

What's New: July 2005

Notifications

Native title applications by current notification of applications

Notification closing date	Application name	Application type	Date filed	State/Territory	Tribunal file no.	Federal Court file no.
17/08/2005	The Hon Bob Debus MP, Minister for the Environment for the State of New South Wales	Non-claimant application	29/03/2005	New South Wales	NN05/9	NSD468/05
31/08/2005	Widi Binyardi	Claimant application	16/12/2004	Western Australia	WC04/8	WAD286/04
31/08/2005	Amangu People	Claimant application	19/04/2004	Western Australia	WC04/2	WAD6002/04
31/08/2005	South West Glen Helen	Claimant application	1/02/2005	Northern Territory	DC05/1	NTD2/05
31/08/2005	West Ban Ban #2	Claimant application	3/12/2004	Northern Territory	DC04/5	NTD24/04
31/08/2005	McKinlay River	Claimant application	4/11/2004	Northern Territory	DC04/4	NTD21/04
31/08/2005	Edith River	Claimant application	24/11/2004	Northern Territory	DC04/3	NTD20/04
14/09/2005	Gangalidda & Garawa People #2	Claimant application	8/03/2005	Queensland	QC05/3	QUD66/05
28/09/2005	Wotjobaluk	Claimant application	30/03/1999	Victoria	VC99/8	VID6009/98
28/09/2005	Olkola People #2	Claimant application	23/12/2004	Queensland	QC04/12	QUD1/05
28/09/2005	Western Yalanji #7	Claimant application	6/01/2005	Queensland	QC05/1	QUD3/05
9/11/2005	Pilki People	Claimant application	12/08/2002	Western Australia	WC02/3	WAD6002/02
23/11/2005	The Council of the City of Shoalhaven	Non-claimant application	23/06/2005	New South Wales	NN05/10	NSD1037/05
6/12/2005	Illawarra Local Aboriginal Land Council	Non-claimant application	28/07/2005	New South Wales	NN05/11	NSD1272/05

(This information has been extracted from the [National Native Title Tribunal website](http://www.nntt.gov.au/cgi-bin/search/search.pl?col=ntapplications&browse=notifications_current&sorttype=notification_closing_date) http://www.nntt.gov.au/cgi-bin/search/search.pl?col=ntapplications&browse=notifications_current&sorttype=notification_closing_date 08/08/05)

Determinations

Short name	Case name	Date	State/Terr.	Outcome	Legal process
Djabugay People	Djabugay People v State of Queensland [2004] FCA 1652	25 July 2005	Queensland	Native title exists in the entire determination area	Consent determination

(This information has been extracted from the [National Native Title Tribunal website](http://www.nntt.gov.au/ntdetermination/bydate_index.html) http://www.nntt.gov.au/ntdetermination/bydate_index.html 08/08/05)

Indigenous Land Use Agreements: Registered ILUAs by date

Tribunal file no.	Name	Type	State/Terr.	Reg. date	Subject matter
QI2003/063	Stuart Stage 2 Project ILUA	Area agreement	Queensland	05 August 2005	Mining
QI2004/051	Barron Gorge National Park	Area agreement	Queensland	25 July 2005	Access
DI2004/016	Yurtuminyi CLA	Area agreement	Northern Territory	11 July 2005	Community living area
DI2004/015	Pingala CLA	Area agreement	Northern Territory	11 July 2005	Community living area

(This information has been extracted from the [National Native Title Tribunal website](http://www.nntt.gov.au/ilua/bydate_index.html) http://www.nntt.gov.au/ilua/bydate_index.html 08/08/05)

Future Act Determinations

Future act consent determinations by Determination date

Determination date	Tribunal File No.	Decision/ Determination	Parties	Catchwords
28/07/2005	SF05/1	Consent determination: future act can be done	Charlie Moore Fredrick Brown Leslie Harris Aaron Paterson Anita Paterson Fay Nicholls and Theresa Bottrell on behalf of the Yandruwandha/Yawarrawarrka Native Title Claim - and - David Mungeranie Irene Kemp Rhonda Kennedy-Gepp Sylvia Stewart Edward Landers and Nellie Edge on behalf of the Dieri Native Title Claim (native title parties) - and - EAGLE BAY RESOURCES	Native title future act consent conjunctive determination - petroleum exploration licence production licence regulated resource regulated substance - appointment of an Administrator under the Aboriginal Councils and Associations Act three of seven persons

			NL (grantee party) - and - STATE OF SOUTH AUSTRALIA (government party)	<p>comprising the applicant in one native title party fail to sign agreement</p> <p>native title parties as a whole consent to the determination - difference between hard rock exploration and mining and petroleum and gas exploration and production</p> <p>principles governing conjunctive determinations - determination that both the act and associated later future acts may be done with conditions</p>
14/07/2005	WF05/3 WF05/4 and WF05/5	Consent determination: future act can be done	<p>Wilma Freddie and Others on behalf of Wiluna (WC99/24) (Applicant/native title party)</p> <p>- and -</p> <p>Newmont Yandal Operations Pty Ltd (grantee party)</p> <p>- and -</p> <p>The State of Western Australia (Government party)</p>	<p>Native title</p> <p>future acts</p> <p>application for determination for the grant of mining lease</p> <p>application for determination for the grant of exploration licence</p> <p>application for determination for the grant of prospecting licence</p> <p>named native title applicants not signed state deed</p> <p>existing regional agreement - native title party consents to the determination</p> <p>consent determination that the acts may be done</p>
14/07/2005	WF05/7	Consent determination: future act can be done	<p>Cyril Barnes on behalf of the Wongatha People (WC99/1); Raymond Ashwin on behalf of the Wutha People (WC99/10) and Richard Guy Evans on behalf of the Koara People (WC99/5) (Applicant/native title parties)</p> <p>- and -</p> <p>Allarrow Pty Ltd</p>	<p>Native title</p> <p>future act</p> <p>application for determination for the grant of exploration licence</p> <p>named applicants not</p>

			(grantee party) - and - The State of Western Australia (Government party)	signed agreement native title parties as a whole consent to the determination determination that the act may be done
13/07/2005	WF05/6	Consent determination: future act can be done	JAB Management Pty Ltd (grantee party/Applicant) - and - Ben Ward and Others on behalf of Miriuwung Gajerrong (WC94/2) (native title party) - and - The State of Western Australia (Government party)	Native title future act application for determination for the grant of mining lease consent determination that the act may be done

Future act determinations by Determination date

Determination date	Tribunal File No.	Decision/ Determination	Parties	Catchwords
18/07/2005	WO04/94	Objection - Expedited Procedure Does Not Apply	Dorothy & Thelma Tucker representing the Narnoobinya Family Group – (WC97/40) (Native Title Party) - and - The State of Western Australia (Government Party) - and - Mincor Resources NL (Grantee Party)	Native title future act proposed grant of exploration licence expedited procedure objection application area excised from grant native title not affected Government party granted exploration licence Tribunal has no jurisdiction objection application dismissed
18/07/2005	WO04/40	Objection - Dismissed	Linda Champion a named applicant and representative of the Central West Goldfields People – (WC99/29) (native title party) - and - The State of Western Australia (Government party) - and - Kim James Harris Peter Romeo Gianni	Native title future act proposed grant of prospecting licence expedited procedure objection application Government party granted the prospecting licence in error

			(grantee party)	Tribunal has no jurisdiction objection application dismissed
18/07/2005	WO05/184	Objection - Dismissed	Leonne Velickovic on behalf of Widji People – (WC98/27) (native title party) - and - The State of Western Australia (Government party) - and - Rocky Reef Mining Pty Ltd and Gregory John Keeley (wrongly notified as Gregory John Keeley) (grantee party)	Native title future act proposed grant of prospecting licence expedited procedure objection application s 29 notice withdrawn Tribunal has no jurisdiction objection application dismissed
18/07/2005	WO05/203	Objection - Dismissed	Merle Forrest and Others on behalf of Central East – (WC99/30) (native title party) - and - The State of Western Australia (Government party) - and - Heron Resources Ltd (wrongly notified as Herald Resources Ltd) (grantee party)	Native title future act proposed grant of exploration licence expedited procedure objection application s 29 notice withdrawn Tribunal has no jurisdiction objection application dismissed

(This information has been extracted from the [National Native Title Tribunal website http://www.nntt.gov.au/cgi-bin/search/search.pl?col=determinations&sorttype=determination_date&browse=determination_date&consent=no](http://www.nntt.gov.au/cgi-bin/search/search.pl?col=determinations&sorttype=determination_date&browse=determination_date&consent=no) and http://www.nntt.gov.au/cgi-bin/search/search.pl?determination_date=2005&col=determinations&sorttype=determination_date&disp=false&list=determination_date&consent=yes 08/08/05)

Case Law (Australia)

Rubibi Community (No 5) v State of Western Australia [2005] FCA 1025

http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/1025.html

NATIVE TITLE - competing claims for communal and group native title rights and interests - whether native title rights and interests in the respective claim areas are possessed by members of the claimant community or by members of the competing claimant group who comprise one of the clans which forms part of the claimant community

(Sourced from NNTT email alert service 29/07/05)

Northern Territory of Australia v Alyawarr, Kaytetye, Warumungu, Wakaya Native Title Claim Group [2005] FCAFC 135

<http://www.austlii.edu.au/au/cases/cth/FCAFC/2005/135.html>

NATIVE TITLE - determination of native title rights and interests - native title holders - definition of native title holding group - whether several estate groups holding rights separately or one community encompassing all groups - membership, by recognition, of persons connected by birthplace, adoption and spousal affiliation – whether determination of native title rights and interests can incorporate

specific processes for application of traditional law and custom - native title rights and interests - effect of prior partial extinguishment - control over access to land - control over use of land - whether particular rights relate to land - whether particular rights enforceable and cognisable by common law - right to control disclosure of knowledge - whether relates to land - right to determine membership - right to be acknowledged as traditional owners - whether enforceable and cognisable right - right to trade - whether supported by evidence - application of s 47B - proclamation of townsite - no subsequent action to develop townsite - whether proclamation for public purposes or particular purpose - meaning of 'is to be used' in s 47B - whether applicants occupied land at time of application.

De Rose v State of South Australia (No 2) [2005] FCAFC 137

<http://www.austlii.edu.au/au/cases/cth/FCAFC/2005/137.html>

NATIVE TITLE - costs

(Sourced from NNTT email alert service 28/07/05)

Jarraman Arts Aboriginal Corporation v Tourism Australia (as Successor in Title to the Australian Tourist Commission) (No 3) [2005] FCA 983

http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/983.html

ABORIGINAL CORPORATIONS - consideration of operation of s 48 of the Aboriginal Councils & Associations Act 1976 (Cth) - where applicant member of Incorporated Aboriginal Association and undertook liability of association - whether lawful for applicant to undertake such liability CONTRACT - enforceability of settlement agreement - whether agreement reached by unconscionable conduct CONTRACT - enforceability of settlement agreements - whether agreements intended to give rise to mutual contractual obligations - whether terms of agreements were so vague and imprecise as to be unenforceable

(Sourced from NNTT email alert service 27/07/05)

Stanley Mervyn, Adrian Young, and Livingston West and Ors, on behalf of the Peoples of the Ngaanyatjarra Lands v The State of Western Australia and Ors [2005] FCA 831

http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/831.html

NATIVE TITLE - consent determination - Court's discretion making order under s 87 - relevant factors Court to take into account when determining whether Court is satisfied it is appropriate to make orders sought

(Sourced from NNTT email alert service 01/07/05)

Reported Cases

- Hughes V State Of Western Australia and Anor (2003) 182 FLR 362; [2003] NNTTA 69;
- Mt Gingee Munjje Resources Pty Ltd V State Of Victoria and Ors, (2003) 182 FLR 375; [2003] NNTTA 125;
- Lansen v Northern Territory of Australia, (2004) 138 FCR 563; [2004] FCAFC 257;

(Sourced from NNTT email alert service)

Case Law (International)

R. v. Marshall; R. v. Bernard 2005 SCC 43.

<http://www.lexum.umontreal.ca/csc-scc/en/rec/html/2005scc043.wpd.html>

Indians - Treaty rights - Logging - Interpretation of truckhouse clause - Mi'kmaq Indians charged with cutting and removing timber from Crown lands without authorization, or with unlawful possession of Crown timber - Whether Mi'kmaq in Nova Scotia and New Brunswick have treaty right to log on Crown lands for commercial purposes.

Indians - Aboriginal title - Logging sites - Mi'kmaq Indians charged with cutting and removing timber from Crown lands without authorization, or with unlawful possession of Crown timber - Whether Mi'kmaq hold aboriginal title to lands they logged - Standard of occupation and type of evidence required to prove title - Whether Royal Proclamation of 1763 or Belcher's Proclamation of 1762 granted aboriginal title to Mi'kmaq.

(Sourced from NNTT email alert service 25/07/05)

Ngaa Rauru Kiitahi claims settlement Act passed (Ngaa Rauru Kiitahi Claims Settlement Act 2005 2005-84)

<http://nz01.terabyte.co.nz/ots/LiveArticle.asp?ArtID=-1243035403>

Associate Treaty Negotiations Minister Mita Ririnui announced today that the Ngaa Rauru Kiitahi Claims Settlement Act has been passed by Parliament, the third Claims Settlement Bill to pass this year. The Act provides for the transfer of settlement assets agreed in the 2003 Deed of Settlement,

and finalises Ngaa Rauru Kiiitahi's historical Treaty of Waitangi claims. The settlement includes a Crown apology for breaches of the Treaty of Waitangi and its principles, cultural redress which includes the transfer of five sites of cultural significance to Ngaa Rauru Kiiitahi and a cash settlement of \$31 million.

(Sourced from NNTT email alert service 27/07/05))

Legislation

Aboriginal Lands Amendment Bill 2005 (Tas) (Act Number: 26 Of 2005)

"Bill to define Aboriginality has been passed without change by Tasmania's Legislative Council"

http://www.parliament.tas.gov.au/bills/Bills2005/pdf/39_of_2005.pdf

(Sourced from NNTT email alert service)

Media Releases

Central Land Council

- [Canberra foists nuclear waste dump on Aboriginal communities](#) 15 JULY
- [Loss of a statesman - Mr W Rubuntja](#) 4 JULY 2005

Department of Immigration and Multiculturalism and Indigenous Affairs

- [Vanstone to sign Shared Responsibility Agreements with Kimberley Indigenous Communities](#) - 31 July
- [Minister Vanstone and Premier Rann reject misguided criticisms about APY Lands](#) - 21 July
- [Indigenous Disadvantage Report reinforces the need for change](#) - 11 July
- [Farewell to a great Australian Leader](#) - 4 July
- [Minister welcomes start of NAIDOC Week 2005](#) - 3 July
- [Stanhope's crocodile tears over ATSIC don't wash](#) - 1 July
- [Minister welcomes important step in cooperation with States](#) - 1 July

National Native Title Tribunal

- [Native title in the Northern Territory to move forward \(29 July 2005\)](#)
- [Second Ngarla claim progressing native title in the Pilbara \(27 July 2005\)](#)
- [Pilki people move forward with native title \(27 July 2005\)](#)

Torres Strait Regional Authority

- TSRA NEWS [12 - 18 July edition](#)

Books & Journals

The Australian Journal of Anthropology (August 2005)

http://www.aas.asn.au/TAJA/Contents_16_2.htm

On-line Publications

Land & Water

Aboriginal Management and Planning for Country: respecting and sharing traditional knowledge - Full Report http://www.lwa.gov.au/downloads/publications_pdf/PK040789.pdf

National Native Title Tribunal

- [Native Title Hot Spots No.15](#)
 - The determination of native title in the De Rose Full Court matter
 - The Ngaanyatjarra Lands consent determination
 - The proposed determination of native title in the Bardi Jawi peoples' application
 - Authorising agreements—the interests of people who speak for particular country
 - Replacing the applicant
 - Further decisions on party status
 - The jurisdiction and approach of an independent person under s.24MD(6)(B) of the NTA
- [New registration form for Area Agreements](#)

Other

Public Record Office Victoria (PROV) Finding Your Story: A Resource Manual to the Records of the Stolen Generations in Victoria.

Finding Your Story is available free to the Indigenous Community and those organisations and agencies that assist Indigenous people link up with family and community. Free copies are available from Link Up Victoria, the Koorie Heritage Trust and PROV's Koorie Records Unit (T: 03 9348 5629) <http://www.prov.vic.gov.au/findingyourstory/> For more information contact Emma Toon, Manager Koorie Records PROV (03) 9348 5629.

Australian Law Reform Commission Discussion Paper 69

Review of the Uniform Evidence Acts.

HEARSAY and opinion evidence would be allowed in trials involving indigenous Australians under a major shake-up of laws proposed in new discussion paper.

Chapter 17. <http://www.austlii.edu.au/au/other/alrc/publications/dp/69/>

Upcoming Events

Public Forums & Seminars

CAEPR SEMINAR SERIES

When? Wednesdays 12.30 to 2.00pm, unless otherwise noted.

Where? CAEPR Seminar Room GO58, Ground Floor, Hanna Neumann Bldg #21, The Australian National University, Canberra.

Enquiries: Centre Administrator on (02)6125 0587 or email: admin.caepr@anu.edu.au

Notification Page: <http://www.anu.edu.au/caepr/events.php>

A New Backyard Blitz? Enactments of Australian Sovereignty Post 2001

Curtin University of Technology, August 19, 2005

One-Day Colloquium with Irene Watson, Henry Reynolds, Maxine Chi, Tim Anderson, Ruth Balint, Anthony Burke & Suvendrini Perera

Leading up to the centenary of Federation in 2001 the major question of sovereignty engaging Australia was Indigenous self-determination. The possibility of a treaty with Aboriginal peoples was at the centre of public debate. Four years later, discussions of a treaty have all but disappeared.

Although in this period sovereignty was in the spotlight as never before, issues of sovereignty now at the forefront of public debate hinge on border protection, regional hegemony and interventionism abroad. This workshop explores the shift in focus from internal to external questions of sovereignty and asks how the two relate to and inform each other. What are the implications of this shifting agenda on sovereignty for understandings of the nation and the region? A New Backyard Blitz? brings together key scholars to discuss parallels and linkages between the forms of ownership and hegemony being claimed over domestic and neighbourhood space.

ADVANCE REGISTRATION ESSENTIAL

Inquiries to: S.Perera@curtin.edu.au or J.EIDaoud@curtin.edu.au

Seminar Website: www.humanities.curtin.edu.au/sovereignty

Conferences

[Indigenous Socioeconomic Outcomes: Assessing Recent Evidence. A CAEPR Conference,](#)

August 11-12, 2005

The Australian National University, Canberra

The Centre for Aboriginal Economic Policy Research is pleased to announce a multidisciplinary conference to be held at The Australian National University in Canberra.

Engaging Communities 2005 14-17 August 2005

As part of this conference the United Nations Secretariat for the Permanent Forum on Indigenous Issues (UNSPFII) and the Human Rights and Equal Opportunity Commission (HREOC) will co-host a workshop on "Engaging the Marginalized - Partnership between Indigenous People, Governments & Civil Society". Speakers for this workshop include:

- Professor Mick Dodson, member of the UN Permanent Forum on Indigenous Issues and former Aboriginal and Torres Strait Islander Social Justice Commissioner
- Mr Darryl Pearce, Chief Executive Officer of the South-West Aboriginal Land and Sea Council
- Mr Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission
- Ms Chandra Roy, United Nations Development Program
- Ms Henrietta Marrie, Christensen Fund

<http://www.engagingcommunities2005.org>.

<http://www.engagingcommunities2005.org/program.html#unworkshops>.

Source: HREOC list 13/07/05

7th Indigenous Research Forum 29-31 August 2005

<http://www.ro.mq.edu.au/news/Forum.rtf>

<http://www.ro.mq.edu.au/news/Registration.pdf>

AAS Conference 'Fundamentalisms and Their Alternatives: Anthropological Responses and Responsibilities' 27-30 September 2005

<http://www.arts.adelaide.edu.au/socialsciences/anthro/aasac2005/>

Opportunities

Call for Papers & Presentations

Indigenous Australia: Beyond the Margins/Beyond Marginality

A Special Issue of the Journal of Sociology (Journal of The Australian Sociological Association)

Guest Editors

Maggie Walter (University of Tasmania) Margaret.Walter@utas.edu.au

Priscilla Pyett (University of Melbourne) pmpyett@unimelb.edu.au

Bill Tyler (Charles Darwin University) willtyler@msn.com.au

Annie Vanderwyk (University of Newcastle) Annie.Vanderwyk@newcastle.edu.au

Call for papers

We invite contributions from researchers and scholars working in any discipline but who take a sociological perspective, or utilise sociological theories, in their work on Indigenous issues in Australia. Papers can be empirical, theoretical, methodological, or policy-oriented and can focus on Indigenous populations and communities, or on any issues that impact on the lives of Aboriginal and Torres Strait Islander peoples in Australia. All papers must reflect the unique strengths of a sociological approach. These may be either brief reports or discussion points, or full papers.

We encourage those interested in submitting either a full paper or a brief report to contact the editors as soon as possible, to assist us in gauging the range of topics

Submissions should be sent by 20 December 2005 to:

Dr Maggie Walter, School of Sociology, Social Work and Tourism,

University of Tasmania

Private Bag 17

Hobart, Tasmania 7001

AUSTRALIA

Employment

Source: AASnet

Date posted: 06/07/05

Goldfields Land & Sea Council: Expressions of Interest for Consultancy Services

Expressions of interest are called from suitably qualified and experienced experts available to provide anthropological and archaeological consultancy services in the Goldfields region of Western Australia for and on behalf of clients of the Goldfields Land & Sea Council, the Native Title Representative Body of the Goldfields region of Western Australia, traditional owners and other stakeholders.

Anthropology and Archaeology

- Archaeological and Anthropological consultancies
- Heritage surveys

Consultants are asked to provide their curriculum vitae, contact details, rates, and availability. Please contact Sharyn Craig or Carol Volker on 08 9091 1661 or post to PO Box 10006 Kalgoorlie WA 6430.

Source: <http://www.ntrb.net/>

[HUMAN RESOURCES OFFICER - YAMATJI \[NTRB41\]](#)

Date Posted: 11/07/2005 09:39:41

Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation is one of Australia's leading professional native title representative bodies, with operations in Perth, Pilbara and Geraldton. Our key relationships include various mining companies, State and C [more >>](#)

[RECEPTIONIST - YAMATJI \[NTRB42\]](#)

Date Posted: 11/07/2005 10:20:18

Yamatji Baarna Baba Maaja Aboriginal Corporation is one of Australia's leading professional native title representative bodies, with operations in Perth, Pilbara and Geraldton. Our key relationships include various mining companies, State and Common [more >>](#)

[LAWYERS - YAMATJI - 2 positions \[NTRB43\]](#)

Date Posted: 11/07/2005 10:34:20

Yamatji land and Sea Council Geraldton Working closely with a superior legal team Great native title exposure Excellent salary, salary packaging, benefits plus a great seaside location. Are you looking for a career change opportunity whe [more >>](#)

[RESEARCH POLICY OFFICER - NLC \[NTRB44\]](#)

Date Posted: 01/08/2005 10:21:45

The Northern Land Council invites highly motivated individuals to apply for the vacancy below. Attractive flexible remuneration packages are provided in accordance with the NLC's enterprise agreement. RESEARCH POLICY OFFICER Total Salary Package [more >>](#)