

# Native Title Newsletter

September/October, No. 5/2010

## WHAT'S NEW

### ANNOUNCEMENT:

#### 2011 National Native Title Conference

1-3 June, 2011  
Brisbane Exhibition Convention Centre

In 2011, the National Native Title Conference will be co-convened by Queensland South Native Title Services (QSNTS).

The National Native Title Conference is the largest Indigenous policy conference in Australia and is a flagship event for the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).

To be placed on the email list for conference updates, please email [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au) with your details.

For more information visit the 2011 National Native Title Conference website:  
<http://www.aiatsis.gov.au/ntru/nativetitleconference/conf2011/conf2011.html>

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**AIATSIS**  
Australian Institute of Aboriginal  
and Torres Strait Islander Studies

Native Title Research Unit, AIATSIS

## Recent native title achievements in Victoria

By Romany Tauber,  
Native Title Services Victoria



### Gunaikurnai people win respect and recognition – first settlement to use new legislation

On 25 October 2010, over one hundred people gathered in Gippsland for the court hearing at Knobs Reserve, near Sale. For over 13 years the Gunaikurnai people have been in and out of court, struggling for native title. The settlement agreement recognises the Gunaikurnai people's traditional ownership across much of Gippsland, and their unique rights to some 22,000 square kilometres of lands included in the settlement area. Of this land, 13,870 square kilometres is Victorian Crown land, or almost 20 per cent of Crown land in the State. The Federal Court consent determination covers the same area.



New legislation for Victoria: Victorian Traditional Owner Land Justice Group and Victorian Government on the steps of Parliament.

*Photo courtesy of Victorian Government*

The settlement agreement will allow for funding for the Gunaikurnai people to manage their affairs and obligations under the settlement, and will help realise economic development and employment opportunities for the Gunaikurnai people. The settlement agreement also allows for significant cultural strengthening, including new protocols for welcomes to country, cultural performances, practices and awareness, and cross cultural training.

Significantly, it will see the return of land to the Gunaikurnai people through grant of Aboriginal Title over ten national parks in Gippsland, which have cultural significance. Aboriginal Title is a new form of Victorian land tenure which has been created under the *Traditional Owner Settlement Act 2010* (Vic) (the Act), and creates a partnership approach in the joint management of public lands in Gippsland in this settlement agreement.

### New Victorian legislation

A few weeks before the Gunaikurnai settlement, the Act became Victorian law. This new legislation recognises the special relationship Aboriginal people in Victoria have with their land and in doing so recognises the rights they hold in concrete and meaningful ways.

This legislation is specifically designed to provide statutory authority for 'Framework agreements' of the kind outlined in the December 2008 'Report of the Steering Committee for the Development of a Victorian Native Title Settlement Framework' (Framework Report).<sup>1</sup>

The Victorian Government has committed to the full implementation of the Framework Report, subject only to adequate Commonwealth funding.<sup>2</sup> There are many aspects of the Framework Report that are not reflected in the Act where legislation is not required for them, or where further legislation is expected in the future.

<sup>1</sup> See

[http://www.ntsiv.com.au/document/report\\_sc\\_vic\\_native\\_title\\_settlement\\_framework\\_13May09.pdf](http://www.ntsiv.com.au/document/report_sc_vic_native_title_settlement_framework_13May09.pdf)

<sup>2</sup> The Hon Rob Hulls MP, Attorney-General, speech at 2009 AIATSIS Native Title conference, 3 June 2009.

### Components of the *Traditional Owner Settlement Act 2010 (Vic)*

Essentially, the Act authorises the responsible Minister (the Victorian Attorney-General) to enter into a 'Recognition and Settlement Agreement' (RSA) with a traditional owner corporation. The traditional owner corporation is a corporation appointed by a traditional owner group.

A 'Recognition and Settlement Agreement' is composed of a number of sub-agreements including:

- a land transfer agreement;
- a traditional owner land management agreement;
- a land use activity agreement;
- a natural resource agreement;
- a funding agreement; and
- an Indigenous land use agreement (ILUA).

The land transfer component of the Act is particularly significant for Victorian traditional owners who have been seeking more appropriate measures to resolve land justice for many years.<sup>3</sup>

Under the Act, a traditional owner corporation can receive a grant of freehold, with or without conditions.

The Act also authorises the grant of freehold land in the form of 'Aboriginal title' with the condition of joint management.

Aboriginal title is a new form of freehold tenure for Victoria. It will be granted only for areas that are jointly managed and will be subject to restrictions that ensure it will be used for joint management,

and not dealt with by a traditional owner corporation or the State in a way inconsistent with joint management. The grant of Aboriginal title will be the source of the State's right to use and manage land that is jointly managed. Examples of the land that could be transferred under this provision are national parks and state forests that are identified and agreed by the State and a traditional owner group.

#### Other components:

An alternative future act regime is created through the land use activity agreement provisions. These provisions create the machinery for the classification of activities in the way envisaged by the Framework Report – routine, advisory, negotiation (category A or B) and agreement. In this way, the current thirteen categories in the future act provisions of the *Native Title Act 1993 (Cth)* (NTA) are reduced to just four.<sup>4</sup>



Gunaikurnai Elders with Commonwealth and State Ministers, and NTSV.

*Photo courtesy of NTSV & Victorian Government*

Natural resource agreements will provide for the exercise of non-commercial, non-exclusive statutory rights for members of a traditional owner group with a RSA. The Act will

permit the Governor in Council to make a number of natural resource

'authorisations' (whether for taking flora and fauna, water, camping etc). The authorisations will give effect to the natural resources agreements. The Act will not create a right to use natural resources independently of an authorisation.

This two stage process is more complex than that recommended by the Framework Report, which stated that every traditional owner group with an

<sup>3</sup> See <http://www.landjustice.com.au/>

<sup>4</sup> For further information on this component of the Act, see NTSV's information paper available at <http://www.ntsiv.com.au/document/TOSB-information-paper-3Sept10-final.pdf>



individual Framework agreement should have access to non-commercial, communal rights to use Crown land resources. This is similar to the rights held by native title holders with a non-exclusive determination of native title. Further policy development on this issue will occur in 2011, and we expect that the State will simplify the provisions.



Deputy Premier and Victorian Attorney General Rob Hulls and Aunty Gwen Atkinson sign the Gunaikurnai settlement agreement.

*Photo courtesy of Todd Condie*

The Gunaikurnai consent determination means that Gunaikurnai people do not need to rely on an authorisation under the Act to use natural resources. Rather, they can rely on their non-exclusive native title rights.

#### **Sustainable funding and certainty for the future**

Sustainable funding is a feature of the Framework Report which is integral to ensuring certainty and finality for both government and future generations of traditional owners. An ILUA will be a component of, or accompany, each RSA and will be the vehicle for addressing the native title certainty requirements of the State and also giving security to traditional owners.

The Framework Report recommends that funding in perpetuity be available to a traditional owner corporation. While the Act provides that the responsible Minister will be authorised to enter a funding agreement as part of a RSA, the size of the funding package will be a matter for ongoing negotiations between the government and each traditional owner group.

Essentially, the Act is an enabling mechanism that could produce a variety of results. For the Gunaikurnai people, their negotiations resulted in the transfer for joint management of ten national parks and a \$12 million settlement package. This is certainly the best result achieved in Victoria so far. Each settlement agreement in Victoria has improved on those that have gone before. Quality outcomes are by no means guaranteed, but in Victoria the future looks more promising than ever before.



Alfie Hudson takes part in smoking ceremony to commence Gunaikurnai settlement proceedings.

*Photo courtesy of Todd Condie*

## Critical elements for native title agreement outcomes: cultural archives and community facilitation

By Toni Bauman and Grace Koch, AIATSIS

Registered Native Title Bodies Corporate (RNTBCs) are increasingly seeking cultural heritage archives to store the research gathered for their claims and to enable access for native title holders and their relatives. These materials are working archives. Not only have they have been used to provide proof for native title connection including laws and customs and genealogical information. They are essential for sustaining native title into the future and for informing practical outcomes such as the kinds of interests individuals or groups may have in particular areas and the future distribution of benefits.

Whilst RNTBCs often seek funding assistance from AIATSIS in developing these archives, AIATSIS does not have such funding available. Critically, very few native title agreements, if any, include funding for these archives - even those involving significant amounts of money.

The situation is exacerbated by the fact that there is still not an authoritative set of procedures for the effective transfer of materials between Native Title Representative Bodies and Service Providers (NTRBs/NTSPs) who currently hold much of these materials for RNTBCs. A number of NTRBs/NTSPs have ineffective storage mechanisms for the preservation of research reports, connection material, and other print and audiovisual documents generated by the native title processes. Claims research has been the funding priority. Whilst some NTRBs and NTSPs have plans for secure care and storage for these valuable materials, others have neither the time, staff nor funding to ensure their safety.

One of the most valuable (and priceless) outcomes from native title claims, particularly for claimants, but also for the nation, is the knowledge embodied in the immense amount of documentation produced

in preparing native title claims. Much of the material is irreplaceable because many of the elders who gave the information have since passed away.

In 2008, the Native Title Research Unit at AIATSIS produced a document, *'The Future of Connection Material held by Native Title Representative Bodies'* that gives a series of detailed recommendations for arrangement, preservation and dissemination of material based upon surveys, case studies and other research.

Also in 2008, a statement was drafted at the March Senior Professional Officers Forum recognising the importance of collections held by NTRBs and NTSPs. It suggested that funding needs to be provided to assess collection management practices and that access protocols should be established for each organisation. The Native Title Research and Access Officer from AIATSIS, Grace Koch, has assessed two organisations, Queensland South Native Title Services and Yamatji Marlpa Aboriginal Corporation, but there has been no funding for further action. Action now needs to be taken on these recommendations.

While there has been a focus on economic interests of claimants in native title agreements in the current paradigm of economic development, there is also a need to prioritise claimants' cultural interests. These cultural interests lie not only at the heart of successful claims but will also determine the sustainability of agreement outcomes in the future. Just as provisions must be made in agreements for the elders upon whose backs claims have been successful, so too must agreements ensure that cultural information is protected and accessible for RNTBCs by including components for cultural archives in agreement outcomes. Agreements might also include funding for community facilitators with specialised communication skills to work on the negotiation of access provisions amongst the relevant parties as well as performing critical community education and communication liaison roles.

Other suggestions to the NTRU as to how this situation might be addressed will be most welcome.

## Funding for Prescribed Bodies Corporate

Prepared by Aurora Intern, Leah Ginnivan for AIATSI

Prescribed Bodies Corporate (PBCs) face substantial challenges to meet the funding requirements needed to support the activities of native title holders (see map of PBCs). In 2005-6 the Attorney-General's Department chaired a steering committee on Prescribed Bodies Corporate. The committee included the Office of Indigenous Policy Coordination and the Office of the Registrar of Aboriginal Corporations.<sup>1</sup> The resulting report, *Structures and Processes of Prescribed Bodies Corporate* comments that most PBCs are not complying with their legal duties. The report does not comment on the specific reasons that PBCs are failing, but notes the current system prevents native title holders from utilising 'their native title rights to derive economic and other significant benefits', and from administering their land management obligations.<sup>2</sup> The report implies that funding is needed but refrains from designating responsibility for this to a particular government.

While each PBC will have different funding needs, they share a common need for administrative support and funding, particularly in remote areas. These may include:

- Communications facilities, including phone lines, postal services, computers and internet connection, so PBCs can communicate, including with parties proposing future acts
- Administrative facilities such as stationary, filing materials, and printers to produce and copy documents

<sup>1</sup> Attorney-General's Department, *Structures and Processes of Prescribed Bodies Corporate*, 2006 available from:

[http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(689F2CCBD6DC263C912FB74B15BE8285\)~Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf/\\$file/Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(689F2CCBD6DC263C912FB74B15BE8285)~Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf/$file/Report+to+Government++Native+Title+Prescribed+Bodies+Corporate.pdf) 7. (Accessed 29 June 2010)

<sup>2</sup> *ibid*, p. 6.

- Storage space and facilities, to fulfil statutory obligations around record-keeping.

The Attorney-General's steering committee report also notes other potential ongoing costs for:

- Organising and running meetings of PBCs and native title holders. Consultation with native title holders is required under law but is challenged by distances especially in remote areas or when most native title holders live off-country
- Professional advice and services including legal, anthropological and financial consulting
- Training for PBC members in governance and financial management
- Employing office staff under certain circumstances.<sup>3</sup>

The Native Title Program (administered through the Department for Families, Communities, Housing and Indigenous Affairs (FaCHSIA)) adds to these lists:

- The lease of office space
- The costs of insurance, bank fees and charges
- Assistance in preparing annual reports.
- Assistance in preparing funding and grant applications
- Utility costs such as power, water and sewerage.<sup>4</sup>

In addition to these statutory obligations, PBCs may seek funding for other reasons. Each PBC has a unique constitution and aims. Because of this, individual PBCs may have aspirations including land management, service provision, cultural heritage preservation, and more. PBC constitutions can be searched and viewed at the [Office of the Registrar of Indigenous Corporations website](#). PBCs which hold exclusive title may have land

<sup>3</sup> *ibid*, p. 19.

<sup>4</sup> Department for Families, Communities, Housing and Indigenous Affairs, *Native Title Program*, 2009, available from: [http://www.fahcsia.gov.au/sa/indigenous/progserv/land/Pages/native\\_title\\_program.aspx](http://www.fahcsia.gov.au/sa/indigenous/progserv/land/Pages/native_title_program.aspx), p. 9. (Accessed 29 June 2010)

management responsibilities that entail costs for materials and wages.<sup>5</sup> Other PBCs have stated aims that extend into cultural, educational, social and ceremonial realms. For instance, the constitution of the Tjurabalan PBC states one of its objectives as 'to preserve and maintain and enhance the traditional, economic, social and cultural way of life of the Tjurabalan people including their languages, cultural heritage and laws and customs'.<sup>6</sup>

### Funding PBCs

Until recently no federal funding had been directly available to PBCs. A policy change in November 2007 currently allows PBCs with 'exceptional circumstances' to apply for non-recurrent funding, generally less than \$100,000 a year. A handful of PBCs have now applied for this funding. Native Title Representative Bodies (NTRBs) are also able to apply for funding through the Native Title Program on behalf of PBCs.

To provide some support to PBCs in this context, the **Australian Institute of Aboriginal and Torres Strait Islander Studies** (AIATSIS), and **FaHCSIA** have created funding toolkits for PBCs.<sup>7</sup> AIATSIS has both national and state toolkits, but much of the funding outlined will be relevant to only a handful of PBCs. FaHCSIA's toolkit is focussed mainly on federal government programs which may assist PBCs.

The following are examples of possible funding options:

The Department of the Environment, Water, Heritage and the Arts offers some of the most potentially workable funding solutions for PBCs. The **Indigenous Protected Area program**<sup>8</sup> supports

the management of culturally significant, Indigenous owned land for a range of purposes including promoting biodiversity and cultural resource conservation.

There is likely to be some potential support for the vital communications aspect of PBCs in the Indigenous Communications Program, administered by the federal Department of Broadband, Communications and the Digital Economy (DBCDE). This program will deliver phones to 300 remote Indigenous communities and maintain and monitor them. It also installs computers and internet and delivers computer training to around 120 communities. There is also money for satellite phones. However, this funding is restricted to communities of less than 50 people, which must be more than 2km from the nearest payphone. Under this program, PBCs would also need to share the phone line with the rest of the community, which may create problems. PBCs may not necessarily meet the criteria of 'community', because they only represent native title holders.

A possible source of funding from the private sector might be the Foundation for Rural and Regional Renewal. Many PBCs would appear to match the major eligibility criteria from the Small Grants (up to \$5000) as they offer a clear public benefit to rural communities and they contribute to social, economic, environmental or cultural renewal. Communities of less than 10,000 people are prioritised which may give remote PBCs an advantage. Indigenous Community Volunteers present opportunities for PBCs to develop grant writing skills and financial management capacity.

The AIATSIS and FaHCSIA toolkits are an attempt to pull together disparate funding sources into an accessible document. For PBCs that are organised, skilled at managing grant writing and have the capacity to administer grants, there is the potential to access a range of funding sources. Without this capacity, however, it seems difficult for new, under-resourced PBCs to sustain themselves and the activities they wish to undertake. Finding, applying for, obtaining, reporting on and acquitting

<sup>5</sup> J Weir, 'Native title and Governance: the emerging corporate sector prescribed for native title holders', *Land, Rights, Laws: Issues of Native Title*, vol. 3, no.9, 2007, pp.1-16, 6.

<sup>6</sup> Tjurabalan RNTBC Constitution, available at <http://www.oric.gov.au/document.aspx?concernID=103937> (Accessed 29 June 2010)

<sup>7</sup> Available from <http://www.aiatsis.gov.au/ntru/RNTBCtoolkits.html> (Accessed 29 June 2010)

<sup>8</sup> More information available at <http://www.environment.gov.au/indigenous/ipa/funding.html> (Accessed 29 June 2010)

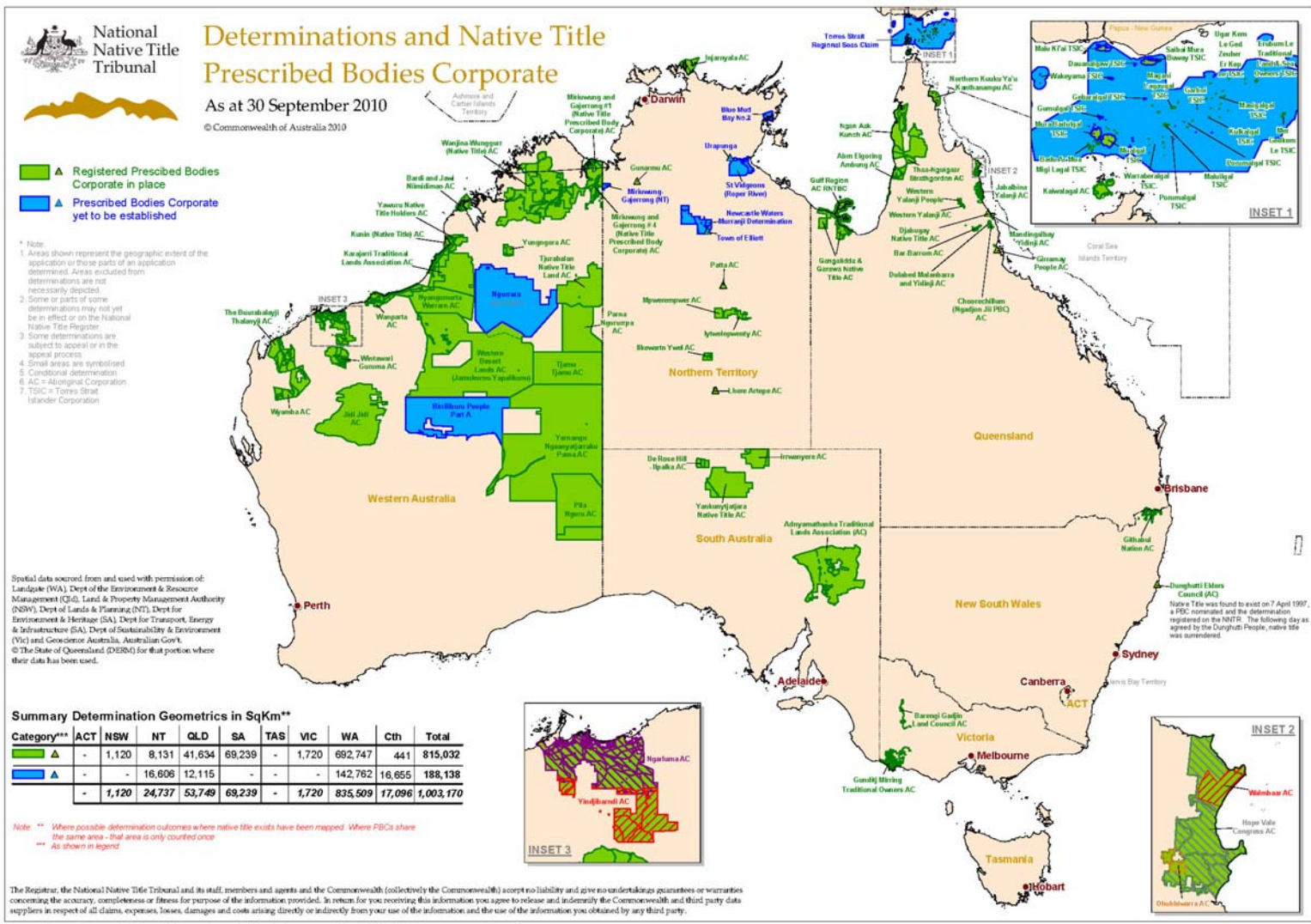


grants is a significant task that often requires fairly specialised knowledge.

A key issue arising from the toolkit approach is that they need to be updated every year or even more frequently to stay relevant. Many grant programs do not run annually, and restructures to government departments can be confusing and time consuming to those without full access to the native title process. This highlights a central limitation with these funding sources. The funding is usually temporary, limited, and is tied to specific programs.

Further, rather than PBCs deciding on and pursuing their own agenda, they must comply with specific program guidelines in order to receive funding. Fundamentally, most of the grants in the toolkits would not help PBCs in their administrative work.

It remains to be seen how the Native Title Program's direct funding of PBCs will influence their performances given that PBCs still need to apply for and administer the funding. As PBCs are likely to become increasingly important as more claims are settled, appropriate funding for PBCs will also become more urgent. There is real scope for policy reform and development in the PBC area.



Determinations and Native Title Prescribed Body Corporate Map. This map shows the areas covered by PBCs and also where PBCs are still to be created over determined areas. To see this map in greater detail visit the NNTT website: <http://www.nntt.gov.au/Publications-And-Research/Maps-and-Spatial-Reports/Pages/National-Maps.aspx>

Map courtesy of National Native Title Tribunal



## Symposium: Pacific-Asia partnerships in resource development in PNG

By Toni Bauman, Research Fellow, AIATSIS

Between 18-20 October 2010, around 120 people attended a symposium titled 'Asia-Pacific Partnerships in Resource Development in PNG' at Divine Word University in Madang, Papua New Guinea. The symposium was coordinated by the Australian National University's Research School of Pacific and Asian Studies, the University of Technology Sydney's China Research Centre, and Divine Word University. Sponsored by the Australian Agency for International Development (AusAID), the concept for the symposium arose out of discussions a year before at Divine Word University concerning the quality of analysis around Pacific-Asian partnerships. Much of the literature tends to see Asia as a monolithic cultural bloc, and particularly Chinese companies, as single actors with shared, structured and questionable motives and significant political influence. In contrast, Asian companies might be better considered as complex and diverse actors, rather than controlled by States with grand plans for expansion.

The Madang symposium thus provided a forum for a range of PNG stakeholders engaged in a variety of development projects such as mining, gas, forestry and logging, palm oil plantations, fisheries and canneries (particularly tuna), to benefit from each others' experience, and to explore Asia-Pacific development relationships in a more nuanced way. Papers related to a number of Pacific and Asian countries, including Japan, Korea and Taiwan,

though often had an emphasis on China. They were presented by PNG nationals including students and lecturers from the Divine Word University, and a range of international relations specialists, anthropologists, historians and sociologists (including some Indigenous delegates) from a number of places including Hawaii, New Zealand, the Philippines, and the Federated States of Micronesia. China experts included Zhao Hongtu from the China Institute of Contemporary International Relations and Merriden Varrall who has been carrying out research in a Chinese semi-non-government poverty reduction organisation. A representative from the Ramu Nickel project spoke on the last day and there were also representatives from Marengo Mining.

International experts raised questions as to whether the origin of capital matters with comparative material from outside the Pacific including Africa, discussed issues such as the 'new' Chinese in PNG emanating mostly from Fujing and the implications of China's role as it expands its investment throughout the world. Papers also focussed on specific PNG projects such as China's Ramu Nickel mine, the sharing of revenue from the Pacific Marine Industrial Zone and the Bougainville conflict as a case study in the marginalisation of local resource owners by the resource industry, PNG government, academics and

financial institutions. Of particular interest were papers presented by the media section of Divine Word University which outlined their research findings in relation to the role of the media, representations of local people in development agreements and whether local people have a voice. I was invited to speak about the Australian native title agreement-making context and disputes. The



Toni Bauman delivering her presentation on the native title regime, agreement making and disputes at the Asia-Pacific Partnerships in Resource Development in PNG symposium

*Photo courtesy of Simon Reynolds*

paper noted significant exploration activity by China in Australia and used the Wik/Aurukun Chalco proposal as an example of where traditional owners seemed happy with the process, but also suffered significant social impact when the project failed to go ahead. Two afternoon discussions I facilitated considered questions arising from the papers such as: 'What does development mean to you?'; 'How can meaningful engagement occur with landowners, new and old Chinese, students, academics, and developers?'; 'Are Papua New Guineans racist?' and 'Why do people agree and sign agreements when they don't understand what they're signing?'

I was struck by the similarities in PNG local grievances and those of native title holders in Australia. For me, this reinforced the findings of the AIATSIS NTRU Indigenous Facilitation and Mediation (IFaMP) Project: the importance of skilled engagement (as opposed to 'consultation' as something which is 'done' to people, and, a term which is bandied around in both countries), of specialised communication skills, relationship building, trust and reality checking.

As is the case in Australia, a common complaint was: 'No one spoke to us, the landowners' and the importance of communication was repeatedly emphasised: 'Come and sit down and talk to us, the little people, laugh with us, win our confidence'; 'In PNG we are face to face people who want to share and be heard'; 'Sit down and talk it over...that's communication' and 'Sit down and talk is the only way to find out what people are thinking'. The role of women and their absence from negotiation processes was also raised on many occasions. The point was made that space must be created for people to decide what progress means to them, rather than discourses of deficit including dependency culture and hand out mentalities being the conceptual template through which development projects are conceived.

As is also the case in Australia, disputes amongst land owners are rife, often in PNG referred to in the dichotomous Tok Pisin terms: 'big men' and 'little people'. PNG terms which may also have some

resonance with native title claimants in Australia include 'bogus land owners' and 'ancestor gerrymandering' – but the latter as one presenter pointed out, does not imply inauthenticity. Rather, identities in PNG, as they are in Australia, are renegotiated and realigned in cultural processes of negotiation of meaning in conditions of possibility. Divine Word University has a plan to establish a National Indigenous Mediation Service, similar to the proposal arising out of the AIATSIS IFaMP project, but which, in Australia, is still having difficulty getting traction with the Commonwealth Government.

Whilst there are clearly significant similarities between the PNG agreement-making development context and that of Australia, there are also significant differences: PNG agreements involve far more people (in some examples up to 50,000); Papua New Guineans are a majority in their country; and the Australian industry is far more regulated than that of PNG, making it difficult for companies whether Asian or otherwise to have carte blanche.

Nevertheless, I am more convinced than ever, that not only Papua New Guineans are the victims of poor governance, as one speaker pointed out. It is good governance on the part of all parties, in particular, the business of informed decision-making and dispute management processes that is critical for sustainable outcomes in both countries. One mining company representative pointed out that differences between companies are driven by policies at high levels whether Asian or otherwise: all parties, Asian or otherwise, need the freedom to develop systems that meet both the needs of companies and of locals.

Indigenous Australians and PNG nationals have much to learn from each other in development agreement-making. I issued an invitation, in which there was much interest, for PNG representatives to attend and present at the AIATSIS Native Title Conference in June 2011 in Brisbane.

## NTRB Knowledge Management Pilot: Agreement Making

By Joe Fardin, Research Fellow, AIATSIS

The NTRB Knowledge Management Pilot: Agreement making reached completion in October. We are now considering options for the next phase of the project, in terms of both securing the participation of more NTRBs/NTSPs and expanding the scope and content of the precedents database itself.

We launched online a prototype version of the database - the primary output of the knowledge management pilot - in September, and it has been undergoing testing by the Working Group since then. An important security feature of the database is that it is not accessible to unregistered users; at this point access is therefore limited to the NTRBs/NTSPs on the Working Group. The ultimate objective is to make the database available to all NTRBs/NTSPs, subject to the same conditions binding the existing participants.

The following is an overview of the current functionalities of the database:

- At this stage the database contains over 100 mining and exploration-related precedents, as contributed by the four NTRBs/NTSPs participating in the Working Group;
- Information retrieval options in the database allow these precedents to be retrieved via a variety of parameters including year, commodity, activity (exploration/mining etc) and native title category (claimed/determined etc);
- Particular categories of clause can also be browsed. Thus, for example, it is possible to isolate and display all land access or heritage clauses (to name a few - there are over 50 categories of clause so far included, containing around 1,500 separate entries);

- Finally, all of the information on the database is fully searchable by keyword or phrase, should the user seek a specific term rather than a category of information.

Feedback so far received from the Working Group following initial testing has been positive. We have received a large amount of information concerning potential revisions and additions. All of this feedback will be built into the project plan subject to settlement of the process for the next phase.

### Looking ahead

The pilot phase tested whether the development of such a database was feasible. Further to the above, pilot outcomes included development and launch of a secure online database, sourcing of content from a subset of the intended user group (NTRBs/NTSPs), and dissemination of this content in a manner useful to users (the findings of the pilot phase will be presented in more detail in an upcoming pilot completion report). This evidences the feasibility of the basic concept. The project is now at a point where it can be rolled out on a larger scale, commensurate with inputs (primarily strategic, content and funding factors).

The next test – subject to the outcome of discussions around ongoing project funding – will be to determine whether the database can be expanded into a widely used live resource, able to maintain relevance over time. The first step in this process will be to canvass interest from the 10 NTRBs/NTSPs not currently involved in the project. In the mean time we will continue to test the database in its current form and carry out further updates and supporting research as required. We will also continue to examine possibilities for the inclusion of new categories of precedents and related information on the database, in collaboration with all NTRBs/NTSPs participating in or joining the project, and begin work on the second tranche of information gathering. We expect to formalise planning for the foregoing within the next six weeks.



## Acknowledgments

I gratefully acknowledge the extensive assistance and strategic guidance provided by the Working Group members to date. Their input has driven the significant progress made so far in laying the foundations for this knowledge management system for NTRBs.

### Contact:

For all comments and queries please do not hesitate to contact Joe Fardin at [joe.fardin@aiatsis.gov.au](mailto:joe.fardin@aiatsis.gov.au)

## What's New?

### Recent cases

**Brown v State of South Australia [2010] FCA 875**  
**13 August 2010**  
**Federal Court of Australia, Adelaide**  
**Mansfield J**

This native title claim was close to being resolved through consent determination. The mining respondents wished to include a term in the determination whereby any compensation subsequently payable by them in respect of extinguished or impaired native title rights and interests would be applied in a specific way — it should be held by the Prescribed Body Corporate (PBC) for the purposes of benefiting the existing members of the native title claim group and their descendents. The native title claim group did not support the inclusion of such a term.

Justice Mansfield found that the parties have the capacity to agree on a sustainable benefit term as part of an ILUA or a consent determination, but none of the provisions of the *Native Title Act 1993* (Cth) (NTA) will allow for the inclusion of such a term where the parties are not in agreement about the inclusion of the term.

Justice Mansfield noted that, in any case, s. 56(3) of the NTA requires that the PBC hold the native title rights and interests on trust in accordance with

certain regulations. These regulations include some financial accountability obligations imposed under the *Corporations (Aboriginal and Torres Strait Islander) (CATSI) Act 2006* (Cth). In this regard, the NTA provides a detailed regime under which native title holders (through their PBC) will hold the benefit of native title rights and interests anyway. He also stated that the term that the mining respondents wished to include in the determination was not worded in a way that was easily understandable or enforceable and that he suspected underlying the mining respondents' contention was a series of more precise expectations of how the compensation should be applied.

As the Court had answered the question in issue, the parties were able to return to negotiations.

**Rex on behalf of the Akwerlpe-Waake, Iliyarne, Lyentyawel Ileparranem and Arrawatyen People v Northern Territory of Australia [2010] FCA 911**  
**7 September 2010**  
**Federal Court of Australia, Singleton**  
**Collier J**

The native title claim group, the Northern Territory Government and the other respondents to the proceeding had reached an agreement as to the terms of a determination over an area of land that covers 2,949 square kilometres in the Northern Territory. The land is located 110 kilometres south of Tennant Creek and 310 kilometres north of Alice Springs. The group that holds the native title rights in relation to the area are members of the Akwerlpe-Waake, Iliyarne, Lyentyawel Ileparranem or Arrawatyen landholding groups by virtue of descent (including adoption) or those who are accepted as a member of one or more of the landholding groups by senior members by virtue of a non-descent connection to an estate.

The native title rights and interests in relation to the area include the right to access and travel over any part of the land and waters, the right to live on the land and for that purpose to camp, erect shelters and other structures, to hunt, gather, take and use the natural resources of the land and waters,

including the right to access, take and use natural resources on or in the land. They include the right to access, maintain and protect places and areas of importance on or in the land and waters, to engage in cultural activities, conduct ceremonies, hold meetings, teach the physical and spiritual attributes of places and areas of importance, participate in cultural practices relating to birth and death including burial rites and including the power to regulate the presence of others at any of these activities on the land and waters.

They include the right to make decisions about the use and enjoyment of the land and waters by Aboriginal people who recognise themselves as governed by Aboriginal traditional laws and customs and who acknowledge the traditional laws and customs of the native title holders. They include the right to share and exchange natural resources obtained on or from the land and waters, including traditional items made from the natural resources. These native title rights and interests are held subject to and are exercisable in accordance with the traditional laws and customs of the native title holders and the valid laws of the Northern Territory and the Commonwealth of Australia. There are no native title rights in minerals or petroleum.

The other interests in the determination area include pastoral leases, state government easements, pipeline licences, interests of various groups granted under the *Mining Act 1982* (NT), the interests of Telstra, and the rights of access of an employee of the State as required for the performance of their statutory duties.

Other rights and interests in relation to the land prevail over the native title rights and interests but do not extinguish them and the existence and exercise of the native title rights and interests do not prevent the doing of any activity.

Justice Collier held that the proposed orders were within the power of the Court and that it was therefore appropriate for him to make the consent determination. The native title is not to be held on trust.

**Tigan v State of Western Australia [2010] FCA 993**

**10 September 2010**

**Federal Court of Australia, Perth**

**Gilmour J**

This case concerned the Mayala people's native title claim over the islands, reefs and waters of the Buccaneer Archipelago and the King Sound of the West Kimberley region.

Of the five people that made up the applicant, three wished to change the legal representation of the claim group, while two did not. At a meeting of the claim group, the majority of the group voted to change the legal representation, and a notice of change of solicitor was filed. The two members of the applicant that had not agreed to the change in legal representation noted that they had not consented to the filing of this notice.

Justice Gilmour found, based on previous case law, that although the members of the applicant are authorised individually, they must act jointly. Certain members of the applicant can not cause the applicant as a whole to deal with a matter arising under the *Native Title Act 1993* (Cth) (NTA) by majority decision of the claim group — the applicant must act 'in concert'. If disagreement arises between members of the applicant, there are procedures within the NTA whereby the claimant group can change the membership of the applicant. It follows that the notice of change of solicitors was not authorised by the applicant and as such, Gilmour J ruled that it be removed from the court file. The question of costs was reserved to a later date.

**Budby on behalf of the Barada Barna People v State of Queensland [2010] FCA 1017**

**15 September 2010**

**Federal Court of Australia, Perth**

**Collier J**

The applicant in this proceeding sought an order that the Wiri Cultural Heritage and Community Development Aboriginal Corporation (the

Corporation) and two individuals be removed as respondent parties to the proceedings.

Justice Collier found that the basis on which the Corporation claimed to have an interest in the case was identical to the interest that was asserted by individual respondents. He found that there was no evidence that the Corporation had any interest above that of an ordinary member of the public or that its interest was other than by association through its individual members. Not being satisfied that the Corporation had any interest that may be affected by a determination in the proceedings, he ordered that the Corporation cease to be a party to the proceedings.

In relation to the two individuals, Collier J found that the evidence demonstrated that they had a prima facie case that they were descended from the apical ancestors named in the native title claim. He therefore dismissed the application that those individuals be struck out as respondents and ordered their solicitor to file and serve an affidavit outlining the nature and extent of the native title rights and interests of the respondents and the area in respect of those rights and interests.

**Jones v State of Western Australia [2010] FCA 1038**

**16 September 2010**

**Federal Court of Australia, Perth**

**Siopis J**

Monlor Pty Ltd (Monlor) ceased to be a party to this proceeding in April when the Court ordered that any party who wished to continue to be a party to the proceeding was required to inform the Court of this, and Monlor failed to do so.

Monlor brought this application, requesting that they be reinstated as a party to proceeding as they hold a leasehold interest over a lot within the area that is subject to the native title determination application. Mr Miller, a director and shareholder of Monlor stated that he had misunderstood the content and operation of the Court's order in April. Justice Siopis

ordered that Monlor be reinstated as a party to the proceeding.

Mr Miller also holds a leasehold interest in a nearby lot that is subject to the native title determination application and also applied to become a party to the proceeding. Justice Siopis was satisfied that Mr Miller had a personal interest in the land and joined Mr Miller as an individual party to the proceedings.

**M.B. (Deceased) v State of Western Australia [2010] FCA 110**

**25 June 2010**

**Federal Court of Australia, Perth**

**Siopis J**

The Yued people applied under s. 66B(1) of the *Native Title Act 1993* (Cth) for an order replacing the current applicant with a new applicant; jointly comprised of five individuals.

The resolution made at the claim group meeting included a clause that, to remove doubt, where one or more of the individuals that made up the applicant cease to be willing and able to act as part of the applicant, the remaining individuals that form the applicant are authorised to make the application and deal with matters arising in relation to the matter, without the need for further decision by the members of the Yued native title claim group.

Justice Siopis was satisfied that the claim group meeting was sufficiently representative to be competent to make decisions on behalf of the claim group, that the Yued people did not have a traditional decision-making process for the purposes of s. 251B(a) for this type of decision and accepted the adopted decision making process of the Yued people for the purposes of s. 251B(b). An order that the applicant be replaced was made.



**State of Western Australia and Cyril Gordon and others on behalf of the Kariyarra People and Christopher Murray Paterson and Carey Rae Paterson trading as Pilbara Livestock Depot (future act determination)**

23 September 2010

Hon CJ Sumner, Deputy President  
National Native Title Tribunal, Perth

The State of Western Australia gave notice of its intention to compulsorily acquire an area of land approximately fifteen kilometres south of Port Hedland to enable the issuing of a lease for the purpose of stock holding yards to Pilbara Livestock Depot. In 2009, the State had made an application for a future act determination on the basis that the parties had not reached agreement on the doing of the proposed future act (the granting of the lease). The native title party's objection that the grantee party had not negotiated in good faith had been rejected in that hearing.

Deputy President Sumner looked at a number of issues raised by the native title party as he considered whether the compulsory acquisition could be done. Principally, he took into account the fact that the native title rights and interests over the area had already been affected as a result of past and current pastoral use of the land and thereby the capacity of the native title party to exercise their native title rights and interests had already been greatly restricted. Further, it was found that there was insufficient evidence to confirm that areas or sites of particular significance would be interfered with or that the way of life, culture and traditions enjoyed within the area would be affected by the compulsory acquisition.

It was found that the compulsory acquisition in the area could be done. Native title in the area will be suspended during the currency of the lease but not permanently extinguished.

**Atkinson on behalf of the Mooka and Kalara United Families Claim v Minister for Lands for the State of New South Wales [2010] FCA 1073**

1 October 2010

Federal Court of Australia, Sydney  
Jagot J

This matter had a long history before the Courts, however the applicants had failed to comply with the orders of the Court on several occasions. The claim had also never been accepted for registration by the Native Title Registrar. The Minister for Lands filed a motion seeking orders that the applicants file an amended application by 1 October 2010, failing which the proceedings be dismissed.

Justice Jagot noted that the applicants had been permitted to exhaust every opportunity to gain funding in order to make their native title claim but were still not in a position to do so. At the applicants' own admission, their claim could not progress without funding to address unresolved issues. Justice Jagot considered that it was contrary to the interests of justice to waste further time and resources on the matter without a foreseeable outcome.

It was found that there was no 'compelling reason' not to dismiss the application under s. 94C(3) of the *Native Title Act 1993* (Cth) and accordingly, an order was made that the date by which the applicants were required to amend and file their native title determination application and any materials on which they would rely be extended to 29 October 2010. Further, if, by that date, the applicants had not complied, the proceedings would be dismissed. The parties may apply to re-list the proceeding for further orders on seven days notice and, if the proceedings are not dismissed, a further directions hearing will take place on 9 November 2010.

**Wuthathi People No. 2 v State of Queensland  
[2010] FCA 1103**

**5 October 2010**

**Federal Court of Australia, Cairns**

**Greenwood J**

This matter was an application for an injunction to prevent a native title claim group meeting taking place the day after the hearing on the Cape York Peninsula. The applicants claimed that the meeting did not give notice to descendants of apical ancestors who they claimed ought to be included within the description of addressees in the notice, and accordingly, requested the Court prevent the meeting from taking place. The meeting had been called to discuss the composition of the claim group and the boundaries of the claim.

It was noted that the claim group meeting had been convened, at great expense, by the Cape York Land Council. Justice Greenwood concluded that he could find no utility in wasting that expenditure, effort, time and energy by preventing the meeting from taking place. He concluded that if resolutions were passed at the meeting that were not sound, then the applicants could always challenge those decisions in Court. The injunction application was dismissed.

**Corunna on behalf of the Swan River People v  
State of Western Australia [2010] FCA 1113**

**14 October 2010**

**Federal Court of Australia, Perth**

**Siopis J**

This case concerned the native title claim of the Swan River people over a large part of the Perth metropolitan area and adjacent waters. Mr Walley, who did not form part of the claim group, argued that he and six other individuals were in fact part of the claim group and had not authorised the persons comprising the applicant to make the application. He argued that the application be dismissed, because, in not being lawfully authorised (i.e. by the whole claim group), the application did not comply with s. 61 of the *Native Title Act 1993* (Cth) (NTA). Mr Walley further claimed that, in any case, the

application also hadn't been lawfully authorised by the members of the claim group on whose behalf the application was being made.

Schedule R to the application explained that each individual comprising the applicant had been authorised by their family group within the claim group and then, each of the individuals authorised in this way had authorised each other to bring the native title application.

Justice Siopis considered this process and found that there had never been an authorisation of the applicant made by *all* the members of the native title claim group, as required by s. 251B of the NTA. He also concluded that there was a real question as to whether there were other people who claim native title over the area that had been excluded from the native title claim group. He therefore ordered, under s. 84D(1) of the NTA that those comprising the applicant provide evidence that the native title determination application was authorised within the meaning of s. 251B of the NTA. It was also decided that further submissions in relation to the claim for summary dismissal of the application would be heard.

**Freddy on behalf of the Wiluna Native Title  
Claimants v State of Western Australia [2010]  
FCA 1158**

**26 October 2010**

**Federal Court of Australia, Perth**

**McKerracher J**

Mr Ghaneson, a past director and shareholder and current creditor of Seven Star Investment Group (SSIG), brought this application in the Federal Court. SSIG had applied for an exploration licence within the area over which a native title claim had been made by the Wiluna native title claim group.

Mr Ghaneson brought a notice of motion seeking that he be joined as an interested party to the proceedings, that the functions and effectiveness of the Central Desert Native Title Services Ltd (CDNTS) be investigated, that CDNTS's government funding be terminated, that CDNTS be

replaced by another representative body in these proceedings and that these proceedings cease until the Court had considered this motion.

The alleged unsatisfactory performance of CDNTS was not considered by the Court as McKerracher J found that under s. 203DF of the *Native Title Act 1993* (Cth) (NTA), the power to assess such conduct lies with the Commonwealth, not the Court.

Turning to the joinder application, McKerracher J did not accept that SSIG had an interest that would be affected by a determination, as required by s. 84(5) of the NTA. He further noted that the interest claimed by Mr Ghaneson (based on the fact that he was a creditor of SSIG) was even more tenuous and based on the boundaries set out in *Yorta Yorta Aboriginal Community & Ors v The State of Victoria* [1996] FCA 453, that interest was not sufficient for joinder to the proceedings. The motion was dismissed.

**Cheedy on behalf of the Yindjibarndi People v State of Western Australia (No 2) [2010] FCA 1154**

**26 October 2010**

**Federal Court of Australia, Perth**

**McKerracher J**

This costs hearing followed the decision in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2010] FCA 690.

Justice McKerracher found that in the exercise of the discretion to award costs under s. 43 of the *Federal Court of Australia Act 1976* (Cth) relevant matters should be taken into account, including the nature of the proceeding, whether important and novel questions were being responsibly pursued and the desirability of resolution of those questions without costs being inflicted adversely as a penalty. He found that the application satisfied the criteria in *Murray v Registrar* [2003] FCAFC 220, that the matter was centrally concerned with the meaning of important provisions of the *Native Title Act 1993* (Cth) (NTA) and therefore, in taking into account the 'spirit' of s. 85A of the NTA, there was no order made as to costs.

## Legislation

### Commonwealth

#### **Native Title Bill (No. 1) 2010**

The Native Title Amendment Bill (No. 1) 2010 contains measures to facilitate the provision of public housing and associated infrastructure in Indigenous communities which is, or may be, subject to native title.

Some state governments have indicated that uncertainty in relation to native title is a barrier to meeting housing and service delivery targets. This has been deemed a risk and may create delays in the delivery of housing. Therefore, this Bill introduces a new process specifically for public housing and a limited class of community facilities including education, health and emergency service facilities, and staff housing associated with these facilities. It will apply primarily to acts of State, Territory and local government bodies. The process will sunset after 10 years. The 10 year period approximates the duration of the National Partnership Agreement on Remote Indigenous Housing under which \$5.5 billion has been committed.

**PDF version of the Bill is available for download from:**

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s767\\_first/toc\\_pdf/1021220.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s767_first/toc_pdf/1021220.pdf;fileType=application%2Fpdf)

**PDF of the Second Reading Speech is available for download from:**

[http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2010-09-30/0021/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2010-09-30/0021/hansard_frag.pdf;fileType=application%2Fpdf)

**PDF of the Explanatory Memorandum is available for download from:**

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s767\\_ems\\_5fe05330-329f-4b93-a221-8cee45777656/upload\\_pdf/347527em.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/s767_ems_5fe05330-329f-4b93-a221-8cee45777656/upload_pdf/347527em.pdf;fileType=application%2Fpdf)



**Victoria:*****Traditional Owner Settlement Act 2010 (Vic)***

*The Traditional Owner Settlement Act 2010 (Vic)* was passed by the Victorian Parliament on the 14 September 2010.

A PDF version of the Act is available for download from:

[http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/7718A865B4A91AD0CA2577A5001DA3D1/\\$FILE/10-062a.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/7718A865B4A91AD0CA2577A5001DA3D1/$FILE/10-062a.pdf)

**Native title publications****'Focus: New Victorian "Aboriginal title" and negotiation regime'**

20 September 2010

Emily Gerrard and Chris Schulz, Allens Arthur Robinson (AAR)

This article explores new Victorian legislation which enables the granting of a new 'Aboriginal title' and the creation of a state-based negotiation regime for conducting activities on public land.

Visit the AAR website here to read the full article:

<http://www.aar.com.au/pubs/nat/fonatsep10.htm?rs=true>

**'Native title and taxation reform'**

Topical Issue 4 / 2010

September 2010

This brief paper is adapted from a submission in response to the Australian Government's Consultation Paper 'Native Title, Indigenous Economic Development and Tax'. The Consultation Paper mainly canvasses options for income taxation reforms with very little actually said about Indigenous economic development.

This paper raises four key issues and ends with a brief conclusion and five recommendations. The issues discussed are:

- What is motivating the native title taxation reform process given that the recently completed (Henry) Review of Australia's

Future Tax System made no mention of taxation of native title?

- What are the intersections between native title payments and the income tax system?
- What are the lessons to be learnt from the operations of the Mining Withholding Tax?
- What are the lessons to be drawn for tax policy making from the 2010 Resources Super Profits Tax debate?

PDF is available for download from:

[http://caepr.anu.edu.au/system/files/Publications/topical/Topical\\_Altman\\_Native Title and tax.pdf](http://caepr.anu.edu.au/system/files/Publications/topical/Topical_Altman_Native Title and tax.pdf)

**'Guide to future act decisions made under the right to negotiate scheme'**

National Native Title Tribunal as at 21 October 2010

This guide provides a summary of future act decisions made by the National Native Title Tribunal and Federal Court under the right to negotiate provisions of the *Native Title Act 1993* (Cth). It outlines decisions made under the *Native Title Act 1993* (Cth) prior to its amendments. The guide deals with the substantive law as well as the procedures applicable to the Tribunal's inquiry function under the Commonwealth right to negotiate regime.

PDF is available for download from:

<http://www.nntt.gov.au/Future-Acts/Procedures-and-Guidelines/Documents/Future%20Act%20guide%20to%20cases%20-%2021%2010%2010.pdf>

**Good Practice Guide: Indigenous Peoples and Mining / International Council on Mining and Metals**









This Guide aims to assist companies achieve constructive relationships with indigenous peoples. It highlights good practice principles, discusses the challenges in applying these principles at the operational level and provides real-world examples of how mining projects have addressed these challenges. It also explores the cost of getting it wrong.

It is not intended as a one-size-fits-all but is designed to provide useful information and direction

for both companies and indigenous communities when considering issues around engagement and participation, agreements, impact management, benefits sharing and dealing with grievances.

Click here to download the PDF version:  
<http://www.icmm.com/document/1221>

**Annual reports (2009-2010) from organisations/agencies involved in the native title sector are available for download:**

| Organisation                               | Download  |
|--|---|
| AIATSIS                                    | (4.6Mb)      |
| Attorney-General's Department              | (5.0 Mb)     |
| National Native Title Tribunal             | (2.3 Mb)     |
| South West Aboriginal Land and Sea Council | (3.5 Mb)     |
| Torres Strait Regional Authority           | (6.67 Mb)    |
| Goldfields Land Council                    | (1.4 Mb)   |
| Central Land Council                       | (4.1 Mb)   |
| Central Desert                             | (6.32 Mb)  |
| Kimberley Land Council                     | website   |

NB. These organisations had their annual reports available for viewing at the time of writing. To view annual reports from other organisations/agencies, see their respective websites.

## Native title in the news

### New South Wales

1/09/2010

#### Nari Nari Get Access to Cultural Site

Members of the Nari Nari Tribal Council will be able to access culturally significant sites after the signing last week of a Land Access and Use Agreement with the owners of district property Ulonga. The agreement will allow the Nari Nari Tribal Council to protect and maintain Aboriginal cultural heritage sites, undertake tours and traditional fishing and gather traditional food and resources. *Riverine Grazier* (Hay NSW, 1<sup>st</sup> September 2010), 3.

13/09/2010

#### Family Challenge Native Title Claim

Dot Stewart, a Wellington Wiradjuri woman is challenging a native title claim lodged by the Wellington Valley Wiradjuri People that takes in a vast tract of land that extends from south of Dubbo and includes Orange, Wellington and Mudgee. She believes that the claim group have claimed beyond their clan boundaries. Wellington Valley Wiradjuri People spokesperson Wayne Carr rejected suggestions he had usurped anyone's rights and said they had a credible claim. *Daily Liberal* (Dubbo NSW, 13<sup>th</sup> September 2010), 3. *Forbes Advocate* (Forbes NSW, 21<sup>st</sup> September 2010), 5.

### Northern Territory

1/09/2010

#### Joint Management Plan for Jutpurra National Park

A draft national plan has been released for public consultation for Gregory (Jutpurra) National Park and Gregory's Tree Historic Reserve. The plan proposes management in line with the park's international biodiversity conservation status and diverse cultural connections. Minister for Parks and Wildlife, Karl Hampton said the plan is a big step towards joint management. 'Joint management means sharing responsibility and sharing knowledge of science and indigenous knowledge of land management. This will allow Aboriginal people to keep their culture strong while creating ongoing economic opportunities for their children through conservation or tourism enterprise,' he said. *Katherine Times* (Katherine NT, 1<sup>st</sup> September 2010), 9.

10/09/2010

#### Native title after 10 years

The Kaytetye people, who are traditional owners of the area that covers the Singleton pastoral lease north of Ali Curung and south of Tennant Creek celebrated a native title determination that has taken a decade to resolve. A native title application was lodged with the Federal Court of Australia three months after the Northern Territory Government issued a notice in March 2000 to compulsorily

acquire a 26 sq/km section of the pastoral lease for horticultural development.

The consent determination hearing by the Federal Court at Ali Curung means the parties have agreed that non-exclusive native title exists on Singleton. It means traditional activities such as hunting and ceremonies can take place on the property. It also allows native title holders to be consulted if a third-party plans any development on the lease. One of the claimants, Michael Jones, says he is proud but sad. 'Some of the people who spoke for that area, a couple of the native title holders, have passed away.' *Centralian Advocate* (Alice Springs NT, 10<sup>th</sup> September 2010), 9. *National Indigenous Times* (Malua Bay NSW, 16<sup>th</sup> September 2010), 6. *Tennant & District Times* (Tennant NT, 10<sup>th</sup> September 2010), 5.

#### 14/10/2010

##### **Elsey Station**

Five traditional owner groups are planning to break away from the Northern Land Council (NLC). Wardamen, Mangarrayi, Alawa, Gulin Gulin and Jawoyn want to establish a smaller, regional land council to better facilitate their economic development plans.

The group plan to lodge an application with Indigenous Affairs Minister Jenny Macklin to create the Katherine Region Land Council. 'The Northern Land Council has been representing Traditional Owners in our area for many decades,' Jawoyn Association CEO Preston Lee said. 'We acknowledge all the work the NLC has done for us in the past. However, clan groups from across the Katherine region are united in our call for independence. We want our own land council. Also, the NLC's move to take the Banibi Company on Elsey Station to court has upset the Mangarrayi people. The NLC is trying to sue our company. We thought the NLC was set up to represent us, not attack us'.

The Mangarrayi Aboriginal Corporation is preparing to fight the NLC after lodging Federal Court proceedings on September 22 to keep its company

Banibi Pty Ltd operating at Elsey Station, which was said to not have a license to remain on the land. The NLC wants the company to remove its livestock plant and equipment from the station. The proceedings were listed for directions on the 13<sup>th</sup> October in the Federal Court in Darwin. *North Queensland Register* (Townsville QLD, 14<sup>th</sup> October 2010), 8. *Katherine Times* (Katherine NT, 27<sup>th</sup> October 2010), 11.

#### 16/10/2010

##### **Ayers Rock Resort**

The Indigenous Land Corporation (ILC) has bought the Ayers Rock Resort for approximately \$300 million. The ILC has exchanged contracts to acquire the Yulara Resort from Voyages Hotels and Resorts, as well as the airport and workers village. The price of \$300 million is a significant reduction on the \$440 million value assigned to the resort at December 2007, when it was first earmarked for divestment.

ILC Chairwoman Shirley McPherson described the move as historic. 'They [Aboriginal people] have been sitting outside looking in and now they'll be there and part of the operations they'll also operate the tours,' she said. Ms McPherson said there was only one Aboriginal person among the 670 staff employed by former owner Voyages Hotels and Resorts, 'and that's a crime'.

Ms McPherson said one of the key priorities of the acquisition would be training in the tourism and hospitality sectors. 'By 2015, it is planned that 200 Indigenous people will be employed at the resort and this will climb to more than 50% by the end of 2018.' *The Age* (Melbourne VIC, 16<sup>th</sup> October 2010), 5. *Gladstone Observer* (Gladstone QLD, 16<sup>th</sup> October 2010), 17. *Chronicle* (Toowoomba QLD, 16<sup>th</sup> October 2010), 45. *Herald Sun* (Melbourne VIC, 16<sup>th</sup> October 2010), 30. *Shepparton News* (Shepparton VIC, 16<sup>th</sup> October 2010), 26. *Launceston Examiner* (23<sup>rd</sup> October 2010), 48. *Barrier Daily Truth* (Broken Hill NSW, 16<sup>th</sup> October 2010), 8. *Kalgoorlie Miner* (Kalgoorlie WA, 16<sup>th</sup> October 2010), 8. *Bendigo Advertiser* (Bendigo NSW, 16<sup>th</sup> October 2010), 18. *Daily News Tweed*

*Heads* (Tweed Heads NSW, 16<sup>th</sup> October 2010), 19. *Border Mail* (Albury-Wodonga VIC, 16<sup>th</sup> October 2010), 8. *Weekend Gold Coast* (Queensland, 16<sup>th</sup> October 2010), 14. *Weekend Post* (Cairns QLD, 16<sup>th</sup> October 2010), 22. *Daily Liberal* (Dubbo NSW, 16<sup>th</sup> October 2010), 4. *Fraser Coast Chronicle* (Hervey Bay QLD, 16<sup>th</sup> October 2010), 19. *Townsville Bulletin* (Townsville QLD, 16<sup>th</sup> October 2010), 77. *Canberra Times* (Canberra ACT, 16<sup>th</sup> October 2010), 5. *Herald Sun* (Melbourne VIC, 16<sup>th</sup> October 2010), 80. *Daily Mercury* (Mackay QLD, 16<sup>th</sup> October 2010), 12. *Northern Territory News* (Darwin NT, 16<sup>th</sup> October 2010), 3. *Newcastle Herald* (Newcastle NSW, 16<sup>th</sup> October 2010), 41. *Morning Bulletin* (Rockhampton QLD, 16<sup>th</sup> October 2010), 38. *Queensland Times* (Ipswich QLD, 16<sup>th</sup> October 2010), 26. *Advertiser* (Adelaide SA, 16<sup>th</sup> October 2010), 91. *Sydney Morning Herald* (Sydney NSW, 16<sup>th</sup> October 2010), 4. *Daily News* (Warwick QLD, 16<sup>th</sup> October 2010), 22. *Courier Mail* (Brisbane QLD, 16<sup>th</sup> October 2010), 36. *Weekend Australian* (Australia, 16<sup>th</sup> October 2010), 27. *Ballarat Courier* (Ballarat VIC, 16<sup>th</sup> October 2010), 30. *Northern Star* (Lismore NSW, 16<sup>th</sup> October 2010), 32. *News – Mail* (Bundaberg QLD, 16<sup>th</sup> October 2010), 16. *Gympie Times* (Gympie QLD, 16<sup>th</sup> October 2010), 16. *Illawarra Mercury* (Wollongong NSW, 16<sup>th</sup> October 2010), 23. *Mercury* (Hobart TAS, 16<sup>th</sup> October 2010), 4. *Mercury* (Hobart TAS, 16<sup>th</sup> October), 30. *Australian Financial Review* (Australia, 16<sup>th</sup> October 2010), 2. *Australian* (Australia, 21<sup>st</sup> October 2010), 31. *Territory Regional Weekly* (Northern Territory, 22<sup>nd</sup> October 2010), 3. *West Australian* (Perth WA, 20 October 2010), 19. *Alice Springs News* (Alice Springs NT, 14<sup>th</sup> October 2010), 1. *National Indigenous Times* (Malua Bay NSW, 28<sup>th</sup> October 2010), 5.

## Queensland

**2/09/2010**

### Major Natural Gas Deal

The largest set of Aboriginal agreements in Australia's resources history has been signed in Gladstone, Queensland. The Gladstone Liquefied Natural Gas (GLNG) project representatives and traditional owners signed the seventh and final

Indigenous land use agreement which covers the GLNG pipeline corridor for the project during a ceremony at the GLNG office. The signing of this final agreement, called the 'Murrumbindi Gap B agreement', which is one of 42 individual agreements with Aboriginal people for the GLNG project, means the project can begin construction. *National Indigenous Times* (Malua Bay NSW, 2<sup>nd</sup> September 2010), 8.

**2/09/2010**

### Native Title Claim Makes Progress

A native title claim over the majority of the Southern Downs is being put together by the Kambuwal people. Kambuwal's Selena Griffin of Allora, who has been researching the history of her people for around 15 years, said the claim which covers the areas from Walangarra to Leslie Dam to Clifton was in the early stages. There will be a Kambuwal community meeting sometime before the end of this year for the descendants to learn about the process. *Southern Free Times* (Warwick QLD, 2<sup>nd</sup> September 2010), 3.

**16/09/2010**

### Wild Rivers Laws

Independent senator Nick Xenophon has vowed to help Tony Abbott pass his bill to overturn the Queensland Government's Wild Rivers law by lobbying the two crucial rural independents to support it in the lower house. Mr Abbott announced he would discuss overturning the legislation with non-labour MPs soon. Leichhardt MP Warren Entsch and mining boss have welcomed the announcement, the Wilderness Society Wild Rivers campaigner Glenn Walker said he was concerned about the very real possibility of legislative change. *Cairns Post* (Cairns QLD, 21<sup>st</sup> September 2010), 10. *Australian* (Australia, 16<sup>th</sup> September 2010), 2.

**22/09/2010**

### Compulsory Acquisition Going Ahead

Whitsunday Regional Council has decided to continue with the compulsory acquisition of native title rights and interests over parcels of land at Collinsville and Scottville for industrial and residential lots. Councillors agreed at their last



meeting to make a formal application that any native title rights and interests in regard to a number of parcels of land be acquired, for the purpose of acquiring freehold title in the land. A report by council's Executive Department stated the council, having served a Notice of Intention to Acquire Native Title Rights and Interests over a number of parcels of land on the registered claimants, the Birri People, had received no objections from them. *Bowen Independent* (Bowen QLD, 22<sup>nd</sup> September 2010), 16.

### 28/09/2010

#### Native Title Delays

Redland City Council was originally set to award the management of the Straddie Holiday Parks business in August 2009 following a selective tender process between two commercial tenderers. But the tender process was granted its fourth extension at the council's general meeting on Wednesday night as the council now waits for a native title outcome that it previously did not consider. *Bayside Bulletin* (Brisbane QLD, 28th September 2010), 20.

### 01/10/2010

#### Inskip Point and Fraser Island claim

The Butchulla People have applied for native title over land that encompasses Fraser Island, Inskip Point and some land and water near Tin Can Bay and Rainbow Beach in Queensland.

The Butchulla people have previously applied for native title in 1998 but were unsuccessful with their first attempt and the claim was discontinued. There have been several other attempts since that time but they have also been dismissed. A new claim covers two areas. One of those areas covers approximately 1650sqkm, and the other area covers approximately 6829sqkm of waters off the coast of Fraser Island, and land surrounding Hervey Bay, Maryborough, north of Tin Can Bay and Inskip Point.

A spokesperson from the National Native Title Tribunal has said the application would be dealt with by mediation and only end up before the courts

if all parties involved couldn't agree. *Gympie Times* (Gympie QLD, 1<sup>st</sup> October 2010), 3. *Fraser Coast Chronicle* (Hervey Bay QLD, 13<sup>th</sup> October 2010), 4.

### 01/10/2010

#### Wild Rivers

Prime Minister Julia Gillard has called for a Parliamentary Inquiry into Queensland's Wild Rivers laws. The *Wild Rivers Act 2005* (Qld) was introduced in 2005 to protect the health of ten Cape York river systems by placing limits on development. Opposition leader Tony Abbott has considered introducing a private member's Bill that would override the laws. Labor and the Greens oppose the private member's Bill attempt by Mr Abbott.

The House of Representatives' Economics Committee will be asked to examine the impact of the *Wild Rivers Act 2005* (Qld). The inquiry will examine the full range of issues affecting Indigenous economic development in Queensland, the operation of environmental and industry regulation and the native title system.

The Indigenous Affairs Minister, Jenny Macklin, and the Sustainability Minister, Tony Burke, said the inquiry should report back by March 2011. *The Australian* (Australia, 1<sup>st</sup> October 2010), 7. *Sydney Morning Herald* (Sydney NSW, 1<sup>st</sup> October 2010), 7. *Weekend Post* (Cairns QLD, 2<sup>nd</sup> October 2010), 25. *Canberra Times* (Canberra ACT, 2<sup>nd</sup> October 2010), 4. *Courier Mail* (Brisbane QLD, 7<sup>th</sup> October 2010), 13. *Courier Mail* (Brisbane QLD, 7<sup>th</sup> October 2010), 30. *Courier Mail* (Brisbane QLD, 2<sup>nd</sup> October 2010), 18. *Townsville Bulletin* (Townsville QLD, 1<sup>st</sup> October 2010), 2. *Canberra Times* (Canberra ACT, 1<sup>st</sup> October 2010), 4. *The Week* (Australia, 8<sup>th</sup> October 2010), 19. *Western Cape Bulletin* (Weipa QLD, 6<sup>th</sup> October 2010), 1. *Western Cape Bulletin* (Weipa QLD, 6<sup>th</sup> October 2010), 4. *Western Cape Bulletin* (Weipa QLD, 6<sup>th</sup> October 2010), 5. *The Australian* (Australia, 13<sup>th</sup> October 2010), 7. *North Queensland Register* (Townsville QLD, 7<sup>th</sup> October 2010), 7. *Courier Mail* (Brisbane QLD, 19<sup>th</sup> October 2010), 2. *Cairns Post* (Cairns QLD, 18<sup>th</sup> October 2010), 8. *Sydney Morning Herald* (Sydney NSW,

18<sup>th</sup> October 2010), 6. *Courier Mail* (Brisbane QLD, 18<sup>th</sup> October 2010), 10. *National Indigenous Times* (Malua Bay NSW, 28<sup>th</sup> October 2010), 6.

#### 07/10/2010

##### Land returned to Traditional Owners

Premier Anna Bligh has informed Queensland Parliament that more than 75,000ha of national park, known as Archer Bend, on Cape York Peninsula will be returned to the Wik Mungkan people.

The move comes more than 30 years after it was taken from traditional owners by the National Party government of the day. Ms Bligh said that in November 1977, the Bjelke-Petersen government declared land outside Coen as national park, taking away the chance for the Wik Mungkan people to buy their homeland. 'This decision puts an end to a shameful chapter in Queensland's Indigenous history,' she said. *Gladstone Observer* (Gladstone QLD, 7<sup>th</sup> October 2010), 15. *Sunraysia Daily* (Mildura VIC, 7<sup>th</sup> October 2010), 13. *Morning Bulletin* (Rockhampton QLD, 7<sup>th</sup> October 2010), 18. *Maitland Mercury* (Maitland NSW, 7<sup>th</sup> October 2010), 7. *Fraser Coast Chronicle* (Hervey Bay QLD, 7<sup>th</sup> October 2010), 23. *Daily Examiner* (Grafton NSW, 7<sup>th</sup> October 2010), 12. *Advocate* (Coffs Harbour NSW, 7<sup>th</sup> October 2010), 13. *Northern Star* (Lismore NSW, 7<sup>th</sup> October 2010), 16. *Barrier Daily Truth* (Broken Hill NSW, 7<sup>th</sup> October 2010), 8. *Courier Mail* (Brisbane QLD, 6<sup>th</sup> October 2010), 7. *Cooktown Local News* (Cooktown QLD, 8<sup>th</sup> October 2010), 9.

#### 09/10/2010

##### Native Title Declared

Traditional owners have been granted native title rights over land in far north Queensland. The Jirrbal people made three native title claims over unallocated Crown land and forest and park reserves around Ravenshoe and Herberton on the Tablelands.

The Jirrbal people have exclusive rights over the unallocated Crown land, and have non-exclusive rights over the forest and park reserves. This means that their rights will be subsidiary to the

Queensland Park and Wildlife Service and other interested parties, a Federal Court spokesman said.

The Federal Court of Australia handed down the consent determinations on the 8<sup>th</sup> October, with Justice John Dowsett delivering the judgment at Ravenshoe. *Courier Mail* (Brisbane QLD, 9<sup>th</sup> October 2010), 26.

#### 09/10/2010

##### Perpetual Fund for Indigenous Groups

Noel Pearson, director of the Cape York Institute, has called for millions of dollars to be put into a perpetual fund for Indigenous groups to create sustainable environment-based businesses on land locked up under the Wild Rivers legislation.

Mr Pearson said the fund would recognise the economic impact that land clearing and wild rivers legislation had had on the ability of traditional owners to participate in the emerging carbon economy in their own right.

The Wilderness Society's wild rivers campaigner Glenn Walker stated that Julia Gillard's inquiry into Cape York opportunities in response to the Federal Opposition Leader's proposed private members Bill was a perfect place to start the debate. *Weekend Australian* (Australia, 9<sup>th</sup> October 2010), 1.

#### 21/10/2010

##### GLNG project

The seventh and final Indigenous land use agreement (ILUA) for Santos' GLNG project has been signed. The Murrumbindi Gap B agreement is one of 42 individual agreements with Aboriginal peoples for the project. Collectively it is the largest set of agreements with Aboriginal peoples in Australia's resources sector history. The final land use agreement means GLNG can start construction knowing all appropriate Aboriginal agreements and conditions are now in place from Gladstone through to Roma. *Surat Basin News* (Chincilla QLD, 21<sup>st</sup> October 2010), 15.

## South Australia

01/09/2010

### Agreement in Kimba Region

Eyre Peninsula minerals explorer IronClad has formalised an agreement with the Gawler Ranges Native Title Group opening an opportunity to develop the Wilcherry Hill project 120km west of Whyalla. The Gawler Ranges Native Title Claim Group signed the native title mining agreement with IronClad in Port Augusta. IronClad stated that the agreement will provide a range of measures and opportunities in a manner sensitive to Aboriginal culture and heritage issues. Gawler Ranges Native Title Group spokesperson Elliott McNamara said the agreement was important for the development of the project. 'This is a win-win situation for both parties and we have been impressed with IronClad's professionalism and goodwill throughout these negotiations. This agreement is proof of what can be achieved when there is goodwill on both sides of the negotiating table'. *Advertiser* (Adelaide SA, 1<sup>st</sup> September 2010), 35. *Whyalla News* (Whyalla SA, 2<sup>nd</sup> September 2010), 3. *Eyre Peninsula Tribune* (Cleve SA, 9<sup>th</sup> September 2010), 2. *Golds and Minerals Gazette* (Australia, September 2010), 19. *Mining Chronicle* (Australia, September 2010), 5.

## Victoria

1/09/2010

### Proposed Multi-Million Dollar Cultural Heritage and Community Centre

A multi million proposal to develop a cultural heritage and community centre has been discussed by more than 80 people who gathered at the memorial hall in Boort, Victoria. The proposed cultural centre which would showcase both Indigenous and non-Indigenous history including accounts from early settlers. The idea is being developed by representatives from the Dja Dja Wurrung's Boort clan, who are in the process of negotiating a native title claim with the State Government. *Loddon Times* (Loddon VIC, 1<sup>st</sup> September 2010), 1. *Northern Times* (3<sup>rd</sup> September 2010), 7.

15/09/2010

### Traditional Owners Settlement Bill

A group of Indigenous people have accused the Brumby Government of failing to consult Victoria's Aboriginal community over the Traditional Owners Settlement Bill. Gary Murray, the spokesperson for the Traditional Owners Victoria group said he would seek legal advice to try to stop passage of the Traditional Owners Settlement Bill (this bill was passed on the 14<sup>th</sup> September 2010 by the Victorian Parliament). The legislation is the product of negotiation between the government and the peak Victorian traditional land owner body, the Land Justice Group. Mr Murray and his colleagues, including former Aboriginal and Torres Strait Islander Commission head Geoff Clark, argue that the Land Justice Group is not representative of the community. *The Age* (Melbourne VIC, 15<sup>th</sup> September 2010), 8.

16/09/2010

### Failed Attempt to Halt Land Rights Bill

Western Victorian MP Peter Kavanagh has failed in his lone campaign to stop the Traditional Owners Settlement Bill by arguing traditional ownership cannot be proven. When the bill was debated in the Legislative Council, he was the only upper house MP to oppose the bill. Mr Kavanagh argued traditional relationship between Aborigines and land did not revolve around ownership because they were nomadic. Native Title Services Victoria chief executive Chris Marshall said Mr Kavanagh's argument was 'extraordinary' and had no currency in modern Australia. *Warrnambool Standard* (Warrnambool VIC, 16<sup>th</sup> September 2010), 4. *Portland Observer* (Portland VIC, 22<sup>nd</sup> September 2010), 2. *The Age* (Melbourne VIC, 16<sup>th</sup> September 2010), 5.

05/10/2010

### Consent Determination Signed

The Baw Baw Shire Council has signed the consent determination agreed to by the Victorian State Government and the Gunaikurnai people in relation to the Gunaikurnai native title claim. Only a small number of Crown land reserves may be subject to a

native title claim by the Gunaikurnai people in the Baw Baw Shire.

Whether or not native title has been extinguished in these areas is not clear at the present time. If any development is proposed at these sites the question of whether native title has been extinguished will be addressed at the time. *Warragul Gazette* (Warragul Gazette, 5<sup>th</sup> October 2010), 17.

### 21/10/2010

#### Rotunda dilemma

The Hawkesdale and District Development Action Committee (HADDAC) plans to build a rotunda at the town's recreation and conservation reserve, The Common. Plans for the rotunda were first tabled by a youth group from the town in 2008 but the land has since become subject to a native title claim. HADDAC began discussions with the native title claim group midway through 2009 to gain permission for the rotunda but are still waiting for a reply.

Earlier this month, member for South West Coast Denis Napthine, raised the issue in Victorian Parliament saying simple permission had been sought through Native Title Services Victoria to allow the project to go ahead. *Moyne Gazette* (Moyne VIC, 21<sup>st</sup> October 2010), 5.

### 23/10/2010

#### Native Title Deal Signed

The Gunaikurnai people, together with Native Title Services Victoria (NTSV), have welcomed the Federal Court Consent Determination last week, which has formally recognised the Gunaikurnai people's native title claim over lands in Gippsland, in Victoria's southeast.

The determination was made by Justice Tony North at a special sitting of the Federal Court on country at The Knob Reserve, Stratford, and coincided with the signing of a Recognition and Settlement Agreement with the Victorian Government, at a ceremony after the hearing.

The \$12 million agreement is the first to be signed under the *Traditional Owners Settlement Act 2010* (Vic). The settlement will allow for funding for the Gunaikurnai people to manage their affairs and obligations under the settlement, and will help realise economic development and employment opportunities. *Northern Territory News* (Darwin NT, 23<sup>rd</sup> October 2010), 13. *Bairnsdale Advertiser* (Bairnsdale VIC, 25<sup>th</sup> October 2010), 1. *Australian Financial Review* (Australia, 26<sup>th</sup> October 2010), 12. *Herald Sun* (Melbourne VIC, 23<sup>rd</sup> October 2010), 9. *Shepparton News* (Shepparton VIC, 23<sup>rd</sup> October 2010), 14. *Central Western Daily* (Orange NSW, 23<sup>rd</sup> October 2010), 4. *Weekend Gold Coast Bulletin* (Queensland, 23<sup>rd</sup> October 2010), 18. *The Age* (Melbourne VIC, 23<sup>rd</sup> October 2010), 10. *Advertiser* (Adelaide SA, 23<sup>rd</sup> October 2010), 22. *Ballarat Courier* (Ballarat VIC, 23<sup>rd</sup> October 2010), 36. *Warnambool Standard* (Warnambool VIC, 23<sup>rd</sup> October 2010), 16. *Illawara Mercury* (Wollongong NSW, 23<sup>rd</sup> October 2010), 13. *Bairnsdale Advertiser* (Bairnsdale VIC, 22<sup>nd</sup> October 2010), 3. *National Indigenous Times* (Malua Bay NSW, 28<sup>th</sup> October 2010), 8. *Snowy River Mail* (Orbost VIC, 27<sup>th</sup> October 2010), 3. *Lakes Post* (Lakes Entrance NSW, 27<sup>th</sup> October 2010), 3. *Gippsland Times & Maffra Spectator* (Sale VIC, 26<sup>th</sup> October 2010), 1. *Latrobe Valley Express* (Morwell VIC, 25<sup>th</sup> October 2010), 1.

### 27/10/2010

#### Riverside native title talks

Representatives from the Victorian Department of Justice's Native Title Office and the National Native Title Tribunal have met with Wamba Wamba, Wadi Wadi and Barapa Barapa leaders to discuss the groups' native title claim that was lodged in 2000. The claim is on Crown Land including parts of Pental Island and the Tyntynder and Nyah forest areas.

Native title applicant Gary Murray said the aim of the meeting was to speed-up the settlement of the groups' native title claim. 'We're hoping to settle it by next year... so we can move on and have some certainty,' he said. Mr Murray said the local native title claim would be used to secure economic



development opportunities for the Swan Hill region, as well as cultural significance sites. He said one major project could be a multi-purpose eco-tourism site around Pental Island. 'People have to use the native title process as a tool to get things they want done,' he said. 'We've got a small (interpretive) thing at the Pioneer Settlement but that needs to be moved on to the next step.' *Swan Hill Guardian* (Swan Hill VIC, 27<sup>th</sup> October 2010), 6.

## Western Australia

1/09/2010

### Landmark Agreement

The Yaynangu Ngaanyatjarraku Parna Aboriginal Corporation, the Ngaanyatjarra Land Council, Ngaanyatjarra Council and Hinckley Range (a fully owned subsidiary of Metals X) successfully negotiated a mining agreement over Ngaanyatjarra Land and Aboriginal reserves. The agreement could result in the production of the Wungellina Nickel-Cobalt Limonite Project. Metals X stated that the agreement includes 'cash payments as project milestones are met, a gross royalty interest and employment, training initiatives for the local people which are in line with similar agreements made in recent times'. According to Metals X, approximately 1500 people would be employed during construction of the mine and there would be 400 permanent staff. *Kalgoorlie Miner* (Kalgoorlie WA, 1<sup>st</sup> September 2010), 5.

1/09/2010

### Roy Hill Partnership

The Kariyarra native title group have announced a native title agreement with Hancock Prospecting that will cover the company's proposed heavy haulage railway corridor to carry iron ore from its Roy Hill project to Port Hedland. The agreement provides a range of financial and non-financial benefits to the Kariyarra people. It aims to protect cultural heritage and promote economic development in the area. *North West Telegraph* (South Hedland WA, 1<sup>st</sup> September 2010), 22. *Pilbara Echo* (Pilbara WA, 18<sup>th</sup> September 2010), 5. *Yamaji News* (Geraldton WA, September 2010), 12. *National Indigenous Times* (Malua Bay NSW, 16<sup>th</sup> September 2010), 10.

2/09/2010

### WA to Acquire Land for Gas Hub

Traditional owners of James Price Point, where the State Government wants to establish a new gas processing hub in the Kimberley for Woodside's Browse basin project, have proposed a month of negotiations in a bid to stop the compulsory acquisition of the 2500ha site. Aboriginal Leaders and celebrity environmentalist have threatened to mobilise across Australia in a battle 'as big as Noonkanbah' after the West Australian Government announced plans to compulsory acquire the land at James Price Point.

Premier of Western Australia, Colin Barnett, stated he had exhausted money and avenues in trying to reach an Indigenous Land Use Agreement over the site and he cited the need to give Woodside certainty following unacceptable delays in reaching an agreement with the KLC due to internal divisions and legal disputes among Aboriginal Groups. Mr Barnett has been accused of bullying Indigenous people by threatening compulsory acquisition.

Environmental groups are planning an international shareholder campaign directed at Woodside Petroleum, Chevron, Shell, BHP and BP. Greens leader Bob Brown will press the Gillard government to come up with a new site for the \$30 billion Kimberley gas development but has ruled out withdrawing his party's support if it is not supported.

Aboriginal law boss Joseph Roe has renewed his damaging fight with the Kimberley Land Council. In a document filed in the Federal Court, Mr Roe sought leave to appeal the dismissal of his claim that the KLC acted without authority when it signed an in-principal deal with Woodside and the state last year. *Advertiser* (Adelaide NSW, 2<sup>nd</sup> September 2010), 25. *West Australian* (Perth WA, 2<sup>nd</sup> September 2010), 10. *Business News* (Perth WA, 2<sup>nd</sup> September 2010), 2. *Broome Advertiser* (Broome WA, 2<sup>nd</sup> September 2010), 3. *Australian* (Australia, 2<sup>nd</sup> September 2010), 8. *Barrier Daily Truth* (Broken Hill NSW, 3<sup>rd</sup> September 2010), 7. *Geelong Advertiser* (Geelong VIC, 3<sup>rd</sup> September 2010), 30. *Bendigo Advertiser* (Bendigo VIC, 3<sup>rd</sup>

September 2010), 15. *Australian Financial Review* (Australia, 3<sup>rd</sup> September 2010), 3. *Advertiser* (Adelaide SA, 3<sup>rd</sup> September 2010), 42. *West Australian* (Perth WA, 3<sup>rd</sup> September 2010), 12. *Australian* (Australia, 3<sup>rd</sup> September 2010), 5. *Advertiser* (Adelaide SA, 3<sup>rd</sup> September 2010), 79. *Sydney Morning Herald* (Sydney NSW, 3<sup>rd</sup> September 2010), 1. *The Age* (Melbourne VIC, 3<sup>rd</sup> September 2010), 3. *Northern Territory News* (Darwin NT, 3<sup>rd</sup> September 2010), 37. *Canberra Times* (Canberra ACT, 3<sup>rd</sup> September 2010), 19. *West Australian* (Perth WA, 3<sup>rd</sup> September 2010), 20. *Western Advocate* (Bathurst NSW, 3<sup>rd</sup> September 2010), 5. *West Australian* (Perth WA, 3<sup>rd</sup> September 2010), 12. *National Indigenous Times* (Malua Bay NSW, 2<sup>nd</sup> September 2010), 6. *The Age* (Melbourne VIC, 4<sup>th</sup> September 2010), 5. *Sydney Morning Herald* (Sydney NSW, 4<sup>th</sup> September 2010), 3. *Weekend Australian* (Australia, 4<sup>th</sup> September 2010), 8. *West Australian* (Perth WA, 4<sup>th</sup> September 2010), 8. *Canberra Times* (Canberra ACT, 4<sup>th</sup> September 2010), 7. *Daily Liberal* (Dubbo NSW, 4<sup>th</sup> September 2010), 14. *Daily Advertiser* (Wagga Wagga NSW, 4<sup>th</sup> September 2010), 24. *Ballarat Courier* (Ballarat VIC, 4<sup>th</sup> September 2010), 32. *West Australian* (Perth WA, 6<sup>th</sup> September 2010), 10. *Broome Advertiser* (Broome WA, 9<sup>th</sup> September 2010), 1. *Broome Advertiser* (Broome WA, 9<sup>th</sup> September 2010), 3. *West Australian* (Perth WA, 10<sup>th</sup> September 2010), 15. *The Age* (Melbourne VIC, 11<sup>th</sup> September 2010), 3. *Sydney Morning Herald* (Sydney NSW, 11<sup>th</sup> September 2010), 3. *Australian* (Australia, 24<sup>th</sup> September 2010), 2. *Broome Advertiser* (Broome WA, 16<sup>th</sup> September 2010), 4. *National Indigenous Times* (Malua Bay NSW, 16<sup>th</sup> September 2010), 5. *National Indigenous Times* (Malua Bay NSW, 16<sup>th</sup> September 2010), 5. *West Australian* (Perth WA, 20<sup>th</sup> September 2010), 4. *Sydney Morning Herald* (Sydney NSW, 18<sup>th</sup> September 2010), 9. *Kimberley Echo* (Kununarra WA, 9<sup>th</sup> September 2010), 7. *Mining Chronicle* (Australia, September 2010), 9.

## 2/09/2010

### Historic Native Title Agreement Receives Plaque

Yawuru people have unveiled a plaque and mosaic in Broome as part of a public ceremony to mark

their historic native title agreement earlier this year. The native title agreements, worth \$200 million and covering 5297sqkm of land in and around the Broome townsite, was signed off in February this year. The agreements, believed to be Australia's biggest, marks the end of Yawuru's 16-year fight for recognition of land ownership. Yawuru Native Title Prescribed Body Corporate chair, Professor Patrick Dodson, said the ceremony commemorated those Yawuru people who had not lived to see the agreements reached. *Broome Advertiser* (Broome WA, 2<sup>nd</sup> September 2010), 1.

## 16/09/2010

### Indian Sandalwood

The Ord Valley's largest Indian sandalwood grower, Tropical Forestry Services (TFS), has signed a Memorandum of Understanding (MOU) with Miriuwung Gajerrong (MG) Corporation regarding leases over 1/8 of the land to be developed as part of the \$220m Ord irrigation expansion. *Kimberley Echo* (Kununarra WA, 16<sup>th</sup> September 2010), 7.

## 29/09/10

### Native Title Test Case

Broome magistrate has dismissed an application to throw out disorderly conduct charges against five Indigenous men who allegedly harassed off-duty police officers on native title land. The men's lawyer, Greg McIntyre argued that the case should be dismissed because the beach was not a 'public place' and therefore disorderly conduct could not legally occur. The case is seen as a test case on the relationship between native title and criminal law.

Magistrate Greg Smith said it was probable the incident was in a public place. He could not accept Mr McIntyre's argument that people from the community who used the beach including teachers, nurses and police officers were not members of the public. The case has been adjourned to April 2011. *West Australian* (Perth WA, 29<sup>th</sup> September 2010), 4. *Kimberley Echo* (Kununarra WA, 7<sup>th</sup> October 2010), 3.

**10/10/2010****Kimberley Gas Hub**

The Western Australian Government has issued three notices of 'intention to take interests in land' to the Kimberley Land Council, since September 2010, despite a signed Heads of Agreement between Aboriginal landowners, gas company Woodside and the government stating the gas precinct would be 3500ha in size. The state government has now issued an intention to compulsorily acquire more than 10,000ha.

In related news, the state government has declared marine and wilderness parks over 3.5 million hectares of the Kimberley as it prepares for a fight to compulsorily acquire a gas hub site in the region. Western Australia's Premier Colin Barnett described the creation of four marine and wilderness parks, a national park and the conservation reserves as one of the most significant environmental initiatives in Western Australia's history. *Sunday Times* (Perth WA, 10<sup>th</sup> October 2010), 24. *Australian Financial Review* (Australia, 8<sup>th</sup> October 2010), 11. *Kalgoorlie Miner* (Kalgoorlie WA, 9<sup>th</sup> October 2010), 6. *Business News* (Perth WA, 14<sup>th</sup> October 2010), 2. *West Australian* (Perth WA, 16<sup>th</sup> October 2010), 18. *Barrier Daily Truth* (Broken Hill NSW, 15<sup>th</sup> October 2010) *Weekend Australian* (Australia, 23<sup>rd</sup> October 2010), 9. *Broome Advertiser* (Broome WA, 14<sup>th</sup> October

2010), 2. *Broome Advertiser* (Broome WA, 28<sup>th</sup> October 2010), 1.

**16/10/2010****Case against KLC**

Justice Michael Barker of the Federal Court cleared the way for Joseph Roe, a Kimberley man, to launch a new legal campaign against the Aboriginal group that has been leading talks over the planned \$30 billion gas precinct at James Price Point.

Justice Michael Barker said a judgment in August 2010 throwing out an action by Joseph Roe against the Kimberley Land Council did not prevent Mr Roe mounting new litigation using other sections of the *Native Title Act 1993* (Cth). *West Australian* (Perth WA, 16<sup>th</sup> October 2010), 18. *Broome Advertiser* (Broome WA, 21<sup>st</sup> October 2010), 3.

**27/10/2010****Coral Bay land deal**

The Western Australian Government has received approval to build a 70-bed facility to accommodate tourism workers in Coral Bay under a land agreement signed with the Baiyungu Aboriginal Corporation (BAC). A land transfer deal that was signed on the same day gives the BAC freehold title to about 30ha of Crown land. *West Australian* (Perth WA, 27<sup>th</sup> October 2010), 11.

## Indigenous Land Use Agreements

| NAME   | TRIBUNAL FILE NO. | TYPE | STATE OR TERRITORY | REGISTRATION DATE | SUBJECT-MATTER                             | REGISTER EXTRACT                 |
|--|-------------------|------|--------------------|-------------------|--|----------------------------------|
| Woibo Lease ILUA   | QI2010/032        | BCA  | Queensland         | 28/10/2010        | Community living area<br>Tenure resolution | <a href="#">Register Extract</a> |
| Santos, Petronas and Iman People #2 GLNG ILUA                              | QI2010/010        | AA   | Queensland         | 18/10/2010        | Pipeline                                   | <a href="#">Register Extract</a> |
| Santos Petronas Port Curtis Coral Coast GLNG ILUA                          | QI2010/011        | AA   | Queensland         | 15/10/2010        | Pipeline                                   | <a href="#">Register Extract</a> |
| Mer Island State School ILUA   | QI2010/027        | BCA  | Queensland         | 4/10/2010         | Development                                | <a href="#">Register Extract</a> |
| Djaku-nde & Jangerie Jangerie & Wakka Wakka Peoples & QGC Pty Limited ILUA | QI2010/005        | AA   | Queensland         | 17/09/2010        | Pipeline                                   | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Wyloo Pastoral Lease ILUA                  | WI2010/007        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Mangaroon Pastoral Lease ILUA              | WI2010/008        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Maroonah Pastoral Lease ILUA               | WI2010/009        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Mia Mia Pastoral Lease ILUA                | WI2010/010        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Minnie Creek Pastoral Lease ILUA           | WI2010/011        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Kooline Pastoral Lease ILUA                | WI2010/012        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Glen Florrie Pastoral Lease ILUA           | WI2010/013        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Edmund Pastoral Lease ILUA                 | WI2010/014        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Lyndon Pastoral Lease ILUA                 | WI2010/015        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Towera Pastoral Lease ILUA                 | WI2010/016        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Williambury Pastoral Lease ILUA            | WI2010/017        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Uaroo Pastoral Lease ILUA                  | WI2010/018        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Nanutarra Pastoral Lease ILUA              | WI2010/019        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |
| Wyamba Aboriginal Corporation & Middalya Pastoral Lease ILUA               | WI2010/020        | BCA  | WA                 | 10/09/2010        | Access                                     | <a href="#">Register Extract</a> |

This information has been extracted from the Native Title Research Unit ILUA summary:  
[http://ntru.aiatsis.gov.au/research/ilua\\_summary.html](http://ntru.aiatsis.gov.au/research/ilua_summary.html), 30 October 2010.

AA = Area Agreement      BCA = Body Corporate Agreement

The information included in this table has been sourced from the NNTT.

For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit  
<http://www.nntt.gov.au>



## Determinations

| SHORT NAME          | CASE NAME  | DATE       | STATE OR TERRITORY | OUTCOME  | LEGAL PROCESS                       |
|---------------------|--|------------|--------------------|--|-------------------------------------|
| Gunai/Kurnai People | Gurnai/Kurnai People v State of Victoria & Ors (unreported, FCA, 22 October 2010, North J)   | 22/10/2010 | Victoria           | Native title exists in parts of the determination area | Consent determination               |
| Jirrbal People #1   | Jirrbal People #1 v State of Queensland (unreported, FCA, 8 October 2010, Dowsett J)   | 08/10/2010 | Queensland         | Native title exists in the entire determination area   | Consent determination (conditional) |
| Jirrbal People #2   | Jirrbal People #2 v State of Queensland (unreported, FCA, 8 October 2010, Dowsett J)   | 08/10/2010 | Queensland         | Native title exists in the entire determination area   | Consent determination (conditional) |
| Jirrbal People #3   | Jirrbal People #3 v State of Queensland (unreported, FCA, 8 October 2010, Dowsett J)   | 08/10/2010 | Queensland         | Native title exists in the entire determination area   | Consent determination (conditional) |
| Singleton           | Rex on behalf of the Akwerlpe-Waake, Iliyarne, Lyentyawel Ileparranem and Arrawatyen People v Northern Territory of Australia [2010] FCA 911 | 07/09/2010 | Northern Territory | Native title exists in parts of the determination area | Consent determination               |

This information has been extracted from the Native Title Research Unit Determinations summary: [http://ntru.aiatsis.gov.au/research/determinations\\_summary.html](http://ntru.aiatsis.gov.au/research/determinations_summary.html), 30 October 2010.

The information included in this table has been sourced from the NNTT.

For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit [www.nntt.gov.au](http://www.nntt.gov.au)

## 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. You will notice some items on MURA do not have a full citation because they are preliminary catalogue records.

### Special collection

Over 500 new records from the Australian Indigenous Languages Electronic Collection (AILEC) can now be found on MURA. These are being migrated from the Aboriginal Studies Electronic Data Archive (ASEDA), which was formerly accessible on the AIATSIS website at <http://www1.aiatsis.gov.au/aseda/>.

Some of these materials are available for downloading. Users should type the search term, AILEC, in MURA and listings to all holdings of this collection will appear. Most of the items consist of grammars, word lists, and articles on languages, but there are also resources on ethnobotany, personal names of speakers of Indigenous languages, field notes, and placenames and site listings.

Audiovisual material of interest to native title includes:

### Video and film

A number of films made by Charles Mountford have been listed recently. Ranging from 1940-1954, these were made at Ernabella, Oenpelli, Melville I., Yirrkala, the Olgas, and Yuendumu. They contain material relating to material culture and ceremonial life.

Reel 9 of *Natives of the Warburton Range*, a series of films made by E.O. Stocker in 1935 in conjunction with the University of Adelaide, has been recently listed. (DAC00073\_9)

Three videos made by the Council for Aboriginal Reconciliation concern native title issues:

*An act of justice: the Mabo judgement and the Native Title Act*. Canberra: OZIRIS, 1994. (PDAC00018\_44)

*Face to face: Native Title discussion including Noel Pearson* / [production company] Seven News. Sydney: Seven, 1993. (PDAC00018\_35)

*Native title and racism: insight* / [production company] Special Broadcasting Commission. Sydney: SBS, 1996. (PDAC00018\_31)

### Photographs

McCord, T. 13 black and white images from Ti Tree and Devils' Marbles area, NT taken in 1942 during WW II. (MCCORD.T1.CD)

Brainwood, E. 144 lantern slides of mission activity in far north Queensland taken in the 1930s.

### Sound recordings

The Wangkamaya Pilbara Aboriginal Language Centre, in conjunction with CAAMA, produced a CD in 2005 entitled 'Nyangumarta massacre song line.' (PR\_00155)

In 2009, Peter Kabaila recorded approximately two and a half hours' worth of interviews about missionary work at the Bomaderry Aboriginal Children's Home. (KABAILA\_P04)

In 1994, Loreen Brehaut deposited approximately 6 hours' worth of recordings of Kurrama stories, culture, language, history, songs from the Karratha, WA area. (BREHAUT\_L01)

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Native Title Research Unit  
Australian Institute of Aboriginal and Torres Strait Islander Studies  
GPO Box 553  
Canberra ACT 2601  
Telephone 02 6246 1161  
Facsimile 02 6249 7714  
Email: [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)

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