments by 30 November. The discussion paper said that the permit system is 'becoming increasingly anachronistic and ineffective'. It proposes reforming the permit system with options ranging from 'complete abolition to opening up communal areas on Aboriginal land such as town centres. Another option would designate 'restricted areas' which requires Aboriginal people to demonstrate why a site should be restricted'. Koori Mail, 11-Oct-06, pg 13.

14-Oct-06 **River diversion approved for controversial mine** The Swiss mining company Xstrata will 'pay the Northern Territory Government one of the largest security bonds in Australian history to access three per cent of the world's zinc supplies'. The Northern Territory government has approved the diversion of the McArthur River by 5.5km to expand from underground to open cut mining. The proposal was initially knocked back based on 'environmental concerns'. Since then McArthur River Mining has 'made a number of concession including funding an independent environmental monitoring process and providing \$332 million for a Community Benefits Package'. Chief Minister Claire Martin said: 'this has been a difficult issue there is no doubt about it...but there will be a substantial injection of funds into the community'. However Peter Robertson from the NT Environment Centre said that 'there is no amount of bond that will stop the contamination of the water

because there is nothing you can do once the toxins leak out to the environment'. Barrier Daily Truth, 14-Oct-06, pg 7; 'Xstrata gets gulf go-ahead after protracted appraisal', Weekend Australian, 14-Oct-06, pg 35; 'Controversial mine expansion approved', National indigenous Times, 19-Oct-06, pg 8; 'PM urged approval for McArthur Mine' Northern Territory News, 5-Oct-06, pg 4.

19-Oct-06 **No case for permit change** Chris Graham editor of the National Indigenous Times has argued that 'no one in the Aboriginal land movement in the Northern Territory has ever opposed' the principle that 'any responsible professional journalists should be allowed access to courts to report proceedings'. He argues that 'since the creation of the Land Rights Act in 1976, no journalist has ever been refused access to court proceedings on Aboriginal land'. Further the 'Central Land Council has not received a single application from a journalist to cover a court case'. National Indigenous Times, 19-Oct-06, pg 16.

25-Oct-06 **NLC anger at mine** NLC chief executive Norman Fry has said that the 'council has received legal advice which says the Kurdanji traditional owners would win a court case against the NT government for impairment of native title rights and that resulting compensation would be considerable'. He said that the 'mining company and the NT government refused to negotiate an agreement and an unresolved compensation claim was lodged by traditional owners in 1996'. He said: 'X strata wants to trample on Aboriginal rights and culture by permanently diverting a major river and interfering with major rainbow serpent sites without negotiating an agreement'. Koori Mail, 25-Oct-06, pg 8.

## QUEENSLAND

4-Sep-06 **Centres 'set up to fail'** Cape York Indigenous leaders have said that that 'fledging land and sea management centres were set up to fail. Strangled by the lack of government support.' Only one centre located at Kowanyama is still operational even though 13 communities in the area receive funding under the Natural Heritage Trust. Larry Woosup, deputy chairman of the Injinoo Land Trust said that the centre was forced to close after "scratching around" for two years just to pay the bills'. He said that short funding cycles reflected a distrust of Indigenous skills and knowledge. Western Cape Traditional Landowners Corporation chief executive Bruce Gibson, said 17 rangers had to be sacked after funding 'dried up'. Cairns Post, 4-Sep-06, pg 8.



13-Sep-06 **Agreement EPA propaganda** Rodney Parker a Whalebone Bay caretaker has argued that the 'alleged 360 hectares of Aboriginal freehold land is in fact an Aboriginal conservation area' with the further 1320 hectares of freehold land transferred to the Yuku-Baja-Muliku people being restricted. The remaining 8830 hectares will become National Park. He said that the 'reality is that the traditional owners have actually handed over most of their land to the EPA and the Queensland Parks and Wildlife service'. Cooktown Local News, 13-Sep-06, pg 2.

13-Sep-06 **Cape mining project 'in its early days'** A sand mining project by Matilda Mining on Western Cape York is 'still in its early days' with negotiations continuing with traditional owners for access. Matilda is 'actively seeking to enter into negotiations with the Cape York Land Council and the relevant Community Councils.' Torres News, 13-Sep-06, pg 2.

16-Sep-06 **Green light to China for mine at Aurukun** Chinese Aluminium company Chalco has been given preferred developer status to develop the bauxite mine at Aurukun. Chalco 'now has exclusive rights to complete agreements with the state government and the local Aboriginal community who control the land.' The mine's construction is set to create about 700 jobs in Aurukun. Cairns Post, 16-Sep-06, pg 43; Townsville Bulletin, 16-Sep-06, pg 20; 'Bauxite Mine goes ahead' Sunday Telegraph, 16-Sep-06, pg 74; 'Massive Aurukun project moves to next stage' Western Cape Bulletin, 21-Sep-06, pg 2.

21-Sep-06 **Brisbane native title pending** A claim lodged by the Turrbal people over 65.9 sq km of land in Brisbane will be part heard by the Federal Court on October 27. The Noongar decision, the 'first to find that native title exists over the metropolitan area of any Australian capital city' has 'buoyed the groups' hopes of success in Brisbane'. Courier Mail, 21-Sep-06, pg 20.

22-Sep-06 **Top Adviser backs native title claim** National Indigenous Council member Wesley Aird and descendants of the Yugambah people have filed a claim over the Gold Coast covering 1330 sq km. He said that 'local state and federal Governments don't recognise Aboriginal communities its like they won't even consider any Aboriginal people that aren't living around a camp fire'. Mr Aird said that the 'action was not a land grab and that the original owners mainly...wanted was due recognition of

original ownership'. The claim 'is inclusive of all traditional owners and covers all vacant Crown land and seabeds from the Logan River in the north to the Tweed River in the south...[and] is for procedural rights [that] will give Aborigines the right to be consulted about land management of cultural heritage.' Australian 22-Sep-06, pg 1; 'Native title bid on coast' Courier Mail, 22-Sep-06, pg 15; Gladstone Observer, 26-Sep-06, pg 7; 'Tweed native title claim' daily News, 22-Sep-06, pg 1; 'Title fight to hit the Court' Gold Coast Sun, 27-Sep-06, pg 9; 'Perth Noongar win prompts Gold Coast native title claim' West Australian 29-Sep-06, pg 39; 'Don't panic, says Boyd' Border Tweed Mail, 28-Sep-06, pg 10; 'Naive title claim to target Tweed' Border Tweed Mial, 28-Sep-06, pg 10.

29-Sep-06 **Native title claim 'threatens Spit'** A native title claim over the Gold Coast is being assessed by the National Native title Tribunal 'amid fears valuable land such as The Spit could be at risk'. Gold Coast Liberal MP Steven Ciobo said that 'there can be no doubt that if this claim was successful it would present significant problems for development of unallocated Crown land'. He said that a successful claim could result in 'millions of dollars of compensation'. Claimant spokesman Wesley Aird said that Mr Ciobo's comments were 'reckless and needed to "get his facts straight"'. Gold Coast Bulletin, 28-Sep-06, pg 7; 'Title claim' Sunshine Coast Daily, 29-Sep-06, pg 13; 'native title claim on coast assessed' Courier Mail, 29-Sep-06, pg 23.

04-Oct-06 **Title claim** After the initial Federal Court of Australia hearing for the Gold Coast Native Title Group's...claim of the Gold Coast, the matter has been referred to a hearing in February next year'. The claim is for procedural rights rather than land itself. Albert and Logan News, 4-Oct-06, pg 57.

05-Oct-06 **Major conference for Cardwell** The Giringgun Aboriginal Corporation will host the Second National Indigenous Land and Sea Management Conference in 2007. GAC chief executive officer, Phil Rest said: 'the conference will bring Indigenous delegates from all over Australia some from overseas (Canada and New Zealand)...and provide extensive discussion about the role of Indigenous people in land and sea management'. Tully Times, 5-Oct-06, pg 3.

09-Oct-06 **Lady Annie agreement** An agreement has been signed between the Kalkadoon traditional owners and Copper CO in Mount Isa that 'grants access to five mining leases on Aboriginal land



which comprise the Lady Annie project about 140 km north of Mount Isa'. Copper CO's exploration and business development general manager said that the 'compensation part has been agreed and signed off on through a memorandum of understanding' and includes 'monetary compensation, a commitment to provide employment and training and business development opportunities for the local community'. North West Star, 9-Oct-06, pg 4.

**12-Oct-06 Agreement on display: land use still to be decided** The National Native Title Tribunal has 'issued a notice of application to register an area for agreement on the register of the Indigenous Land Use Agreements (ILUAs) for land in the Mirian Vale Shire'. The ILUA covers 1312 hectares of land near Agnes Water and will extinguish native title within the area. In exchange the 'state will make application to the Governor in Council to grant the freehold area to the Port Curtis Coast people in fee simple 'following the surrender'. Gladstone Observer, 12-Oct-06, pg 6; 'Title claim', Morning Bulletin, 12-Oct-06, pg 2.

**16-Oct-06 Councils address native title issues** WHaMBROC is an 'agency developed and owned by the nine local government councils...Bowen, Whitsunday, Mackay, Sarina, Broad Sound, Mirani, Nebo, Belyando and Peak Downs' has been working on native title issues with a law firm paid by the Federal Government. Executive Officer, Peter Sherlock said that the agency is seeking to clarify access issues and 'to the extent that public access to all or some parts of a claim area is such an issue, negotiation outcomes can be achieved'. He stated that 'the usual result of negotiation is some form of coexistence'. Daily Mercury, 16-Oct-06, pg 9.

**20-Oct-06 Native title talks aim to avoid court** Negotiations have 'begun between 16 Queensland councils and three Indigenous groups on a native title deal covering an area of the state two thirds the size of Tasmania'. The talks were marked by a ceremony and are designed to avoid 'a prolonged court battle over a 45 000 sq km area of Central Queensland'. Bundaberg Mayor Kay Mc Duff said: 'we think an agreement can be reached which enables the peaceful coexistence of all interest in land, including native title rights, local government interests and the rights and interests of the general public'. Sunshine Coast Daily, 20-Oct-06, pg 15; 'Central Queensland memorandums signed', Koori Mail, 25-Oct-06, pg 13.

**25-Oct-06 Tribute for a pioneer** A sculpture commemorating Eddie Mabo will be erected by the

Townsville City Council at the entrance of the Victoria Street Bridge to commemorate his 'persistence' which 'overturned the legal fiction of 'terra nullius' establishing the principle of native title'. The statue will be unveiled on Mabo Day June 3 2007. Townsville Bulletin, 25-Oct-06, pg 7.

## **SOUTH AUSTRALIA**

**7-Sep-06 SA Govt hails consent native title deal** Attorney General Mical Atkinson has said that South Australia's first consent determination is 'historic' and it is the first of its type rather than 'protracted litigation'. The determination covers an area of 18 665 square kilometres of land near Marla and seven pastoral stations with traditional owners and pastoralists sharing rights to access to land. Mr Atkinson said that the 'consent determination is a victory for common sense and is a win for all parties. Aboriginal people have their heritage protected, pastoralists have obtained certainty and clarifying land management and access issues'. He said that the decision was a 'guiding light' to settle the 22 claims in South Australia. Despite legal recognition of native title since 1993 the majority of gains have been achieved through Indigenous Land Use Agreements. Tribunal Member Barty McFarlane said that the 'agreement showed that a diverse group of people could be brought together to settle dispute over native title'. Aboriginal Legal Rights Movement Tim Wolley said that 'a significant achievement of the determination was the right of the traditional owners to negotiate in relation to mining and other activities on their country'. National Indigenous Times, 7-Sep-06, pg 9; 'From Marla to Oodnadatta: native title claim settled', National Indigenous Times, 7-Sep-06, pg 14; 'Eyeing a better future' Koori Mail, 13-Sep-06, pg 1; Koori Mail, 13-Sep-06, pg 8: 'Relationships strengthened' Port Augusta Transcontinental 27-Sep-06, pg 4.

**12-Sep-06 Indigenous land use talks held with fishing industry** The first of a series of meetings was held between the Barngarla people, Aboriginal Legal Rights Movement, South Australian Fishing Industry council and the Seafood Council of South Australia, state government and fishers 'for relationship building between the parties'. Facilitator for the negotiations Derek Stamoulis said that 'land use agreements were a better way of dealing with Native Title rather than going to court'. Port Lincoln Times, 12-Sep-06, pg 7.

**01-Oct-06 Acquisitions and agreements keep Exco on track** Exco will continue to 'expedite development of the White Dam project' after



finalising a native title agreement. Mining Chronicle, Oct-06, pg 26.

26-Sep-06 **Negotiation the way to SA boom** Acting Executive Officer of the Aboriginal Legal Rights Movement (ALRM) has said that the ALRM and the Congress of Native Title Management Committees endorsed a program 'for native title agreements which is marked by sensible negotiation rather than expensive litigation'. It is marked by the 'recognition that legitimate interests in land can be held in common with no disadvantage to either side'. Adelaide Advertiser, 26-Sep-06, pg 17.

04-Oct-06 **SAPEX float follows massive land deal** A native title land access deal has 'doubled the area of South Australia being explored for oil and gas'. Eight new petroleum exploration licenses 'covering an area more than 74 000 sq km were awarded'. The agreements involve 'heritage clearances, production payments, sign on fees and annual administration fees'. Syd Waye claimant group member of the Yankuntjatjara/Antakirinja native title holders said 'it will be good for people for employment and for education of the children'. The Director of Primary Industries and Resources SA's Petroleum and Geothermal Group Barry Goldstein said that the latest native title agreements were based on 'land mark template agreements that were first signed after three years of negotiations'. He said: 'we want an outcome which is fair to the Aboriginal people and sustainable in relationships to economic development'. Adelaide Advertiser, 4-Oct-06, pg 51; 'Native title deal unlocks oil prospect' Australian, 4-Oct-06, pg 37; 'Native title deal opens up oil, gas reserves' Northern Territory News, 4-Oct-06, pg 27; Independent Weekly, 7-Oct-06, pg 55.

19-Oct-06 **SA leads the way with native title** Tim Mellor from Mellor Olsson Lawyers said that: 'in SA we take some pride in the fact that for the last six years, discussion and negotiations have been taking place with a view to reaching agreement on native title in order to avoid litigation'. He said that 'native title claims are of particular relevance in pastoral areas' with the 'position of pastoralists in the claim area being recognised and recorded in ILUAs'. He said that the 'most significant advantage of this process is the fact that it preserved relationships from the past and develops relationships for the future'. Stock Journal, 19-Oct-06, pg 6.

26-Oct-06 **Native title** Native title has been 'invoked in the Naracoorte town for the first time and may have implications for all undeveloped Crown land under the council's care'. Council Manager Daryl

Smith said: 'the clear message is that all 'underdeveloped' Crown land under council's care control and management will run the gauntlet of the Native title legislation in the advent of proposed future development'. Naracoorte Herald, 26-Oct-06, pg 2.

## TASMANIA

04-Oct-06 **Bruny Island handed back to Aborigines** A small parcel of land in Southern Tasmania has been handed back to descendants of Truganini who 'campaigns fiercely for the survival of Indigenous people following European settlement in the early 1800s'. Treasurer Michael Aird said 'we must be prepared to acknowledge the wrongs of the past before we can move forward as a united community we can all be proud of'. Burnie Advocate, 4-Oct-06, pg 4; 'More land returned to Aboriginal community', Launceston Examiner, 4-Oct-06, pg 10; 'Aboriginal title', Canberra Times, 4-Oct-06, pg 4; 'Island returned to Aboriginal hands', National Indigenous Times, 5-Oct-06, pg 12.

## VICTORIA

1-Sep-06 **Reconciliation is hollow without land justice** Policy Officer for Native Title Services Victoria Mark Brett has said that the 'indigenous governance and economic development have demonstrated that governance has to be culturally legitimate and only when that condition is satisfied will there be substantial economic growth.' The starting point, he says is the 'right to manage land' but in Victoria Indigenous people held less than 0.1 per cent of available land and it is unlikely that there will be a land rights act in the foreseeable future. He says that the state government can resolve the 18 outstanding claims quickly if it offered a 'package of benefits to traditional owners in exchange for the withdrawal of claims'. This could include the 'return of culturally significant land...co-management of national parks...sustainable development of traditional owner corporations so that they have the capacity to manage their interests in land, cultural heritage and natural resources'. According to him, 'this is not about land handouts...[t]his is about land justice and compensation'. Age, 1-Sep-06, pg 17.

5-Sep-06 **End in sight for land rights bid** A provisional determination date has been set to 'end a 10-year battle by the Gunditjmara people to reclaim 6581 square kilometres of land in Western Victoria'. An in principle agreement has been reached between the Gunditjmara people and the



Commonwealth Government. Mediation meetings will continue to resolve issues under the claim in the lead up to the provisional determination date set by Justice Tony North for December 19. Warrnambool Standard, 5-Sep-06, pg 5; 'Native Title claim objection Talks' Warrnambool Standard, 2-Sep-06, pg 17; 'Provisional Date set for native title determination' Hamilton Spectator, 16-Sep-06, pg 13.

6-Sep-06 **Yorta Yorta Struggle** Dr Wayne Atkinson, senior lecturer in Indigenous studies at Melbourne University said that 'at the end of the long and gruelling native title process, where we witnessed the way the law and the politics of the day combined to pervert the course of justice in our case, no "tide of history" will ever wash away what we assert is something that always was and always will be Yorta Yorta land.' The story of the struggle for justice has been celebrated in the play *Yanagai Yanagai*. Riverine Herald, 6-Sep-06, pg 2.

21-Sep-06 **Native title claim looms** There is speculation that 'a native title claim could be made over metropolitan Melbourne after [the Noongar] landmark ruling'. The Wurundjeri 'said they were encouraged' by the Federal Court decision. Wurundjeri spokeswoman Professor Joy Murphy-Wandin said 'her clan had been considering a native title claim over Melbourne for some time' but 'were not interested in claiming people's backyards and if the claim were lodged it would be a symbolic move'. She said that 'native title claims are about recognition [and] people working together based on the true history of the country or that particular area'. Herald Sun, 21-Sep-06, pg 10.

22-Sep-06 **State to represent councils** A coalition of applicant groups including the Dja Dja Wurrung group are seeking a regional settlement in a large part of an area covered by the Buloke Shire Council. A series of meetings have been held with the local government councils, the Department of Sustainability and Environment and the National Native Title Tribunal. Administration manager Alan Middleton said that 'sufficient clarity in the claims has now been achieved to allow the State of Victoria, as a major respondent in the claims, to make the offer that it can act as representative of all the various Local Government respondents.' This will mean that the local councils will withdraw as respondents and allow the State of Victoria to represent them in mediation and settlement negotiations. Buloke Times, 22-Sep-06, pg 3; 'Buloke accepts help with native title claim' Sealake and Whycheprrof Time Ensign, 12-Oct-06, pg 2.

26-Sep-06 **Aboriginal trust's land bid** Land near Port Fairy designated for a public reserve will be handed to the Farmlingham Aboriginal Trust to 'protect cultural sites'. The Moyne Shire Councillors are discussing whether 'rate payers will have the opportunity to comment on the proposal made by the trust chief executive Geoff Clark'. Warrnambool Standard 26-Sep-06, pg 5.

04-Oct-06 **Call of dredge: Don't change channel says native claimants** The Bunurong Land Council which has lodged a land claim over Port Phillip Bay is opposed to the State Government's channel-deepening project. They said 'its one thing to chop down tress and destroy the environment, but to alter the process of the earth is ludicrous...and if they think it won't affect the environment they're wrong.' The native title claim was filed in June and is for 'management rights over land and waters of the Mornington Peninsula National Park', the Port Phillip Heads Marine National Park and the waters and foreshore of Port Phillip Bay from Point Nepean to Werribee. The group claims that it has an 'association with this area as the traditional owners of land and waters' and 'seeks right to access, live, camp and conduct ceremonies in the area'. Williamstown Advertiser, 4-Oct-06, pg 3; 'Native title push for bay: Deepening port 'will alter earth's process'' Altona Laverton Mail, 4-Oct-06, pg 7; 'Title claim on Bay' Werribee Banner, 11-Oct-06, pg 6.

12-Oct-06 **Crown land to yield oil: native title claimant oil deal** Essential Petroleum Resources has reached an agreement with the Gunditjmarra native title claimants. The 'new indigenous land use agreement allows the company to commercially extract oil from crown land once it has a production license in the area'. The agreement is expected to be registered later in the month and 'forms part of the ongoing negotiations involving the Gunditjmarra as they move closer to a landmark native title agreement' A 'tentative date' has been set for December 19 for a determination of the claim which has been 'ongoing for the past ten years'. The native title claim group has also signed an ILUA with Lynch mining. Warrnambool Standard, 12-Oct-06, pg 3.

18-Oct-06 **City welcomes signs** The Horsham Rural City Council has 'endorsed a proposal to place [signage]...explaining the traditional background of the land people are entering'. The signs 'fit neatly into the council philosophy of embracing regional heritage.' Councillor Gary Bird said the signs would be a 'natural addition' to an historic Wotjobaluk People's native title determination along a stretch of the Wimmera River in December last year. Wimmera Mail Times, 18-Oct-06, pg 14.



25-Oct-06 **Gunai Kurnai people recognised** A plaque recognising the Gunai Kurnai people as traditional owners has been placed on land at Old Gippstown in the Victorian town of Moe in the LaTrobe Valley. Koori Mail, 25-Oct-06, pg 27.

## WESTERN AUSTRALIA

3-Sep-06 **Workers switch to the mid-west** The mid-west region is experiencing 'strong growth' and demand for residential and light-industrial land'. The 'mid-west's potential as a mineral and petroleum province is beginning to bear fruit' with the 'resulting demand for infrastructure and skilled workers is attracting families and singles to the region'. Subdivision is subject to native title clearance. Sunday Times, 3-Sep-06, pg 16.

4-Sep-06 **Oldest rock art loses out to mine projects** The progress of Australia's largest resources project means that the Howard Government is likely to 'reject calls for blanket heritage listing' of the Burrup Peninsula. Under a new plan, a management plan will be reached with the state government allowing 'development to proceed while reducing the chances of environmental groups launching costly legal challenges to development applications'. This debate 'highlights the conflicting demands of continuing to foster Australia's resources boom while protecting Aboriginal heritage'. Australian, 4-Sep-06, pg 1.

18-Sep-06 **Project at risk if rock art deal fails** Development of the Burrup peninsula can be jeopardised if the 'State Government breaches an agreement with Pilbara Aboriginal communities over surveying ancient rock art'. The National Trust WA chief executive Tom Perrigo says that under the Burrup and Maitland industrial estate agreement, the Government agreed that all rock art in the area will be surveyed by 2008. The agreement 'allows development in parts of the region as long as the government and developers adhere to conditions including survey work.' West Australian, 18-Sep-06, pg 8.

20-Sep-06 **Land offer to double Ord River crop area** The State Government is 'set to release land in the long-awaited stage two of the Ord River Irrigation Scheme' and is seeking tenders to develop the land. The settlement with the Miruiwung Gajerrong people has 'paved the way for the first

major expansion of the Ord scheme' since a dam was placed in the area forming Lake Argyle. West Australian, 20-Sep-06, pg 50.

20-Sep-06 **Perth hit by native title win** The Noongar people have successfully claimed native title over metropolitan Perth in an area covering 193,956 sq km. The decision handed down by Justice Murray Wilcox found that the Noongar people 'had proven title existed over the Perth area by continuing to observe traditional customs despite white settlement in 1829 that resulted in widespread dispossession'. Justice Wilcox warned that it was 'neither the pot of gold for the indigenous claimants nor the disaster for the remainder of the community that is sometimes painted'. However Justice Wilcox said that the 'vast majority of private land holders in Perth would be unaffected' and urged discussions with the claimants. The West Australian Government is 'likely to appeal against the finding' saying that it undermined the 2002 Yorta Yorta High Court decisions. Treasurer Eric Ripper said 'Noongar society had not survived in any meaningful way'. Australian, 20-Sep-06, pg 1; 'Aborigines win ownership over Perth' Sydney Morning Herald, 20-Sep-06, pg 5; 'Aboriginals want native title over 185 000 sq km of WA' West Australian, 20-Sep-06, pg 1; 'Aborigines win ownership over Perth' Sydney Morning Herald, 20-Sep-06, pg 5; 'Tribal title to Perth upheld, Hobart Mercury, 20-Sep-06; 'Tribal title to Perth upheld', Hobart Mercury, 20-Sep-06, pg 16; 'WA rejects land claim' Herald Sun, 20-Sep-06, pg 17; 'WA Government to appeal against Noongar people's native title claim' Canberra Times, 20-Sep-06, pg 5; 'Looming native title fight' Burnie Advocate, 20-Sep-06, pg 30; 'Landmark native title win over Perth' Australian Financial Review, 20-Sep-06, pg 3; 'Govt rejects title ruling' Ballarat Courier, 20-Sep-06, pg 13; 'Native title win' Northern Daily Leader, 20-Sep-06, pg 9; 'title over Perth' Koori mail, 27-Sep-06, pg 4. See feature article page 2.

20-Sep-06 **Way open for other city claims** Chris Merritt has argued that 'the Federal court decision had dramatically increased the bargaining power of native title claimants and cleared the way for claims over other capital cities'. He argues that the 'Western Australian government now has little choice but to compromise with Aborigines who have successfully claimed title over Perth'. The burden of proving extinguishment now rests with the Government which according to Christine Lovitt from Blakiston & Crabb would be an 'absolute nightmare' to resolve. Doubts about the future tenure of land can also 'stymie new land releases'. Australian, 20-Sep-06, pg 4.



21-Sep-06 **WA native title claim concern** The decision of Justice Wilcox was 'slammed by the WA Government and provoked concern among politicians from both major parties'. The decision does not affect freehold land but John Howard has said that there can still be 'residual native title in a major settled metropolitan area'. He also said that the decision was 'at odds' with aspects of the High Courts findings. WA Liberals Senator Alan Eggleston 'attacked the ruling' and said that 'native title had delayed developments and land releases in northern WA towns'. Glen Kelly Executive of the South West Aboriginal Land and Sea Council said that 'these claims are just scaremongering'. Launceston Examiner, 21-Sep-06, pg 20; 'Ruling may delay development' Daily News, 21-Sep-06, pg 13; Gladstone Observer, 21-Sep-06, pg 12; Gympie Times, 21-Sep-06, pg 22; News Mail, 21-Sep-06, pg 12; Queensland Times, 21-Sep-06, pg 12; Daily Mercury, 21-Sep-06, pg 10; Toowoomba Chronicle, 21-Sep-06, pg 22; 'People face fees for parks: Senator' Townsville Bulletin, 21-Sep-06, pg 18; 'Native title warning on housing land supply' North West Telegraph, 11-Oct-06, pg 5.

21 September 2006 **Call for Calm over the Nyoongar Native Title Claim** Senator Chris Evans and Nicola Roxon have said that 'Federal Labor supports Native Title and welcomes appropriate recognition of it'. They said that the Nyoongar claim 'is still before the court. There are other issues, such as extinguishment, which are still to be heard and which could alter the overall outcome'. Further they added that 'politicking by the Howard Government should not be allowed to impede the resolution of the outstanding matters'. They said that 'it would be a good outcome if the Nyoongar and the WA Government can reach agreement over the implications of this state of the decision and perhaps avoid a long court battle dealing with the rest of the geographic claim'.

21-Sep-06 **Mine dispute resolved** A mine dispute between Golden West Resources and (GWR) and the Goldfields Land and Sea Council (GLSC) has been resolved. The GLSC initially requested the Department of Indigenous Affairs to stop work after claims that Aboriginal heritage sites were located at the mine and work was suspended for an independent survey of the area. GLSC Executive Director Brian Wyatt was critical of the Department of Indigenous Affairs saying that they 'were completely unable to enforce the process of protecting the heritage sites'. Mid-West Times, 21-Sep-06, pg 7.

21-Sep-06 **Questions hang over native title law ruling** The State Government has been 'unable to clear up massive confusion over ramifications of the [Noongar] decision, including whether it would put further barriers in the way of the release of land for development' in an areas covered by the claim. A spokesman for the Deputy Premier Eric Ripper said that it 'would not have a significant impact on most people because native title has been widely extinguished'. He also said that land releases in the area have complied with the native title act. However he said that the decision was not 'consistent with High Court precedent and he was not convinced that all Noongar people had authorised the court action'. West Australian, 21-Sep-06, pg 1; 'Why State has to challenge Perth native title ruling' West Australian, 21-Sep-06, pg 20.

21-Sep-06 **Native title over Perth** Prime Minister John Howard has "considerable concern" about the successful Noongar determination and 'will examine whether to join an appeal against it'. The determination covers 6000sq km including Perth and its surround and has been criticised by both Mister Howard and the Federal Opposition Leader. Northern Daily, 21-Sep-06, pg 9.

21-Sep-06 **Taking the fight from native title** Federal court judge Murray Wilcox has taken a pragmatic approach to deciding the merits of the Noongar native title claim over metropolitan Perth and advised the parties involved to do likewise to resolve the issues created by his judgment'. In his judgment he identified 'rights to access and live on an areas to use its natural resources to maintain and protect areas of significance, to carry out economic activities such as hunting and fishing to use the natural resources for customary and traditional purposes, to control access in accordance with tradition law and custom and to use the area for teaching and passing on knowledge.' His decision recognised that the 'Noongar community had continued to exist despite the descent system being disrupted through mixed marriage ad people being forced off their land and dispersed to other areas'. Australian, 21-Sep-06, pg 13.

21-Sep-06 **Noongar families out to prove the sceptics wrong** Ted Hart chairman of the South West Aboriginal Land and Sea Council said that the Noongar people are not 'after people's backyards' ' but 'recognition and if we get any type of benefits its to run businesses and train our people'. He said that the community was using native title as a 'resource to better ourselves'. He said 'We've always had people call us half-castes that you've got to be from the desert to be a true Aborigine. This claim shows



them that we are Aboriginal people'. Last week, an agreement was signed with Boddington Gold Mines over a mine in the larger Noongar claim area. The agreement includes apprenticeships and jobs for the Noongar community. Australian, 21-Sep-06, pg 4. See also 'Should we be worried' Albany Advertiser, 26-Sep-06, pg 6.

21-Sep-06 **Showing the link though insoluble** Judge Murray Wilcox's decision's has overcome 'problems that lawyers considered to be insoluble'. While acknowledging the set rules of the Yorta decision, he 'applies those rules in a way that native title lawyers describe as "novel"'. Blakiston and Crabb partner Christine Lovitt said that 'he is a brave man to be out there on his own'. His decision was based on the acceptance that it had been established 'upon the probabilities' that 'some members of the present day Noongar community were descended from one or more Noongars'. Further he rejected evidence tendered by the state that 'traditional' Swan valley Aborigines had died out 'saying that this 'disregarded mixed blood Aborigines'. Further he recognised the impact of expulsion from the Perth region saying that it was not surprising that 'people were mixed up in terms of identification with particular country.' Australian, 21-Sep-06, pg 4.

21-Sep-06 **Native title row divides the ALP** The outcome of the Noongar native tile ruling has placed national president Warren Mundine 'at odds' with opposition leader Kim Beazley. His 'swift support for a state appeal against the court decision outraged indigenous labour members'. Mr Mundine sad that he was 'not surprised by the West Australian Labor Government's move to signal an appeal' and said that people should 'calm down' and 'start looking at the benefits that could come out of this'. Indigenous leader Linda Burney said that 'people need to understand that native title is a property right like any other property rights in Australia'. Australian, 21-Aug-06, pg 1' Mundine Heaves ALP over Perth land rights' Australian, 27-Sep-06, pg 1.

22-Sep-06 **Rethink Perth appeal: Keating** Paul Keating 'accused the West Australian Labor Government...of reacting with seemly haste to the Perth native title decision'. He said that 'a state government should consider its social, economic and cultural terms before it decides to do something like this'. Mr Keating said that following the Mabo decision "the shock jocks had all the backyards going, and the Hills hoists. That wasn't true then and all these reactions aren't true now". State MP Carol Martin who belongs to the Noongar claim group said

that the 'state should move towards compensation for traditional owners'. Australian, 22-Sep-06, pg 4.

22-Sep-06 **Foes of native title care only for the rich** Member of the National Indigenous Council Wesley Aird argues that what is 'really upsetting people, is that a group of Aboriginal people [have] demonstrated tradition and culture can survive in an urban setting. The decision is long overdue win for the underdogs and shows federal legislation can help overcome the state's bullying Aborigines'. He also emphasised that 'native title alone was never going to deliver indigenous Australians from economic wilderness [and that] Judge Murray Wilcox made it plain the decision is not a pot of gold for the indigenous claimants.' However the decision has the 'potential to help overcome indigenous disadvantage' by giving people a 'legislative right to be consulted, and sometimes that's all people want, even if there is no certainty about what comes out of the discussion'. According to him 'the real challenge goes to the fundamentals of Australian society'. He questions why 'state governments begrudge indigenous Australians the chance of a rare victory?' According to him, the Noongar people 'are entitled to use very piece of legislation and every legitimate legal means they can to improve their economic and social situation'. Australian 22-Sep-06, pg 14.

22-Sep-06 **Native title no threat to suburbia** Labor president Warren Mundine has said that concerns over the recent Noongar decision are 'just hysteria'. He said that the decision recognised 'that Aboriginal culture is a continuing living culture and it can change' and that 'anyone who implied the decision would affect private land and public open space in other capital cities needs mental help'. Goldfields Land and Sea Council executive director Brian Wyatt said that 'Justice Wilcox specifically ruled out suburban backyards as an issue and indications are that new land releases in the metropolitan area will not be unduly affected.' Daily Advertiser, 22-Sep-06, pg 8; 'Backyards 'safe'; 'Backyard Hysteria' Adelaide Advertiser, 22-Sep-06, pg 12; 'Call to halt hysteria' Townsville Bulletin, 22-Sep-06, pg 10; 'Suburban backyard threat is 'hysteria' Launceston Examiner, 22-Sep-06, pg 4; 'GLSC Welcomes native title Win' Kalgoorlie Miner, 21-Sep-06, pg 5; 'Hysterical reaction to Noongar ruling' 27-Sep-06, pg 2006.

22-Sep-06 **Native title adversary proves tribe's friend** Sydney based barrister Vance Hughston, has worked on six native title cases over the last decade, five of which he successfully contested as a barrister for various governments including the 2003 Yorta Yorta decision. His decision to represent the Noongar people was an "interesting challenge" given



that he is more familiar with the "other side of the fence". He said that he "certainly has no political axe to grind" since he was a barrister and takes whatever case that comes his way. However he also said that he wouldn't put his "reputation on the line" for a weak case. Commenting on Justice Murray Wilcox's determination he said 'its a very difficult decision because it involves a capital city and an Aboriginal community who have had the rough end of the stick for 180 years...they are among the most marginalised Aborigines in all of Australia but they have kept their culture strong over all that time'. Australian, 22-Sep-06, pg 25.

**22-Sep-06 Major parties polish their appeal to Hansonite sentiments** The decision of Justice Murray Wilcox has redefined "connection between indigenous Australians and land is interesting on many levels'. Both the Federal Government and opposition have indicated that they will appeal the decision. However even if the judgment 'remains undisturbed there will be no sweeping change to current metropolitan land holdings'. Wilcox J has 'dealt with only a threshold question. Extinguishment of native title is more than likely to still operate in a blanket fashion where freehold and leasehold title already exist'. However 'that's not the impression left by senior politicians' with the Prime Minister saying 'I'm quite concerned about its possible implications' and that 'there could still be some residual native - title claim in a major settled metropolitan area'. Mr Beazley supported an appeal saying that 'it does seem a different decision from decisions previously taken by the High Court'. The Democrats saw the decision as 'a test for the whole nation' with Andrew Bartlett Saying "our nation failed the maturity test after the major native title decisions of Mabo, Wik, with widespread responses of fear, prejudice, ignorance and a basic lack of respect.' According to him 'the short-term administrative inconvenience which may flow from this decision is nothing compared to the many decades of dispossession, dislocation and death inflicted on the Noongar people'. Wilcox J emphasised that private land holders will be largely unaffected but this has not stopped the 'generation of fear about black Australians being given the hard won possession of long-held white Australian property in some orchestrated redistribution of wealth'. Backyards 'safe': Mundine', 22-Sep-06, pg 14; 'Federal Got may join WA in native title appeal' Canberra Times, 21-Sep-06, pg 3; 'Fears over titi;' Burnie Advocate, 21-Sep-06, pg 12; 'Howard and Beazley unite in native title fight' Sydney Morning Herald, 21-Sep-06, pg 5; 'PM ponders appeal in Perth Title claim' Daily Telegraph, 21-Sep-06, pg 23; 'Appeal likely as native title granted over Perth' Koori mail, 27-Sep-06, pg 1; 'Noongar native title decision should be embraced' Media release, 20-Sep-06.

**22-Sep-06 Fear of native title land grab in cities** Federal Attorney General Phillip Ruddock has said that 'more native title claimed over metropolitan areas could be made after....[the]Federal Court's decision to recognise native title rights over the city of Perth'. Mr Ruddock said that "it is not possible to guarantee that continued public access to all such areas in major capital cities in Australia would be protected from a claim to exclusive native title'. Even though the court decision recognised native title 'the future of specific areas will be decided after further consideration of the ways the land have been used and whether those uses are consistent with traditional life'. Sydney Morning Herald, 22-Sep-06, pg 5; 'Ruddock warns on native title ruling' Age, 22-Sep-06, pg 7.

**22-Sep-06 WA faces native title law nightmare: Ripper** Deputy Premier Eric Ripper has said that 'WA could be plunged into long and expensive legal fights with Aboriginal groups...if the Government failed to overturn...the landmark ruling recogn[ising] the Noongar people's traditional ownership of Perth.' He said that the uncertainty caused by the judgment can 'lead to a flood of litigation, jeopardising the State's successful record of out-of-court negotiations.' According to him, 'the Noongar decision set completely different legal precedents from previous native title cases'. West Australian, 22-Sep-06, pg 1.

**22-Sep-06 Future mining activity 'may be hit'** Blakiston and Crabb mining specialist Christine Lovitt said that 'a successful claim over the South West would raise the value of any compensation which may be paid to native title holder potentially making it uneconomic to explore certain mine areas'. However a spokesperson for BHP said that the decision would have "minimal impact". West Australian 22-Sep-06, pg 4.

**22-Sep-06 Rich shire lies on an uncertain shore** Graeme Simpson, Peppermint Grove Shires chief executive said that the future of the Swan River frontage was uncertain. In the past traditional owners have been consulted over construction in the area, but the implications of the recent native title decision are uncertain. However 'local governments across the state preferred to work out native title rights by cooperation rather than litigation'. Australian, 22-Sep-06, pg 4.

**22-Sep-06 Native title fear 'ill-founded'** Senior lawyers have refuted claims of Federal Attorney



General Phillip Ruddock that 'it is not possible to guarantee continued public access to all such areas in major capital cities in Australia would be protected from a claim to exclusive native title'. However in only 'two cases, in the remote Western Desert, have Aborigines been able to establish exclusive possession of their land despite the fact that all native title claims are framed in such a manner'. Robyn Glindeman of Allens Arthur Robinson said that it 'would be difficult to prove that in any metropolitan area'. Council that appeared for the Noongar people Vance Hughston 'rejected claims that the decision by Justice Murray Wilcox was at odds with court decisions in relation to the Larrakia people'. He said that 'people criticising the Noongar decision failed to distinguish between findings of fact and findings of law'. He said that he was involved in both the Larrakia and Yorta Yorta cases and said that the facts 'bore no resemblance to this [case]'. Australian Financial Review, 22-Sep-06, pg 17.

26-Sep-06 **Land lock-out claims denied** The Western Australian Government has 'dismissed claims that people may be locked out of Perth's Parks and beaches because of a Federal Court ruling granting native title over the city'. However the Premier, Alan Carpenter has said that 'the ruling is "highly inconsistent" with previous judgments'. The Federal and Western Australian Government are considering an appeal. Sydney Morning Herald, 26-Sep-06, pg 6; Queensland Times, 26-Sep-06, pg 12; 'Native Title 'Furore' Northern Territory News, 26-Sep-06, pg 9; Gympie Times, 26-Sep-06, pg 6; Gladstone Observer, 26-Sep-06, pg 9; Daily News, 26-Sep-06, pg 9; Daily Mercury, 26-Sep-06, pg 10; Toowoomba Chronicle, 26-Sep-06, pg 19; 'Claims ridiculous' Adelaide Advertiser, 26-Sep-06, pg 12; 'Native title allegations "ridiculous" Barrier Daily Truth, 26-Sep-06, pg 8; 'Native title no threat: Premier. Border Mail, 26-Sep-06, pg 12; Fraser Coast Chronicle, 26-Sep-06, pg 17.

26-Sep-06 **Native title decision creates baseless hysteria in nation** Justice Murray Wilcox's decision 'to accept the native title claim of the Noongar people over metropolitan Perth defies a run of court decisions that have essentially held tight the status quo that was affirmed in the Yorta Yorta case'. Even though 'its difficult to imagine indigenous communities that have not been severely fractured from their land by colonisation, what is so extraordinary about the Noongar decision is that no matter how high the High Court sets its hurdles of proof, there are Aboriginal communities capable of proving to the umpteenth degree their traditional connection to their country.' More importantly, 'what is ignored by punters and defeats their angst is the fact that there exists in this country a litany of

successful agreements that have given indigenous people native title over land without one white Australian being reefed from their Hills Hoist'. Toowoomba Chronicle, 26-Sep-06, pg 9.

26-Sep-06 **Premier reluctant to appeal over title** West Australian Premier Alan Carpenter has said that 'he would prefer not to appeal the [Noongar] ruling'. He said that 'he had not doubt the Noongar people were the traditional owners of the land in metropolitan Perth as recognised by the Federal Court...and it was important that any action by the government maintained a good outcome for them'. His comments contrast with the response of Deputy premier Eric Ripper and Labor leader Kim Beazley and have been welcomed by South Aboriginal Land and Sea Council executive Glen Kelly. The Premier said that the 'State Government had a solid record of negotiating consent agreements on native title without litigation. He said he did not want this put at risk by legal uncertainty.' Australian, 26-Sep-06, pg 3.

26-Sep-06 **Native title rule probed** There is uncertainty over the implications of the Noongar decision for Perth. The City of South Perth 'says a comprehensive study is needed to determine the full effect of last week's landmark native title ruling on local governments. Mayor John Collins says that it 'will wait to see whether the State Government appealed against the decision before commenting on implications for the city'. The second limb of the claim concerning the extent to which native title has been extinguished is yet to be determined. Southern Gazette, 26-Sep-06, pg 1.

26-Sep-06 **Land title secure** Belmont and Victoria Park Councils have 'moved to reassure residents that most of the land within their boundaries will not be affected' by the Noongar native title ruling. They 'confirmed that most of the land in their municipalities was owned freehold, which extinguished any native title claims'. The 'foreshores areas of McCallum Park and Tylor Reserve' may be affected. portions of airport land in the City of Belmont may also be affected but 'Belmont Mayor Glenys Godfry said 'the Federal Government's lease of the land to the airport could overrule native title'. Town corporate and customer services executive manager Brian Callander said that 'it was unlikely the claim would affect planning now or in the future.' Southern Gazette, 26-Sep-06, pg 1.

26-Sep-06 **Free kick for Carps** Western Hugh has argued that 'Indigenous people everywhere would no doubt be feeling a strong sense of betrayal by



politicians, give that they have so successfully and skilfully used *wadjella* (white fella) methods to achieve justice, only to be potentially thwarted again by further legal action'. He says that the Government strategy 'seems out of step with labor politics' particularly where ministers are known to acknowledge the traditional owners of land. He says that this should be an opportunity to 'ensure that future West Australians are in a just and equitable partnership that reflects both our indigenous and colonial past and a shared future.' Western Suburbs Weekly, 26-Sep-06, pg 2.

26-Sep-06 **Opportunity not a crisis** University of WA law lecturer David Ritter has said that the Noongar decision is an opportunity rather than a crisis. He said 'despite the alarmist rhetoric of Mr Ruddock, there is nothing to be concerned about here...rather the decision presents an opportunity to deal with a range of land and heritage matters in a comprehensive and effective way.' Mr Ritter also noted that 'it is normal practice for native title matters to resolved by negotiation and there is no reason why the Noongar claim need be any different'. He said the 'Noongar native title holders would need to clearly set out a realistic set of negotiation aspirations, while the State would need to carefully evaluate what was possible and what it wanted from the negotiations, but there is room for creativity.' Western Suburbs Weekly, 26-Sep-06, pg 5.

26-Sep-06 **Elder applauds native title** Wardandi Elder Bill Webb has 'applauded last week's native title decision' saying that the ruling was 'the first step in a 176 year journey for recognition of continuity in Aboriginal Culture'. He said that 'it was a contradiction that the WA and federal Governments had rejected the decision (to uphold the Perth claim) since Government agencies regularly called on Aboriginal elders for advice in land matters'. 'The commonwealth and WA lawyers fight against it is to take care of their long term visions; but they are not worried about our long term visions' he said. He also said that the Government had 'used native title to create fear and division that homes and farms would be taken'. The Capes Herald, 26-Sep-06, pg 3; 'Elder condemns native title appeal' Busselton Margaret River Times, 12-Oct-06, pg 8; "Stop the scaremongering", Augusta Margaret River Mail, 18-Oct-06, pg 15.

26-Sep-06 **No need to be scared: Elder** Aboriginal Elder and Swan River Plains spokesman Richard Wilkes 'wants all residents to know' that the Noongar decision will not affect their properties. He said 'we want people to understand that we are the traditional owners and we were here first. It means that we will

have a sense of equality...to be able to say "hey we are part of this country too".' He also wants West Australians to know that the 'Noongar people would not close the door on developers. However they would have to be part of the negotiation process when it came to land developments'. Guardian Express, 26-Sep-06, pg 3; 'Landmark decision' Eastern Suburbs reporter, 26-Sep-06, pg 1; 'Elder Lauds land ruling' Western Suburbs Weekly, 26-Sep-06, pg 5.

27-Sep-06 **Callous, short sighted decision** A decision by the Western Australian Government to allow Woodside Petroleum to develop a gas installation on the Burrup Peninsula has 'drawn heavy criticism'. WA Indigenous Affairs minister Sheila McHale has said that she 'would allow Woodside to proceed on part of its \$5 billion Pluto project if it can re-route a transportation pipe and access road away from rock art and ceremonial sites in the area'. James Donnelly has argued that 'there can be few if any decisions made by any Government rank possibly the most callous, short sighted, and money driven as the one made recently by both the State and Federal Governments giving Woodside permission to systematically destroy ancient rock art on the Burrup Peninsula.' He said 'the development of the gas terminal does not depend on destroying these historical artefacts. Land is one thing we have an abundance of in this State and for them to claim that future projects would be put at risk is a falsehood of the highest order.' The Goldfields Land and Sea Council has also said that it was an 'unacceptable body blow to Australia's indigenous heritage'. Executive Director Bryan Wyatt said 'our culture needs strong defence not more weak-kneed pragmatism'. He said that the decision was hypocritical and the 'approach of letting politics intercede with each project allowing developers to wear governments down will always lead to cut-price heritage conservation which is what we have seen in the Burrup.' National Trust's Robin Chappelle said that 'currently our process of dealing with rock art on the Burrup is that we can destroy any amount we like because there's lots more...unfortunately in this instance we don't know if the Mona Lisa is amongst those parts we are seeking to destroy.' Kalgoorlie Miner, 27-Sep-06, pg 2; 'Burrup ruling blasted' Koori mail, 27-Sep-06, pg 5.

27-Sep-06 **Native title appeal had caucus worried** Labor backbenchers are unimpressed with the response of Deputy Premier Eric Ripper to questions of a pending appeal. One MP said 'we wanted to know exactly what they want to appeal and they couldn't tell us'. Mr Ripper said 'the government is interested in there being consistent native title laws right across the country and right across the State'. It



seemed that no one on the Labor back bench looked particularly impressed with the line of logic'. West Australian, 27-Sep-06, pg 8.

**29-Sep-06 Does the law really support native title to Perth?** The Perth native title claim is a part of a larger claim known as the Single Noongar Claim. In order to 'expedite the determination and achieve some certainty over Perth metropolitan area' parties agreed that the court was only required to consider a 'separate question' which is why 'authorisation' and 'extinguishment' was not considered. In terms if the separate question Wilcox J found that despite the "enormous forces [which assailed Noongar society since 1829 making it impossible for many of the traditional laws and customs to be maintained" the claimants had maintained their connection to the land. He identified eight native title rights and interests but said that 'the formal terms of a determination of native title would need to be agreed by discussions between the parties'. He also indicated that if agreement could not be reached then 'the enormous task of searching the tenure of every piece of parcel of land within the Perth Metropolitan area would...add significant cost and delay'. The Yorta Yorta decision was believed to make it very difficult to succeed in claims in areas of intensive settlement. However Wilcox J found that 'it was not essential to require unchanged laws and customs even though the test established by Yorta Yorta required there to be substantially uninterrupted continuity in the observance of traditional laws and customs.' The Australian, 29-Sep-06, pg 24.

**29-Sep-06 WA Labor to fight native title ruling** The Western Australian Government has announced that the 'Government would appeal against [the Noongar decision] granting native title over Perth'. Premier Alan Carpenter said that 'while he recognised the Noongar people were the traditional owners of the south west of Western Australia he owed it to his state to get legal clarity on native title law'. He said that the decision was 'inconsistent with other rulings...mak[ing] it difficult for governments mining companies developers and others to negotiate with Aborigines on land deals'. Age, 29-Sep-06, pg 8; 'Title plea' 29-Sep-06, pg 9; 'Lawyers urge appeal' daily Telegraph, 29-Sep-06, pg 31; 'Premier braced for native title appeal' West Australian, 29-Sep-06, pg 1' WA to appeal native title ruling' Australian Financial Review 29-Sep-06, pg 15; 'Native title challenge' Canberra Times, 29-Sep-06, pg 6.

**29-Sep-06 Ripper drowned out on title** A rally of about 400 demonstrators outside Parliament House 'shouted down' Western Australian Treasurer Eric

Ripper when 'after first acknowledging the Noongars were the traditional owners of the land, said the Government had to consider the impact on native title law'. He said 'against our most basic philosophical instincts we have to consider the implications of this decision for the application of native title rights across the state of Western Australia'. '[C]ries of "shame" rang out before the protestors began booing and chanting "no appeal, no appeal".' Australian, 29-Sep-06, pg 7; 'rally lashes Ripper on title appeal' 29-Sep-06, pg 7; See also 'Noongar rally over Native Title Claim', 28-Sep-06, pg 2.

**29-Sep-06 Native title and the laws of our fair land** Michael Lavarch dean of the QUT faculty of law has argued that the Noongar decision is 'not a new development in the law'. He argues that 'all land holders are able to use their land as they always have and whether any native title rights continue in the region will depend on the history of the Aboriginal peoples in the South West'. Mr Lavarch said that 'a principle controversy in the Yorta Yorta decision and repeated in the recent Noongar case is the extent to which the courts require that Aboriginal traditional laws have resisted change from pre-European times'. Accordingly 'where evolution of traditional laws ends and abandonment begins is a matter that the courts are sometimes required to decide.' The Courier Mail, 29-Sep-06.

**01-Oct-06 Appeal 'wrong': lawyer slams Government's native title stand** Marcus Holmes, who has been involved in several native title rulings has said that the 'appeal contradicted ALP policy which commits the party to implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody, one of which was that unallocated crown land should be given to Aboriginal people as freehold, allowing them to veto development and access'. He said that it would be 'more practical and economic if the Government negotiated with the Nyoongars'. Sunday Times, 1-Oct-06, pg 29.

**01-Oct-06 Sustainable growth on Rio's Argyle diamond agenda** Rio Tinto is seeking to embark on a 'unique Indigenous training program to ensure its mining operations will make a significant contribution towards the region's long term future growth.' It is looking to 'eventually source 80% of its employees from the local area with 40% of that work force being Indigenous'. The mining company is proactive in meeting Indigenous needs through 'conducting cross cultural programs and engaging in an on going open dialogue with the region's traditional owners'. Gold and Minerals Gazette, Oct-06, 8, pg 8.



01-Oct-06 **Native title works: Aboriginal land rights old hat to progressive local companies**

The Noongar native title ruling has 'brought many of WA's urban dwellers face to face with issues that regional communities and mining companies have been grappling with for more than 20 years'. Kimberley Land Council Executive Director, Wayne Bergmann said that 'native title and land-use agreements should not be seen as a threat, but as an avenue by which Aboriginal people could become economically independent'. He said that 'native title forces interested parties to come together with the traditional owners and find common ground'. Sunday Times, 1-Oct-06, pg 69.

01-Oct-06 **Kimberley awards \$120M Ellendale Mining**

The Kimberley Diamond Company has awarded a 'four year contract with a total value of about \$120m to MacMahon Holding Limited for its Ellendale Diamond Project in Western Australia'. Under the contract 'both parties have committed to examine opportunities for Indigenous employment and benefit'. Australian Mining, Oct-06, pg 75.

02-Oct-06 **Labor stance on NT shifts**

The Kalgoorlie branch of the ALP has 'voiced its disappointment that the State Government was threatening to appeal the [Noongar] decision'. Branch president Garry Campbell said that 'we were never against an appeal - our main concern was that the Nyoongar people were going to be fairly heard'. Kalgoorlie Miner, 2-Oct-06, pg 5.

02-Oct-06 **Ruddock puts heat on native title**

Federal Attorney General Phillip Ruddock has 'maintained concerns that successful native title claims could allow traditional owners to stop non-Indigenous people using parks and beaches'. This has attracted severe criticism from shadow Attorney General Nicola Roxon who 'accused him of scaremongering and demanded that he apologise'. West Australian, 2-Oct-06, pg 4; 'Native title warning' Burnie Advocate, 2-Oct-06, pg 12; 'AG claims beach risk' Kalgoorlie Miner, 2-Oct-06, pg 8; 'Ruddock branded 'racist' over native title beach claims' National Indigenous Times, 5-Oct-06, pg 15; 'The day native title ate Perth' National Indigenous Times, 5-Oct-06, pg 20.

03-Oct-06 **Hills parks open to native title: judge**

Opposition leader Paul Omodei said that the 'state government should abandon its compensation talks with Nyoongar claimants until its appeal against the native title judgment over Perth is decided by the

courts'. He said they 'can't have it both ways...it either supports the Nyoongar people's native title claim or it does not. If it does win its appeal, then what have they negotiated away'. The Government maintains that it supports Nyoongar native title but wants to 'clarify inconsistencies in the law'. Political analyst, Peter Van Onselen said that 'Labor was torn between its philosophical support for Aboriginal land claims and its public duty to follow legal advice'. Attorney General Jim McGinty said that 'regardless of the outcome of the appeal...the government acknowledged the Nyoongar people as the traditional owners of the South-West and remained committed to negotiating an outcome' dismissing Mr Omodei's concerns. West Australian, 3-Oct-06, pg 1; 'Suspend compo talks: Libs' West Australian, 12-Oct-06, pg 5.

03-Oct-06 **Noongar appeals hurts Aborigines**

Oxfam executive director, Andrew Hewett says that a 'plan by the West Australian government to appeal against the historic Noongar native title decision sullies the spirit of reconciliation and runs the risk of undermining efforts to improve the lives and livelihoods of people in WA'. He said that the decision should be 'respected' and the appeal contradicts its 'commitment to negotiating native title claims'. Mr Hewett also said that 'research shows that native title is a powerful lever for improved economic activity and other opportunities for Indigenous people by giving them a seat at the negotiating table on land and heritage'. Australian Financial Review, 3-Oct-06, pg 57; 'WA native title appeal blasted' Sunday Tasmanian, 1-Oct-06, pg 4.

03-Oct-06 **Protest on native title appeal**

A group of both Noongar and non-Noongar people have gathered in front of Albany MP Peter Watson's office with placards saying 'celebrate! Negotiate! Don't litigate!' in protest against the state Labor government's decision to appeal. Albany Advertiser, 3-Oct-06, pg 4.

03-Oct-06 **Hands linked by landmark deal**

A 'landmark memorandum of understanding between the South West Catchments Council and the South West Aboriginal Land Sea Council' has been reached after 18 months of negotiations. The agreement was described by the Council as a 'bold step for the organisation and the South West Boorah and Gnaala Kala Booja traditional custodians'. The agreement 'ensures collaboration between both parties in managing South West natural resource issues and outlined how each party's rights and responsibilities could be applied to natural resource management'. South West Catchments Council chairman Tony Brun said that



the 'engagement and use of the Noongar people in the \$65 million project will see money filtered through consultation with working groups'. Bunbury Herald, 3-Oct-06, pg 7; 'Agreement in WA first' The Cape Herald, 10-Oct-06, pg 4.

03-Oct-06 **An appealing decision** The Noongar decision is an 'important issue for Western Australia and Western Australians'. It is well known that the Noongar people are the traditional owners 'of not only the Perth Area, but also the entire South West Corner of Western Australia'. This 'very fact requires recognition and the acknowledgement of status and particular privileges that go with that'. The decisions is a 'magnificent window of opportunity' and it would be regretful if there is a position in 'Western Australia in which this decision from Justice Wilcox delivers no benefit to the Noongar people'. Fremantle Herald, 3-Oct-06, pg 56.

04-Oct-06 **Noongars 'cannot restrict access'** According to former Federal Court Judge the rights he granted the Noongar people in his native title ruling over Perth were 'non-exclusive' meaning that: 'there would be no right to deny access by other people to land that is covered by the determination, if one's eventually made'. This contradicts Philip Ruddock's view that 'access to some beaches and parks could be restricted'. Despite saying that 'areas clearly reserved for public purposes would not be precluded from public access' he found that complications would arise where areas were not dedicated for a public purpose. He said: 'it is not possible to guarantee that public access to all such areas in major capital cities in Australia would be protected from a claim to exclusive native title. This reflect the importance of this case and its possible implications in relation to the development of native title law more generally.' Australian, 4-Oct-06, pg 5.

04-Oct-06 **Hills parks open to native title: judge** Former Federal Court Judge Murray Wilcox has said that the Darling Range could be used for 'traditional purposes but that did not meant that whites would be restricted from the area'. According to him, this means that 'an Aboriginal group will not have veto right but it will have the right to be consulted'. He also said that 'private property would not be taken over by Aboriginal claims because freehold and most leasehold land rights extinguish native title'. Mr Wilcox said: ' I think native title is more important for other reasons than compensation. So far there has only been one payment of compensation, a relatively small amount'. He said that 'there had been great levels of misunderstanding about exactly what native title gave to Indigenous people and sadly there has been some politicisation over the years'. He said that

'more people are recognising the reality that native title isn't a threat to people's backyards.' West Australian, 4-Oct-06, pg 1; 'Wilcox speaks out on Noongar ruling', Kalgoorlie Miner, 4-Oct-06, pg 10; 'Justice Wilcox speaks out on Noongar native title ruling' National Indigenous Times, 5-Oct-06, pg 9.

04-Oct-06 **Perth native title judgment defends process** Former Federal Court Judge Murrall Wilcox said that 'people should question whether too much money was being spent fighting native tile claims'. He said that the 'Noongar people had two advantages to their claim: the wealth of historical material form the settlement of Perth and the fact that they only had to go back to 1829 rather than 1788'. He said 'cases are different on their facts and you don't use one case for its facts you use it for the principles that it lays down. And that's why there is very little about Larrakia in my decision...it is just a different factual case. Yorta Yorta is referred to not for the facts but the principles that are laid down in the case'. Australian Financial Review, 4-Oct-06, pg 3; 'Noongar debate proves native title is still alive' Australian Financial Review, 26-Oct-06, pg 15.

05-Oct-06 **Title appeal to fail, says professor** Professor of law lecturer Richard Bartlett said that the State Government's appeal over the Noongar decision is a 'waste of time' since Justice Murray Wilcox's ruling was 'evidence and fact driven'. He said that there was 'no threat to beaches or park access and...if the state Government can't accept that, its a very sad state of affairs'. Joondalup Times, 5-Oct-06, pg 4.

5 October 2006 **Challenge to Native Title Ruling over Perth** Attorney-General Philip Ruddock announced the Australian Government would seek leave to appeal to the Full Federal Court against Justice Wilcox's recent decision finding that native title exists over the Perth metropolitan area. 'While the Australian Government prefers to resolve native title claims through mediation where practicable, it also needs to ensure native title outcomes are credible and consistent with the law. The effective settlement of native title claims throughout Australia requires a clear understanding among stakeholders as to what the law allows. This understanding has been disturbed by Justice Wilcox's recent findings in relation to native title over Perth,' Mr Ruddock said.

05-Oct-06 **NT move to be appealed** The State Government will appeal 'the recent native title decision of the Federal Court over the Perth Metropolitan area portion of the single Nyoongar claim'. The appeal was 'expected because of



apparent inconsistencies in how this decision was made as opposed to previous judgments'. Premier Alan Carpenter is 'hoping that negotiations would result in a set of guidelines to be used in other native title claims and that negotiation would be reached prior to the appeal to the Federal Court being concluded'. In the meantime negotiations will be begin offering a 'real opportunity for both the state and the Nyoongar people to reach agreement about the recognition of native title and compensation for the extinguishment and impairment of native title' Farm Weekly, 5-Oct-06, pg 246; 'Claim appeal', Canning Times 3-Oct-06, pg 4; 'Govt appeals decision', Eastern Suburbs Reporter, 3-Oct-06, pg 7; 'WA appeal on native title', Launceston Examiner, 12-Oct-06, pg 7; 'Govt Appeals decision', Melville Times, 10-Oct-06, pg 15; 'WA lodges title appeal', Koori Mail, 25-Oct-06, pg 13.

**06-Oct-06 Nyoongar title payout mooted as Ruddock confirms appeal** The State Government has 'acknowledged compensation could be a part of a settlement that is negotiated between the State and the claimants pending a State appeal against last month's Federal Court judgment recognising native title over Perth'. South West Aboriginal Land and Sea Council chairman Glen Kelly said that 'Nyoongar claimants were unsure about compensation, but a monetary payment could not be ruled out.' He said that the 'problem with compensation payments is that they don't lead to sustainable outcomes for people. It would be better if people could have a say in national park management'. West Australian, 6-Oct-06, pg 4.

**06-Oct-06 Perth native title challenged** The Federal Government 'will appeal a court decision which upheld the indigenous Noongar people' claim on more than 6000 sq km of land in and around Perth'. Attorney General Phillip Ruddock said that the decision will be appealed because it 'left some uncertainty surrounding the future of some parcels of crown land across Australia'. Coffs Coast Advocate, 6-Oct-06, pg 6; 'Got to appeal' Canberra Times, 6-Oct-06, pg 6; 'Perth native title challenged', Toowoomba Chronicle, 6-Oct-06, pg 15; 'Noongar land claim appeal', Launceston Examiner, 6-Oct-06, pg 12; 'Title appeal', Adelaide Advertiser, 6-Oct-06, pg 4; 'Ruddock challenges native title decision', Age, 6-Oct-06, pg 5; 'Perth Native title challenged', Daily Mercury, 6-Oct-06, pg 10; Daily News, 6-Oct-06, pg 7; 'Perth Native Title challenged', Fraser Cast Chronicle, 6-Oct-06, pg 11; Gladstone Observer, 6-Oct-06, pg 12; Gympie Times, 6-Oct-06, pg 6; Morning Bulletin, 6-Oct-06, pg 16; News Mail, 6-Oct-06, pg 10; Queensland Times, 6-Oct-06, pg 12; 'Ruddock to challenge native title ruling over Perth', Sydney Morning Herald, 6-Oct-06, pg 5; 'Native title

win appeal', Herald Sun, 6-Oct-06, pg 16; 'Ruddock Joins WA appeal', Australian Financial Review, 6-Oct-06, pg 7; 'Double challenge to Noongars wining native title over Perth', West Australian 10-Oct-06, pg 12; 'Ruddock to appeal on Perth native title', Lawyers Weekly, 13-Oct-06, pg 8; Title appealed' Daily News, 6-Oct-06, pg 10; 'Government Appeal', Northern Daily Leader, 6-Oct-06, pg 9; 'Native title claim upheld', Warrnambool Standard, 6-Oct-06, pg 2.

**06-Oct-06 Noongar appellants divided on details** The Howard Government was 'condemned' for its decision to appeal the native title ruling over Perth. Attorney General Phillip Ruddock said that it was imperative to appeal the decision to ensure that there was consistency in the law and 'reiterated previous claims that Aborigines would be able to exclude non-indigenous people from public places such as beaches and parks'. However these claims have been described by Premier Allan Carpenter as 'ridiculous' who is also trying to appeal the decision but is trying to 'distance itself from his federal counterpart'. Attorney General Jim McGinty said 'unlike John Howard and Phillip Ruddock, the Western Australian Government embraces native title and recognises the Noongars as the traditional owners of the land'. Australian, 6-Oct-06, pg 3; 'Little appeal in WA's hope for a good native title outcome', National Indigenous Times, 19-Oct-06, pg 8.

**07-Oct-06 Native title not a worry, say council chiefs** Western Suburbs council chiefs are 'confident the recent native title ruling....will not have much effect on them'. Claremont CEO Arthur Kyron said that lake Claremont and the drive in site were 'safe from native title' but has 'adopted a position to engage the traditional owners in planning provisions'. Mosman Park CEO Paul Anderson said that 'hopefully the ruling was predominantly a symbolic gesture which would be used the right way'. 'Consolation was also the norm in Cambridge according to CEO Jason Buckley.' Subiaco Post, 7-Oct-06, pg 6.

**07-Oct-06 Native title appeal not scare campaign** Prime Minister John Howard has said that the 'Federal Government is not running a scare campaign on native title by appealing the controversial Federal Court decision'. He said: the question is whether there is any residual native title which might affect other area [that are not freehold land]...the law is still left quite obscure by this decision therefore we are going to appeal'. Ballarat Courier, 7-Oct-06, pg 38; Kalgoorlie Miner, 7-Oct-06, pg 12.



11-Oct-06 **Solid support by Nyoongar** A Nyoongar rally in Perth has been attended by 700 people to 'show their support for the Federal Court decision granting native title over Perth and their opposition to the West Australian Government's plan to appeal'. West Australian Deputy Premier Eric Ripper was 'heckled as he addressed the rally, saying he and his government recognised the Nyoongar people as the traditional owners of Perth but an appeal was necessary to clarify the law.' Koori Mail, 11-Oct-06, pg 3; 'Rally won't stop native title appeal' Perth Voice, 7-Oct-06, pg 1.

11-Oct-06 **Partnerships points to a golden future** An agreement has been reached between the Gnaala Karla Booja people and the owners and operators of the Boddington Gold Mine which is 'expected to deliver long-term social and economic benefits including at least 100 jobs in the mine for the Indigenous people'. The agreement 'details financial benefits and a community benefit management plan that includes training, education, employment, business development, community development and a contribution towards the establishment of a cultural centre'. South West Aboriginal Land and Sea Council chief executive Glen Kelly said that the agreement was the first of its kind and 'ensures direct employment of the life of the mine as well as the development of Indigenous-owned business and enterprise'. The agreement also 'contains a special social package targeting school retention through scholarships training with assured employment outcomes and other cultural support'. Koori Mail, 11-Oct-06, pg 27.

12-Oct-06 **Cultural site management** The Saltwater Country Project has successfully completed its first phase and has been extended by the Rangelands NRM Co-ordinating group. The project's steering committee includes '2 elders from four Aboriginal groups stretching from the Buccaneer Archipelago to Cambridge Gulf with coordination support from the Kimberly Land Council and Department of Indigenous Affairs'. The Project has 'provided an opportunity for North Kimberly Aboriginals to articulate their values for the natural and cultural resources of the coastal and marine environment, allowing for better NRM planning in the region.' So far the project has developed a 'comprehensive list of indigenous places...including dreaming places, ancestral lands, burial sites, law grounds and camping, water and art places'. Kimberly Echo, 12-Oct-06, pg 17.

12-Oct-06 **Nyoongar not united claims Federal Appeal** The federal government appeal 'aimed at overturning the recent judgment recognising native

title over Perth, argues that Nyoongar people did not all share the same rights to the land. Instead particular areas were owned by small groups which inherited their parcels of land'. The appeal also argues that the 'rules relating to marriage, funerals, hunting and gathering are not applied in the same way today'. The hypocrisy of the appeal has been largely criticised. 'Contrary to its public statements, the State was challenging findings of fact about the Nyoongar society'. West Australian, 12-Oct-06, pg 5.

12-Oct-06 **Mundine hits Labor native title appeal** ALP president Warren Mundine has said that the West Australian Government's decision to appeal is 'treating the Noongar people as "less than human"'. He said that "it is bizarre that courts are even allowed to decide who an Aboriginal is, what is an Aboriginal and what is their culture'. The 'existence of a defined community and the maintenance over time of customs and beliefs is fundamental to native title recognition'. South West Aboriginal Land and Sea Council chief executive Glen Kelly said that the appeal was 'not about seeking clarity in the law' and that it 'directly challenges the finding that the Noongars have a society with laws and customs and have a native title right'. Australian, 12-Oct-06, pg 6.

13 October 2006 **Aboriginal heritage not on the Howard radar** Member for Lingiari and Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs Warren Snowdon has said that the 'Federal Government was walking away from its 2003 commitment to bring forward laws to protect Indigenous Heritage.' He said that the 'government has taken no action to protect significant items and places of Aboriginal heritage and refuses to recognise that they are important to all of us'.

14-Oct-06 **State in test case over airport land** The State Government has 'launched legal action against Westralia Airports Corporation for allegedly damaging a registered Aboriginal site'. It is an offence 'under the WA *Aboriginal Heritage Act 1972* to excavate, damage or alter an Aboriginal heritage site without the consent of the (WA) Minister for Indigenous Affairs'. The action is a 'test case to show whether State heritage law could be applied to airport land'. The matter will be heard in the Perth Magistrate's Court on Wednesday December 13. Barrier Daily Truth, 14-Oct-06, pg 7; 'Xstrata gets gulf go-ahead after protracted appraisal', Weekend Australian, 14-Oct-06, pg 35; 'Airport accused', Canning Time, 10-Oct-06, pg 8; 'Court date for site damage', Southern Gazette, 10-Oct-06, pg 3; 'Airport faces court over breach claim', Echo, 7-Oct-06, pg 1.



14-Oct-06 **Devil's in the detail of Carpenter's title fight** There has been a loss of faith in the Carpenter Government which has been seen as 'strong supporters of native title'. The appeal 'denies Noongars existed as a single society with laws and traditions passed down through time'. South West Land and Sea Council Chief Executive Glen Kelly said that the appeal 'seeks to extinguish the cultural identity of the Noongar people'. Noongar leaders have said 'the appeals were an attack on the credibility of the Nyoongar people as the traditional owners of the South-West and Perth Metropolitan area, founded in years of prejudice and motivated by vested interests' Weekend Australian, 14-Oct-06, pg 31; 'Native title appeals racist, says Nyoongar', West Australian, 13-Oct-06, pg 17; 'Title appeal 'attacks Noongar existence'', Australian, 12-Oct-06, g 6; 'State to question Noongar 'society'', Australian, 11-Oct-06, pg 3; 'Disunity undoes claim, says state' West Australian 11-Oct-06, pg 5.

16-Oct-06 **Noongar appeal at odds with reconciliation** The 'State and Federal Government's argument that there is no option but to appeal the Noongar decision, because it is inconsistent with the earlier Yorta Yorta decision in Victoria is not a valid argument'. In reaching his decision, Justice Wilcox had followed the legal principles laid down in Yorta Yorta and 'even the WA premier freely acknowledges that the Perth district is traditional Noongar land, and if native title has survived it could only be a small part of that area. So what's the problem?'. It has been suggested that the 'blindness of these ideologues is again evident in their determination to appeal the Noongar decision, which will cost taxpayers a fortune and unnecessarily provoke community ill feeling. The obstinacy of these ideologues is a major reason why the Government now finds itself at odds with the increasing acceptance of native title by its own party, churches and other key players such as courts, miners and pastoralists'. Goldfields Express, 13-Oct-06, pg 17; Kalgoorlie Miner, 16-Oct-06, pg 15.

18-Oct-06 **Australia could learn from Canada** National Chief of Canada's Chief Assembly of First Nations Phil Fontaine is in 'Australia to meet with politicians and reconciliation lobbyist in a bid to pass on the lessons of Canadian reconciliation'. In 'May 10 this year Canadian Parliament signed off on an open ended compensation plan for Indigenous people abused in Indian residential schools'. He said that there 'was no reason for Australians to be concerned by the recent Noongar native title claim' and said: 'people should never fear the presence of Aboriginal people in urban areas'. Kalgoorlie Miner, 18-Oct-06, pg 17.

19-Oct-06 **Management plan for Tuarts** Environment Minister Mark McGowan has announced a new development plan for the Tuart Forest National Park. The advisory committee will include a 'member from the South West Aboriginal Land and Sea Council...representing native title claimants'. South Western Times, 19-Oct-06, pg 9.

24-Oct-06 **Native title 'scrooges'** Carmen Lawrence has said: 'I don't understand why the State Government decided to appeal...I understand why the Federal Government did - they've been hostile from the start'. She also said 'the fact that [the Carpenter government] said they'll negotiate, I think, is recognition the appeal won't succeed...its not good enough ...for state ministers to say they recognise Noongar rights without making good on that'. Fremantle Herald, 24-Oct-06, pg 1.

26-Oct-06 **Perth title claim appeals for rehearing** The 'appeals against last month's landmark judgment upholding native title over Perth have been scheduled to be heard early next year'. Federal Court Judge Robert French 'ruled the separate appeals lodged ...should be heard together at the full court sittings of the Federal Court in Perth in March'. West Australian, 26-Oct-06, pg 6.

26-Oct-06 **Weld Range exploration agreement** The Weld Range Wajarri Yamatji Exploration and Heritage Agreement was 'finalised at a meeting in in Yalgoo last week, after several months of discussion between the landowners and Murchison Metals'. The site is an 'old area where there are a significant number of Aboriginal sites including the Wilgemija ochre mine'. A similar agreement has been signed with the Midwest Corp. in April 2006. Mid-West Times, 26-Oct-06, pg 5.

26-Oct-06 **In balance: boom or environmental bust** The resources boom means that 'both the State and Federal governments are also performing an increasingly tricky balancing act by attempting to foster more industrial development and exports while protecting WA's fragile environment and its unique Aboriginal heritage'. More recently this has affected Woodside's \$5 billion Pluto project near the Burrup Peninsula which is also 'muddied somewhat by the fact that LNG is considered to be cleaner'. Chervon has also had 'difficulty maintaining its quarantine program' and has 'also raised concerns about the planned dredging program'. Heritage activists have likened 'Woodside's plan to relocate or destroy some of the art to building a petrochemical plant next to Stonehenge or putting an oil well in the Great barrier Reef'. Federal Environment Minister Ian Campbell

has said that 'it could be many months before he decides whether to add the rock art to the federal heritage list and he would seek public comment before deciding on the fact of the hundreds of engravings'. He also said : I believe strongly that the economic benefits of development at the Burrup are in synergy with the environmental benefits of exporting natural gas to the northern hemisphere'. The WA Labor government has 'vigorously opposed the push to place the Burrup on their heritage list...claiming it would be an economic catastrophe not to allow further development there'. Australian Financial Review, 26-Oct-06, pg 20; see also 'Burrup treasure is history in the taking' Australian 31-Oct-06, pg 10.

**26-Oct-06 State blamed for land bottleneck**  
Housing and Urban Research Institute of WA director Professor Fiona McKenzie said that the 'government failed to heed warning signs six years ago that extra land would be needed to support mineral projects'. She said that 'the neglect had caused enormous pressure for both mining companies desperate to capitalise on a buoyant world market and local communities struggling to provide vital housing an infrastructure'. Planning Minister Alannah MacTiernan said that the 'Government had worked tirelessly on native title disputes in the North West, to fund infrastructure in Geraldton, Albany and Kalgoorlie and oversaw a fourfold rise in the number of town planning students'. West Australian, 26-Oct-06, pg 6.

27 October 2006 **Customary law report will help build a bridge of knowledge between black and white people** Aboriginal and Torres Strait Islander

Social Justice Commissioner Tom Calma has welcomed the release of the Western Australian Law Reform Commission Report on Aboriginal Customary Laws. Speaking at the launch, Commissioner Calma said: "This comprehensive report will help to educate key institutions of our society - the judiciary, the bureaucracy, the parliament and others - about customary law, and how it plays and exerts a powerful and positive influence in communities where it is practiced. The report demonstrates how customary law is relevant to almost every area of legal regulation - be it the civil, family or criminal justice system." Commissioner Calma said a legal system must reflect the people it serves if it is to gain their confidence. The Report on Aboriginal Customary Laws is available at [www.lrc.justice.wa.gov.au](http://www.lrc.justice.wa.gov.au)

**28-Oct-06 Barnett plea for Burrup rock art** Former resources minister Colin Barnett has 'called the State Government to insist that Woodside's \$5 billion Pluto gas project be located on cleared land adjacent to the North West Shelf project on the Burrup Peninsula'. He said that there was 'already a huge cleared site on flat land that should be given preference over uncleared land littered with ancient rock art that has been earmarked for the Pluto project'. He said that the 'Government allocated the land to Woodside and should be playing a greater role in determining the location of Pluto.' West Australian, 28-Oct-06, pg 54.

[Back to contents](#)

## APPLICATIONS LODGED WITH THE NNTT

| DATE FILED | APPLICATION NAME  | APPLICATION TYPE | STATUS | STATE/ TERRITORY | TRIBUNAL FILE NO. | FEDERAL COURT FILE NO. |
|------------|---|------------------|--------|------------------|-------------------|------------------------|
| 4/09/2006  | <a href="#">Eraring Energy ABN 31 357 688 069</a>   | NON-CLAIMANT     | ACTIVE | NSW              | NN06/11           | NSD1685/06             |
| 5/09/2006  | <a href="#">South West Boojarah #2</a>  | CLAIMANT         | ACTIVE | WA               | WC06/4            | WAD253/06              |
| 5/09/2006  | <a href="#">Gold Coast Native Title Group</a>   | CLAIMANT         | ACTIVE | QLD              | QC06/10           | QUD346/06              |
| 6/09/2006  | <a href="#">Anthony Bernard Kelly, MLC, Minister for Lands for the State of NSW as the State Minister under the Native Title Act 1993</a> | NON-CLAIMANT     | ACTIVE | NSW              | NN06/12           | NSD1708/06             |

|            |  |              |        |     |         |            |
|------------|--|--------------|--------|-----|---------|------------|
| 6/09/2006  | <a href="#">Archer Point People</a>                      | CLAIMANT     | ACTIVE | QLD | QC06/11 | QUD352/06  |
| 8/09/2006  | <a href="#">Noonukul of Minjerrabah</a>                  | CLAIMANT     | ACTIVE | QLD | QC06/12 | QUD355/06  |
| 19/09/2006 | <a href="#">Worimi (Gary Andrew) Dates</a>               | CLAIMANT     | ACTIVE | NSW | NC06/9  | NSD1817/06 |
| 28/09/2006 | <a href="#">Bidjara People #5</a>                        | CLAIMANT     | ACTIVE | QLD | QC06/13 | QUD370/06  |
| 29/09/2006 | <a href="#">Wiri People Core Country Claim</a>           | CLAIMANT     | ACTIVE | QLD | QC06/14 | QUD372/06  |
| 29/09/2006 | <a href="#">Deniliquin Local Aboriginal Land Council</a> | NON-CLAIMANT | ACTIVE | NSW | NN06/13 | NSD1931/06 |
| 20/10/2006 | <a href="#">Town of Batchelor No. 3</a>                  | CLAIMANT     | ACTIVE | NT  | DC06/4  | NTD18/06   |

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

[Back to contents](#)

## REGISTRATION TEST DECISIONS

| DECISION DATE | APPLICATION DATE | APPLICATION NAME                               | STATE/TERR. | DECISION     | NNTT FILE NO. | FEDERAL COURT FILE NO. |
|---------------|------------------|--|-------------|--------------|---------------|------------------------|
| 4/09/2006     | 22/12/2005       | <a href="#">Kalkadoon People #4</a>            | QLD         | ACCEPTED     | QC05/12-1     | QUD579/05              |
| 8/09/2006     | 9/08/2004        | <a href="#">Wakamin People #2</a>              | QLD         | ACCEPTED     | QC04/9-2      | QUD158/04              |
| 13/09/2006    | 7/07/2006        | <a href="#">Tennant Creek No.2</a>             | NT          | ACCEPTED     | DC06/3-1      | NTD8/06                |
| 18/09/2006    | 26/02/1999       | <a href="#">Central West Goldfields People</a> | WA          | NOT ACCEPTED | WC99/29-2     | WAD65/98               |
| 20/09/2006    | 29/04/2005       | <a href="#">Kurnai</a>                         | VIC         | NOT ACCEPTED | VC05/1-1      | VID398/05              |
| 22/09/2006    | 23/08/2006       | <a href="#">North Eastern Wiradjuri Peop</a>   | NSW         | ACCEPTED     | NC06/8-1      | NSD1618/06             |
| 26/09/2006    | 13/01/2006       | <a href="#">Kalkadoon People #5</a>            | QLD         | NOT ACCEPTED | QC06/2-1      | QUD15/06               |
| 3/10/2006     | 15/07/1994       | <a href="#">Dingaal Tribe</a>                  | QLD         | NOT ACCEPTED | QC94/6-1      | QUD6004/98             |
| 6/10/2006     | 5/09/2006        | <a href="#">South West Bojarah #2</a>          | WA          | ACCEPTED     | WC06/4-1      | WAD253/06              |
| 17/10/2006    | 16/01/1999       | <a href="#">Wongatha</a>                       | WA          | ACCEPTED     | WC99/1-3      | WAD6005/98             |
| 19/10/2006    | 17/03/1997       | <a href="#">Gunai/Kurnai/Boonerwung</a>        | VIC         | NOT ACCEPTED | VC97/2-1      | VID6005/98             |
| 6/11/2006     | 21/04/2006       | <a href="#">Gudjala People #2</a>              | QLD         | NOT ACCEPTED | QC06/8-1      | QUD147/06              |

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

[Back to contents](#)

## APPLICATIONS CURRENTLY IN NOTIFICATION

| NOTIFICATION CLOSING DATE | APPLICATION NAME  | APPLICATION TYPE | DATE FILED | STATE/ TERRITORY   | NNTT FILE NO. | FEDERAL COURT FILE NO. |
|---------------------------|---|------------------|------------|--------------------|---------------|------------------------|
| 15/11/2006                | <a href="#">Wiluna #2</a>   | CLAIMANT         | 28/10/2004 | WESTERN AUSTRALIA  | WC04/7        | WAD241/04              |
| 29/11/2006                | <a href="#">Lorenze, Robert and Ruby Bucton</a>   | NON-CLAIMANT     | 7/07/2006  | NEW SOUTH WALES    | NN06/9        | NSD1314/06             |
| 29/11/2006                | <a href="#">Robert Kingwell</a>   | NON-CLAIMANT     | 28/06/2006 | NEW SOUTH WALES    | NN06/8        | NSD1249/06             |
| 12/12/2006                | <a href="#">Puutu Kunti Kurrama and Pinikura 2</a>  | CLAIMANT         | 1/06/2005  | WESTERN AUSTRALIA  | WC05/4        | WAD126/05              |
| 27/12/2006                | <a href="#">Yuibera People</a>  | COMPENSATION     | 8/07/1998  | QUEENSLAND         | QPA98/1       | QUD6228/98             |
| 27/12/2006                | <a href="#">Yuibera People</a>  | CLAIMANT         | 8/07/1998  | QUEENSLAND         | QC98/37       | QUD6223/98             |
| 27/12/2006                | <a href="#">Barada Barna Kabalbara &amp; Yetimarla People #3</a>  | CLAIMANT         | 21/03/2001 | QUEENSLAND         | QC01/13       | QUD6011/01             |
| 10/01/2007                | <a href="#">Tennant Creek No.2</a>  | CLAIMANT         | 7/07/2006  | NORTHERN TERRITORY | DC06/3        | NTD8/06                |
| 10/01/2007                | <a href="#">Gosford City Council</a>  | NON-CLAIMANT     | 4/08/2006  | NEW SOUTH WALES    | NN06/10       | NSD1482/06             |
| 7/02/2007                 | <a href="#">Anthony Bernard Kelly, MLC, Minister for Lands for the State of NSW as the State Minister under the Native Title Act 1993</a> | NON-CLAIMANT     | 6/09/2006  | NEW SOUTH WALES    | NN06/12       | NSD1708/06             |
| 7/02/2007                 | <a href="#">Bond Springs</a>  | CLAIMANT         | 28/04/2006 | NORTHERN TERRITORY | DC06/2        | NTD4/06                |
| 7/02/2007                 | <a href="#">Eraring Energy ABN 31 357 688 069</a>   | NON-CLAIMANT     | 4/09/2006  | NEW SOUTH WALES    | NN06/11       | NSD1685/06             |
| 21/02/2007                | <a href="#">Deniliquin Local Aboriginal Land Council</a>  | NON-CLAIMANT     | 29/09/2006 | NEW SOUTH WALES    | NN06/13       | NSD1931/06             |

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

[Back to contents](#)

## INDIGENOUS LAND USE AGREEMENTS

| NNTT FILE NO. | NAME  | TYPE           | STATE/TERR. | REG. DATE   | SUBJECT MATTER                                      |
|---------------|---|----------------|-------------|-------------|---|
| QI2006/033    | <a href="#">Enertrade - Jetimarala CQGP Agreement</a> | AREA AGREEMENT | QUEENSLAND  | 31/10/ 2006 | PIPELINE  |
| QI2006/029    | <a href="#">Enertrade - SBK CQGP Agreement</a>        | AREA AGREEMENT | QUEENSLAND  | 31/10/ 2006 | PIPELINE  |
| QI2003/027    | <a href="#">Udnat Indigenous Land Use Agreement</a>   | AREA AGREEMENT | QUEENSLAND  | 26/10/ 2006 | ACCESS  |
| QI2005/028    | <a href="#">Kalpowar ILUA</a>                         | AREA AGREEMENT | QUEENSLAND  | 25/09/2006  | ACCESS<br>CO-MANAGEMENT<br>COMMUNITY LIVING<br>AREA |

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

[Back to contents](#)

## NATIVE TITLE DETERMINATIONS

There were no native title determinations in October 2006. Note an interim determination was made in relation to the Single Noongar native title claim was made on 19 September 2006, see [Bennell v State of Western Australia \[2006\] FCA 1243 \(19 September 2006\)](#).

| SHORT NAME  | CASE NAME   | DATE       | STATE/ TERR. | OUTCOME                     | LEGAL PROCESS           |
|---|---|------------|--------------|-----------------------------|-------------------------|
| <a href="#">Worimi Local Aboriginal Land Council #3</a> | Hillig as Administrator of Worimi Local Aboriginal Land Council v NSW Native Title Services Ltd [2006] FCA 1184 | 01/09/2006 | NSW          | NATIVE TITLE DOES NOT EXIST | UNOPPOSED DETERMINATION |

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

[Back to contents](#)

## ITEMS IN THE AIATSIS CATALOGUE

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

### AUDIOVIDUAL MATERIALS

The AIATSIS Audiovisual Archive has listed a collection of 289 hours of audio tape recordings from the Yamaji Language Centre, identified as YLC\_04 and comprising material recorded from 1997-2005. Also, there is a listing of 6 collections from the Pilbara Aboriginal Language Centre of 153 hours of recordings spanning the period 1987-2001. Check

the listings under WANGKAMAYA\_04 to WANGKAMAYA\_09. Five collections of colour slides of archaeological sites by Prof. Rhys Jones from NW Tasmania, NSW, WA, SA, Qld. And Vic. are shown under JONES.R3.CS to JONES.R7.CS.

### PRINT MATERIALS

#### Anthropology

Davidson, Daniel Sutherland. *The chronological aspects of certain Australian social institutions as inferred from geographical distribution*. Philadelphia : University of Pennsylvania, 1928.



Morphy, Howard. "The original Australians and the evolution of anthropology". In Morphy, H. and Elizabeth Edwards, eds. *Australia in Oxford*. Oxford [Eng.] : Pitt Rivers Museum, University of Oxford, 1988.

### Archaeology

Slack, Michael, R.L.K. Fullagar, et. al. "Late Holocene occupation at Bunnengalla 1, Musselbrook Creek, Northwest Queensland". In *Australian Archaeology* no, 60 (2005), p. 54-58,

Walshe, Keryn. "Indigenous archaeological sites and the Black Swamp Fossil Bed: Rocky River Precinct, Flinders Chase National Park, Kangaroo Island, South Australia". In *Australian Archaeology* no.60 (2005), p. 63-64.

Veitch, Bruce et. al. "A note on radiocarbon dates from the Paraburdoo, Mount Brockman and Yandicoogina areas of the Hamesley Plateau, Pilbara, Western Australia." In *Australian Archaeology* no.60 (2005), p. 58-61.

Davidson, Daniel Sutherland. *The chronological aspects of certain Australian social institutions as inferred from geographical distribution*. Philadelphia : University of Pennsylvania, 1928.

Morphy, Howard. "The original Australians and the evolution of anthropology". In Morphy, H. and Elizabeth Edwards, eds. *Australia in Oxford*. Oxford [Eng.] : Pitt Rivers Museum, University of Oxford, 1988.

### Economics and policy

Altman, Jon C. Inconvenient facts: denigrating Aboriginal outstations as 'cultural museums' ignores the facts. In *Arena Magazine*. No. 82 (April - May 2006), p. 9-10.

Bradfield, Stuart. "The political context in which we find ourselves: linking the 'practical' and the 'symbolic' in Indigenous affairs. In *Journal of Australian Indigenous Issues*, Vol. 9, no. 1, (March 2006), p. 28-42.

### Governance

Austin-Broos, Diane J. et. al., eds. *Culture, economy and governance in Aboriginal Australia : proceedings of a Workshop held at the University of Sydney, 30 November-1December2004*. Sydney ,N.S.W. : University of Sydney Press, 2005.

### History – exploration and accounts

Clark, Ian D.

"Land succession and fission in nineteenth-century Western Victoria: the case of Knenknenwurrung". In *Australian Journal of Anthropology* Vol.17, no.1 (2006), p. [1]-14.

Doukakis, Anna. *The Aboriginal people, parliament and "protection" in New South Wales, 1856-1916*. Annandale, N.S.W. : The Federation Press, 2006.

Estensen, Miriam. *Terra Australis incognita : the Spanish quest for the mysterious Great South Land*. Crows Nest, NSW : Allen & Unwin, 2006.

Gordon, Deborah Christine et. al. *The Catholic church and the status of Aboriginal women [manuscript] : Port Keats, 1935-1958*. 2004.

Hart, Catherine. "Sturt and his journeys". In Morphy, H. and Elizabeth Edwards, eds. *Australia in Oxford*. Oxford [Eng.] : Pitt Rivers Museum, University of Oxford, 1988, p. 20-26.

Hogenhoff, Carsten Berg et. al. *Sweers Islands unveiled : details from Abel Tasman and Matthew Flinders' explorations of Australia*. Oslo : Hogenhoff Forlag, 2006.

Le Griffon, Heather. *Campfires at the cross : an account of the Bunting Dale Aboriginal Mission 1839-1951 at Birregurra, near Colac, Victoria : with a biography of Francis Tuckfield*. North Melbourne, Vic. : Australian Scholarly Publishing, 2006.

Quinn, Raine. National Native Title Tribunal (Australia). *Historical accounts of Aboriginal people in the Buloke Shire, Victoria*. [Perth, W.A. : National Native Title Tribunal], 2006.

Reynolds, Henry. *The other side of the frontier : Aboriginal resistance to the European invasion of Australia*. Sydney : University of New South Wales Press, 2006.

Wharton, W. J. L. (William James Lloyd) Sir and John Currey, eds. *Journal of H.M. Bark Endeavour on the east coast of New Holland April - August 1770*. Malvern, Vic. : Banks Society, 2006.

Woodford Historical Society. *"Milestones" from Durundur to Woodford : 1841-2000*. Woodford, Qld : Woodford Historical Society, 2000.

### Indexes, directories and guides

Bauman, Toni et. al. *Aboriginal Darwin : a guide to exploring important places*. Canberra : Aboriginal Studies Press, 2006.

### Indigenous Rights – Overseas



Cant, Garth, et. al. *Discourses and silences : indigenous peoples, risks and resistance*. Christchurch, N.Z. : Dept. of Geography, University of Canterbury, 2005.

Wells, Michael et.al. *People and parks : linking protected area management with local communities*. Washington, D.C. : World Bank : World Wildlife Fund : U.S.Agency for International Development, c1992.

### Land claims case studies

Tonkinson, Robert. "The Hindmarsh Island affair: a review article". In *Anthropological Forum* Vol.16, no.1 (March 2006), p. [73]-79.

### Land acquisition and land management

Australia. Dept. of Families, Community Services and Indigenous Affairs. *Access to Aboriginal land under the Northern Territory Aboriginal Land Rights Act - time for change? : discussion paper*. [Canberra] : Dept of Families, Community Services and Indigenous Affairs, 2006.

Dames & Moore. Western Australia. Main Roads Dept. *Supplement to draft environmental review and management programme and environmental impact statement: Newman to White Springs section : Perth to Darwin National Highway*. [Perth] : Main Roads Dept..Western Australia, 1984.

New South Wales. Dept. of Environment and Conservation. *Aboriginal people, the environment and conservation : principles to incorporate the rights and interests of Aboriginal people into the work of the Department of Environment and Conservation NSW*. Sydney South, N.S.W. : Dept. of Environment and Conservation, 2006.

Queensland. Environmental Protection Agency. Indigenous Involvement Unit. Queensland. Dept. of Natural Resources, Mines and Water. *Logan Basin draft water resource plan : indigenous cultural values report*. [prepared by: Environmental Protection Agency, Indigenous Involvement Unit; South East Region and Water Planning Brisbane, Department of Natural Resources, Mines and Water]. [Brisbane, Qld.] : Dept. of Natural Resources, Mines and Water, 2006.

### Legal issues and land rights

Behrendt, Larissa. "Cultural conflict in colonial legal systems: an Australian perspective". In Bell, Catherine and D. Kahane, eds. *Intercultural dispute*

*resolution in Aboriginal contexts*. Vancouver : UBC Press, 2004, pp 116-127.

Calma, Tom. "Questioning native title decision doesn't conform to Australian values of 'fair play' or 'respect for the rule of law.'" [http://www.hreoc.gov.au/media\\_releases/2006/76\\_06.htm](http://www.hreoc.gov.au/media_releases/2006/76_06.htm)

Dodson, Michael, and Diana McCarthy, et.al. *Communal land and the amendments to the Aboriginal Land Rights Northern Territory Act : an AIATSIS discussion paper*. Canberra : Australian Institute of Aboriginal and Torres Strait Islander Studies, 2006.

Jones, Craig. "Apples and oranges: the intersection of Aboriginal law and native title mediation". In *Journal of Australian Indigenous Issues*, Vol. 9, no. 1, (March 2006), p. 15-27

*Law matters : a community legal education CD series produced by the Aboriginal Legal Service of WA*. Perth : ALS, 2006.

Macdonald, Gaynor M. "Adversarial law and native title: how legal models reconstitute persons and socialities". In *Dissent*, No. 21 (Spring 2006), p. 39-48.

Payne, Jason. Speciality courts: current issues and future prospects. *Trends and Issues in Crime and Criminal Justice*. Paper 31. June 2006. <http://www.aic.gov.au/publications/tandi2/tandi317.html>

### Linguistics and word lists

Davidson, Daniel Sutherland. Nash, D.G.N. *Improved keyboarded version of Davidson, Daniel Sutherland. Comparative vocabularies of nineteen Western Australian languages : draft analysis*. 2006.

### Mapping

McCalman, Janet. "Mapping Aboriginal Australia". In *Meanjin* Vol. 65 no. 1 (2006), p. 213-218.

### Procedures and protocols – archives and libraries

Nakata, Martin. *Evaluation of the Northern Territory Library's Libraries and Knowledge Centres Model*. Northern Territory Library, 2006.

### Self Government



Smith, B. R. 'Wegot our own management': local knowledge, government and development in Cape York peninsula. In *Australian Aboriginal Studies* no.2 (2005), p.4-15.

## Stolen generations

# WHAT'S NEW WITH THE NTRU

## Staffing

The recruitment process has been finalised with three positions within the NTRU awarded to Ms Toni Bauman (VRF), Ms Jessica Weir (VRF) and Ms Tran Tran (Research Assistant).

Lara Wiseman has also returned from maternity leave and is currently working part time working on PBC resources.

## Research projects

The **NTRU's PBC Project** is underway. The project will examine the structure and activities of PBCs, the critical transition from pre- to post-determination

## Want faster access to information?

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## THE NATIVE TITLE RESEARCH UNIT

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

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

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Read, Peter. *The Stolen Generations : The Removal of Aboriginal Children in New South Wales 1883-1969*. New South Wales Government - Department of Aboriginal Affairs, 2006.

[Back to contents](#)

claim management and governance and the relationship between claim groups, PBCs and NTRBs. This project will include case studies of PBCs that have been operating for over twelve months as well as the development of resources and toolkits for PBCs seeking to access funding and development opportunities and an analysis of the accessibility of such programs and the feasibility of reliance on external/program funding.

NTRU is currently seeking expressions of interest from claimant groups, NTRBs and Government agencies who are involved in the formation and management of PBCs who would like to be involved in the project.

Please contact the NTRU at [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)