

# Native Title Newsletter

Mar/Apr 2005

No. 2/2005

## WHAT'S NEW WITH THE NTRU!

AIATSIS and the New South Wales Native Title Services invite registrations for the 2005 Native Title Conference to be held at the Opal Cove Resort, Coffs Harbour, NSW, 1- 3 June 2005

### Contents

News from the Native Title Research Unit	2
Upcoming Events	4
What's New	4
Feature	
<i>Gumana v Northern Territory</i> [2005] FCA 50	6
Regular items	
Native Title in the News	8
Applications Lodged with the NNTT	13
Registration Test Decisions	15
Notifications	15
Recent additions to the AIATSIS Library	16
Native Title Research Unit Publications	18

The Native Title Newsletter is published every second month. The newsletter includes a summary of native title as reported in the press. Although the summary canvasses media from around Australia, it is not intended to be an exhaustive review of developments. The Native Title Newsletter also includes contributions from people involved in native title research and processes. Views expressed in the contributions are those of the authors and do not necessarily reflect the views of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

The Newsletter is also available in ELECTRONIC format.

This will provide a FASTER service for you, and will make possible much greater distribution. If you would like to SUBSCRIBE to the Native Title Newsletter electronically, please send an email to [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au), and you will be helping us provide a better service. Electronic subscription will replace the postal service, please include your postal address so we can cross check our records.

The same service is also available for the Issues Papers series. ISSN 1447-722X



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

WORLD KNOWLEDGE AND UNDERSTANDING OF AUSTRALIAN INDIGENOUS CULTURES, PAST AND PRESENT



## NEWS FROM THE NATIVE TITLE RESEARCH UNIT

---

### Staff Movements

Glen Kelly has been appointed as a Visiting Research Fellow for a period of 12 months. Coming from a cultural and natural resource management background and working for some years in the area of Indigenous involvement in the management of protected areas, Glen is developing a research programme which will look at the ways in which native title and traditional law is and can be applied in contemporary times, with an emphasis on the management of national parks and other protected areas.

Kerry Arabena has also been appointed as a Visiting Research Fellow in the NTRU for three months to examine the new arrangements in Indigenous Affairs. Kerry is a Merriam woman from the Torres Strait and has worked in rural and remote Indigenous communities for over 10 years.

Janice Turner has been appointed as the Administrative Assistant until the 30 June 2005. Janice is a Eastern Arrente woman from Central Australia. She comes to the Unit with experience in Aboriginal affairs and has worked both in government and community controlled organisations.

### Research Activities

Dr Stuart Bradfield an article for the Australian Journal of Politics and History titled 'Separatism or status quo? Indigenous affairs from the birth of land rights to the death of ATSIC'.

Dr Lisa Strelein has written an article titled 'Culture and Commerce, the use of fishing traditions in proving native title', published in Taylor et al (eds) *The Power of Knowledge: The Resonance of Tradition* ASP 2005. Dr Strelein also gave a paper at the Federal Court National Native Title Workshop, entitled *The*

*strategic use of agreement making and the negotiation of agreements under the shadow of the law.*

The workshop was held in Brisbane on Wednesday 6 April 2005 and was attended by NNTT registrars and staff working in Native Title.

### Claims Management Workshop

The NTRU hosted a Claims Research Management workshop in the Mabo Room on the 12 April for native title representative body staff, where seven NTRBs were represented. An Issues Paper examining some of the questions raised by the workshop will be prepared by NTRU staff.

### Native Title Research Forum

The NTRU hosted a forum for native title researchers on Thursday 28 April 2005. The purpose of the forum was to bring together researchers from universities and other institutions and organisations to share information about current native title research projects, identify opportunities for collaboration and discuss future research priorities. A report from the forum will be provided to native title representative bodies and registered native title bodies corporate, who will be invited to identify their particular research needs and priorities. The purpose of this is to increase awareness of current research and promote greater levels of communication and collaboration between researchers and practitioners.

The NTRU would be pleased to hear from researchers who have an interest in native title and would like to participate in this research survey. To register your interest please email [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au).

## Indigenous Facilitation and Mediation Project (IFaMP) Update

### General Practitioners Native Title Mediation Workshop

A workshop for Indigenous and non-Indigenous Native Title Mediation Practitioners was held on the 15 and 16 March 2005 in the Mabo room at AIATSIS with 25 participants. The workshop was aimed at identifying best practice issues and related training needs, including the manner in which the native title legislative framework affects mediation.

Participants included members of the National Native Title Tribunal (NNTT), Registrars of the Federal Court and a range of consultant mediators. Many commented that they particularly appreciated the sharing of difficult mediation scenarios and discussions around best practice methods to deal with them.

A report on the proceedings of the workshop will be available on the IFaMP website.

IFaMP will also produce a combined final report on this workshop and the Indigenous Practitioners Workshop (held in February 2005) which will analyse the issues raised in the workshops and make recommendations.

### Federal Court Native Title Forum

Toni Bauman, Visiting Research Fellow, gave a presentation entitled *Learnings from the Indigenous Facilitation and Mediation Project* at the Federal Court of Australia Native Title Workshop.

Understanding the importance of process in arriving at just outcomes and the need for ongoing development of mediation process skills is a significant issue for the

Federal Court in its mediations of native title.

### Check the IFaMP Web Site

The following additions can now be accessed on the IFaMP website. Feedback or comments are most welcome.  
[ifamp@aiatsis.gov.au](mailto:ifamp@aiatsis.gov.au)

Final NTRB Report including executive summary:

Williams, R. and T. Bauman. 2004. *Report on Native Title Representative Body Workshops: Directions, Priorities and Challenges*. Report No. 2 Indigenous Facilitation and Mediation Project, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.  
[http://www.aiatsis.gov.au/rsrch/ntru/ifa/mp/research/research\\_frameset.html](http://www.aiatsis.gov.au/rsrch/ntru/ifa/mp/research/research_frameset.html)

Final Report of the Survey of Native Title Mediation Practitioners (including executive summary):

Williams, R. 2004. *Native Title Mediation Practice: The Commonalities, The Challenges, The Contradictions* Report No 4 Indigenous Facilitation and Mediation Project, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.  
[http://www.aiatsis.gov.au/rsrch/ntru/ifa/mp/research/research\\_frameset.html](http://www.aiatsis.gov.au/rsrch/ntru/ifa/mp/research/research_frameset.html)

## UPCOMING EVENTS

---

# CALL FOR REGISTRATIONS



The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and New South Wales Native Title Services (NSWNTS) invite registrations for the 2005 Native Title Conference to be held at the Opal Cove Resort, Coffs Harbour, NSW, 1-3 June 2005.

The theme of this year's event is '*The Human Face of Native Title*'. The conference will be a significant event for collective discussions on native title issues. It provides an opportunity for Australia's best thinkers on Indigenous issues to present current research, practice and policy directions.

Australian, Indigenous and international specialists will discuss key topics including the economic development on native title lands, the social impact of native title, negotiating and implementing agreements, evidence and experts,

oceans and waterways and the bigger picture: native title and the political context. Senator Aden Ridgeway will deliver the annual Mabo Lecture. As with our previous conferences we will also include an Indigenous Youth Forum and Indigenous Talking Circles

See the full conference program at:  
<http://www.aiatsis.gov.au/rsrch/ntru/conf2005/>

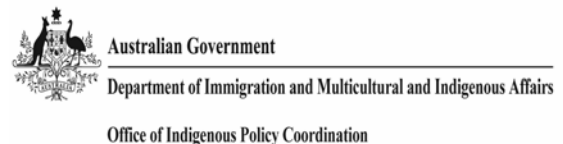
Further information and a fax-back registration form can be found at:  
<http://www.aiatsis.gov.au/rsrch/ntru/conf2005/pdfs/REGISTRATION%20FORM.pdf>

Queries to the NTRU on  
tel (02) 6246 1161 fax (02) 6249 7714  
or email [NTRUConf@aiatsis.gov.au](mailto:NTRUConf@aiatsis.gov.au)

Brought to you by:



Major Sponsor



## WHAT'S NEW

---

### Publications

The National Native Title Tribunal have released 'Steps to an ILUA'. This publication outlines in plain English the process parties need to go through to get an ILUA negotiated and registered. For more information go to:

<http://www.nntt.gov.au/publications/orderform.html>.

### Reports

The National Native Title Tribunal have released their first 'Indigenous Fishing Bulletin' for 2005. It is available for download from their website at:

<http://www.nntt.gov.au/publications/data/files/Indigenous%20fishing%20bulletin%20March%202005.pdf>

If you would like to subscribe or contribute information, please send your details to [fishing@nntt.gov.au](mailto:fishing@nntt.gov.au)

HREOC Aboriginal & Torres Strait Islander Social Justice Commissioner Tom Calma has recently released the Native Title Report 2004. The report further develops the principles for economic and social development through native title in the context of current arrangements. An electronic copy of the report can be accessed from:

<http://www.humanrights.gov.au/social%5Fjustice/ntreport04/>

Richard Potok and Melissa Castan from Monash University have finalised a report titled 'A report into the professional development needs of Native Title Representative Body lawyers'. The research focuses on the challenges NTRB lawyers face while representing the interests of native title claimants. For a copy of the report go to:

<http://www.law.monash.edu.au/castancentre/projects/2005-april-report-2-excl-part-f.pdf>.

The Queensland Department of Natural Resources and Mines have generated a discussion paper titled 'Options for future community engagement in regional natural resource management'. The paper has been prepared to provide information, promote discussion and seek views about future community engagement in regional natural resource management in Queensland. The paper may be obtained by following this link:

[http://www.regionalnrm.qld.gov.au/options\\_paper/options\\_paper.pdf](http://www.regionalnrm.qld.gov.au/options_paper/options_paper.pdf).

### Conferences

The International Quality & Productivity Centre (IQPC) is holding its fourth annual conference on 'Collaborative Indigenous Policy Development' at the Royal on the Park in Brisbane from the 8 to 9 June 2005. For further information refer to their website at:

<http://www.iqpc.com.au/cgi-bin/templates/genevent.html?topic=234&event=6846&>.

### Websites

During March, Native Title Services Victoria launched their website. <http://www.nts.vic.gov.au>

The website includes a summary of claims in Victoria and gives access to the NTSV Newsletter.

The Department of the Premier and Cabinet - Office of Native Title (Western Australia) have a new website:

<http://www.nativetitle.dpc.wa.gov.au>

The Office of Native Title is responsible for the implementation of the State Government's native title policy.

### Opportunities

The University of Adelaide in organising the Australian Anthropology Society



Annual Conference 2005, from 27-30 September and have called for session proposals. Details about the conference and how to submit a proposal for a session can be found at:

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

Native Title Services Victoria are seeking expressions of interest from consulting anthropologists to conduct preliminary research for two Victorian native title groups. For more information please contact:

Phillippa Sutherland

Manager - Research

P: 03-9321 5330 F: 03-9326 4075

E: [psutherland@ntsv.com.au](mailto:psutherland@ntsv.com.au)

## FEATURE

---

*Gumana v Northern Territory* [2005]  
FCA 50, Selway J, 7 February 2005  
(Update on Blue Mud Bay Case)

By Phillipa Hetherton  
Solicitor, Northern Land Council

The area of the Blue Mud Bay claim covers two large shallow bays on the western side of the Gulf of Carpentaria and the adjacent land. The land subject to the claim is part of the Arnhem Land Aboriginal Land Trust, granted in 1978 as freehold title to the traditional Aboriginal owners under the *Aboriginal Land Rights (Northern Territory) Act 1976* (the '*Land Rights Act*'). There are a number of homelands in the claim area and the lives of the traditional Aboriginal owners who live there are inextricably connected to the sea, both as a source of physical sustenance and through stories, songs, painting, designs, beliefs about ancestral beings and cultural practices which are suffused with references to the sea.

*Gumana v Northern Territory* [2005] FCA 50, the 'Blue Mud Bay' case, was heard by His Honour Justice Selway between August and November 2004. The applicants sought to have recognised their traditional rights and interests in the land and waters in Blue Mud Bay through the *Native Title Act 1994* and the '*Land Rights Act*'.

Two proceedings were heard together;

- an application under the *Judiciary Act* seeking declarations that the grant to the Arnhem Land Aboriginal Land Trust (under the *Land Rights Act*) of a freehold interest extending to the low water mark entitles the applicants to control the access to the whole of the grant, including in relation to persons who are purportedly authorised to enter and fish in the inter-tidal zone pursuant to the *Fisheries Act 1988* (NT) or a licence granted thereunder; and

- an application under the *Native Title Act* for a declaration of native title over lands and waters, including land and waters in the inter-tidal zone and outer waters of the bays.

Evidence for both matters was heard together in Yirrkala and on-country, with final submissions heard in Canberra. Due to concessions by both sides, the recognition of non-exclusive native title rights in the inter-tidal zone and outer waters of the two bays was not in dispute. Among the main matters in issue were:

- the nature and extent of the applicants' rights in the inter-tidal zone (both by reason of the freehold grant to the Land Trust under the *Land Rights Act* and pursuant to the *Native Title Act*);

- whether the *Yarmirr* case precluded recognition of native title rights in the sea to restrict access to

sacred sites in the sea, and to temporarily restrict access to areas of sea; and

- how section 73 of the *Land Rights Act* limits the powers of the Northern Territory Government in relation to the regulation of fisheries in the sea to 2km seaward of the low water mark.

The applicants presented extensive evidence about the nature of their traditional laws and customs and sought to prove that their rights and interests pursuant to Yolngu law are exclusive and entitle them to exclude persons from the whole of the waters subject to claim. Their evidence was supported by expert anthropological evidence, and by the end of hearing traditional evidence the anthropologists for the Respondent parties were in substantial agreement about the extent and type of rights and interests that continue to be held under Yolngu traditional law and custom in land and sea.

Justice Selway handed down his decision on 7 February 2005. His Honour accepted the evidence of the applicants that, as a matter of fact, under Yolngu law clan-members have a right to access and use the resources of and to control other persons' access to and use of the resources of their country in the whole of the claimed area, whether land or sea, and that this includes a right to exclude others, whether Aboriginal or not. However, legal recognition of these factual findings was limited. His Honour's decision in relation to the three matters identified is discussed below.

### **The inter-tidal zone**

In relation to the nature and extent of the applicants' rights in the inter-tidal zone His Honour identified the crucial question as whether, by granting the Arnhem Land Aboriginal Land Trust a freehold interest that extended to the low water mark, the Commonwealth Parliament exercised its

power to create an exclusive right over the tidal foreshore and the arms of the sea. His Honour indicated that were the matter free of judicial authority he would have thought that the grant to the low water mark, combined with section 70 of the *Land Rights Act* (which relates to entry on to Aboriginal Land), would have meant that the grant included exclusive occupation of the waters to the low water mark and so conveyed rights to exclude persons from the waters of the sea to the low water mark. However, His Honour found that he was so bound by the *Yarmirr* case and consequently, that the applicants' rights in the inter-tidal zone are subject to the public rights to fish or navigate.

The applicants argued that section 47A of the *Native Title Act* required that any 'non-recognition' of exclusive native title rights due to the public rights to fish or navigate (as in *Yarmirr*) be disregarded in the inter-tidal zone. His Honour rejected this argument, finding that section 47A does not permit the 'non-recognition' of native title rights to be disregarded and thus that the applicants' rights in the inter-tidal zone are subject to the public rights. His Honour did find however, that section 47A has the affect that any extinguishing effects of fisheries legislation are to be disregarded in the inter-tidal zone.

### **Restricting access to sacred sites in the sea**

The applicants gave extensive evidence about Yolngu law and custom relating to restrictions on access to sacred sites in the sea (both in the inter-tidal zone and outer waters) and practices relating to closure of areas of sea after a death or during certain ceremonies. The applicants argued that a native title right to exclude permanently from small areas or to exclude temporarily from areas in the sea pursuant to these Yolngu traditional laws

and customs is not inconsistent with the public right to fish or navigate. His Honour found that this traditional right would be inconsistent with the common law right to fish and thus was not recognised by the common law at the date of settlement.

### **Regulation of fisheries in the sea to 2km seaward of the low water mark - section 73 of the *Land Rights Act***

The applicants were unsuccessful in their argument that the result of section 73 (1)(d) of the *Land Rights Act* is that the Northern Territory Government does not have the legislative power to enact the *Fisheries Act* so as to authorise the grant

if fishing licences within 2km of the low water mark.

### **Final Orders and Determination**

At the time of decision, the case was reserved pending the parties' submissions on the form of the native title determination and final orders in the Judiciary Act matter. Written submissions have been filed by all parties. However the date for hearing of submissions was vacated due to the unexpected death of Justice Selway. Dates have now been set for hearing submissions regarding the form of the final orders and native title determination before Justice Mansfield on 18-19 July 2005.

## **NATIVE TITLE IN THE NEWS**

---

### **National**

The Federal Government was reported to have proposed putting all legal services provided by native title bodies up for competitive tender. This decision comes amid concerns from mining companies that underfunding of native title representative bodies (NTRB) adversely affects the resolution of native title claims and the quality of legal service provided. Central Land Council Director David Ross said the tendering of NTRBs would fragment communities, lead to confusion and overlapping claims. *Australian Financial Review*, pg 36. 08-Apr-05.

The 'Native Title Report 2004' prepared by the Aboriginal and Torres Strait Islander Social Justice Commissioner of HREOC was released. The report is currently being tabled in Parliament. The report supports negotiated outcomes to Indigenous land issues, a whole of government approach to resolving disputes over land and water and the

recognition for the need for sustainable and enduring agreements between parties to avoid long and costly disputes. *NNTT Media Release*, pg 5. 08-Apr-05.

Spacial data used to map native title boundaries is now available free online on the National Native Title Tribunal website. This initiative will allow the Tribunal to utilise existing government infrastructure and also increase exposure of native title information to the community. The online information will especially be useful for legal, historical and educational purposes, with the information updated monthly. *Kalgoorlie Miner*, pg 7. 05-Apr-05.

### **New South Wales**

Ian Watson represented The Darug People from coastal NSW in a co-management agreement with Baulkham Hills Shire Council over the 300 hectare Bidjigal Reserve dispelling their previous native title claim. The Reserve which combines



---

Darling Mills State Forest and Excelsior Reserve runs along Darling Mills Creek, reaching into Northmead, Castle Hill and West Pennant Hills. *Hills News*, pg 13. 19-Apr-05. Darug people.

---

Metals exploratory company Malachite Resources is attempting to negotiate a native title claim with the New England Aboriginal group in order to progress its Conrad Silver project, 20km south of Inverell. A meeting will take place soon in Tingha to hopefully finalise the agreement. *Northern Daily Leader*, pg 5. 28-Apr-05. Nucoorilma Clan of the Gamilaray Aboriginal People, NC98/17; NSD6106/98.

### Northern Territory

The Northern Territory Seafood Industry Council has expressed concern about traditional owners offering fishing access to what they suggest are sacred sites in exchange for money. The Council's CEO Ian Smith said several professional fishermen had been approached by representatives of the Northern Land Council with this offer. This access relates to areas in the Blue Mud Bay claim off the eastern coast of Arnhem Land. *ABC Online: Message Stick*. 01-Apr-05.

### Queensland

Queensland Mines Minister Stephen Robertson MP recently ratified a number of native title agreements which will allow eight mining exploration permits to be granted in the Cloncurry area. The agreement is between Ivanhoe Cloncurry Mines Pty Ltd and the Kalkadoon, Yulluna and Mitakoodi Peoples. These permits will cover land south of Cloncurry around the Selwyn copper-gold mine. *ABC Online; Indigenous News - Message Stick*. 03-Mar-05. Kalkadoon, Yulluna and Mitakoodi Peoples.

---

The long running native title dispute over the Community of Yarrabah in Far North Queensland and a large strip of its southern coast will be heard by a Federal Court Judge in Cairns. The communal native title claim involves four applicants from clans in the Yarrabah region, including the Mandingalbay, Yidinji and Gunggandji groups. The Yarrabah Community Council involved in the claim has said the delay in resolving it was hurting the community by preventing vital developments including essential services. *Cairns Post*, pg 5. 14-Mar-05.

---

The Ganumi and Woppaburra people have made an agreement with the Queensland Department of Natural Resources and Mines in the Rockhampton region. The agreement will grant them 300 hectares of freehold land which they plan to turn into reserve land. Of the 300 hectares 140 hectares will be on Great Keppel Island and 160 hectares at Mt Wheeler. *Morning Bulletin*, pg 8. 24-Mar-05. Ganumi & Woppaburra People.

---

The National Native Title Tribunal has registered three ILUAs in relation to the Wik and Wik Way People, three pastoral holdings and the Queensland Government on the west coast of Cape York Peninsula. The parties to these ILUAs can now carry out all aspects of the agreement such as access arrangements as well as the Local Government planned infrastructure and development in the area. *NNTT Media Release*, pg 5. 24-Mar-05. Wik & Wik Way People.

---

The Aboriginal Land Act 1991 (Qld) and the Torres Strait Islander Land Act 1991 (Qld) administered by the Department of Natural Resources and Mines are being reviewed to align with federal native title legislation and State Indigenous policy

because the context in which the Acts were originally drafted has significantly changed. The comprehensive review will make recommendations concerning their future use, operation and application. *Murri Views, April 05*. N.D Apr 05.

---

The Calliope Shire Council in Queensland agreed at its last meeting that compulsory acquisition of native title land may be the only option available to establish its own water treatment plant. Council CEO Graeme Kanofski stated the other option was to seek surrender of the site through an ILUA, however this process is not preferred as it is expected to take considerably longer. The State Government has offered to grant the council freehold title over the site once native title issues are resolved. *Gladstone Observer, pg 3*. 19-Apr-05. The Gooreng Gooreng People, The Gurang People, Taribelang Bunda People, The Bailai People.

## South Australia

Members of Ceduna District Council, the Ceduna Marina Development Company and the South Australian State Government met with representatives of the Far West Coast Aboriginal Negotiation Committee and the Aboriginal Legal Rights Movement (ALRM) recently to discuss issues surrounding the proposed Ceduna Keys Marina development. The proposed development will involve native title and Aboriginal Heritage issues. Due to some of the land being Vacant Crown Land and other land vested in the Aboriginal Lands Trust, the parties hope to reach agreement between respective stakeholders to determine how native title and Aboriginal heritage interests in the project will be accommodated. At this stage the parties are committed to exploring a negotiated outcome through

the use of an ILUA. *West Coast Sentinel, pg 1*. 03-Mar-05.

---

The Aboriginal Legal Rights Movement's Native Title Unit (ALRM NTU) has initiated an independent review which will inquire into the way native title negotiations have been undertaken in South Australia. The review will inquire into all levels of negotiations and also related processes. ALRM's Executive Officer Parry Agius said both negative and positive aspects will be covered with the results documented. *Koori Mail, pg 61*. 09-Mar-05.

---

The Australian Democrat Party has called on the Federal Government to ensure the rights of native title claimants are not overlooked if a takeover of WMC resources occurs. Senator Lyn Allison leader of the Democrat Party said there is currently a native title claim pending in the area by the Kokatha and Bangarla peoples over Roxby Downs, including the location of the Olympic Dam mine. On top of this, WMC Resources applied to the court to bring the trial hearing date forward, with the first hearing expected to be as soon as 15 April. *Australian Democrats Press Release, pg 15*. 04-Apr-05. Kokatha and Bangarla Peoples.

---

Tea Tree Gully, Salisbury, Playford, Port Adelaide Enfield and Gawler Councils have formed a representative committee to conduct ILUA negotiations with the Kurna People. The claim which does not affect freehold property, takes in Crown Land from Port Pirie to Yankalilla. Peter Leue from Tea Tree Gully Council said joining with other councils to negotiate with the Kurna people was the best way to handle the claim. Kurna-Yerta Heritage Board Chair Lynette Crocker welcomed the approach and hoped any agreement reached by the parties was

broader than the issue of land use and ownership. *Leader Messenger*, pg 9. 06-Apr-05. Kurna People.

## Victoria

An historic meeting of 20 Victorian traditional land owners recently in Melbourne, was an outstanding success according to Native Title Services Victoria (NTSV) Chairman Graham Atkinson. The group endorsed a statement which was presented to Victorian Attorney-General Rob Hulls and Minister for Aboriginal Affairs Gavin Jennings calling on the State government to commit to a process of negotiation. *National Indigenous Times*, pg 10. 03-Mar-05.

Six traditional owner groups between Bendigo and Mildura recently met to discuss native title issues pertinent to their region. Garry Murray, the Deputy Chairman of North West Clans Nation said that at present, a regional agreement was being negotiated with the State Government to settle the six native title claims. Mr Murray also said other issues to be discussed at the meeting included traditional owner's boundaries and the establishment of a body corporate. *Bendigo Advertiser*, pg 9. 05-Mar-05.

The Gunditjmara people recently gave evidence over three days in relation to their connection to land at a Federal Court hearing in Mt Eccles National Park. The claim covers 20,000 sq km in south-west Victoria and consists of Crown land, rivers, coast and up to 22 nautical miles offshore from north of Glenelg River to the South Australian border, south to Portland and beyond. This evidence will then be referred back to the National Native Title Tribunal for further mediation. *Hamilton Spectator*, pg 1. 31-Mar-05. Gunditjmara people.

## Western Australia

Junior miner Crescent Gold and Wongatha native title claimants have reached an agreement paving the way for a mining lease to be granted on its flagship tenement at Laverton. Crescent Gold Managing Director Andrew Haythorpe said both parties had entered into an all-encompassing land access agreement. Crescent now has to apply to the State Development Minister for the mining lease before development can commence. *Kalgoorlie Miner*, pg 12. 03-Mar-05. Wongatha Claim.

The Kimberley Land Council (KLC) has said that native title holders and claimants in the Kimberley region will oppose any canal proposals from Fitzroy River to Perth. KLC Executive Director Wayne Bergman said he had also received many calls from traditional owners expressing their objections to the proposal. *Broome Advertiser*, pg 1. 03-Mar-05.

The West Australian Government's long-running bid to overhaul the State's Mining Act and clear the native title backlog has again been halted, with the centrepiece of the legislation passed in October now requiring further amendment before it can be enacted. These improvements to the legislation were formulated after more than two years of talks between the industry and native title groups. However, the changes are now unlikely to come into effect until June 30 provided new amendments can be passed when Parliament resumes. *West Australian*, pg 60. 12-Mar-05.

A coalition of 16 Councils from the Western Australian Wheatbelt region have signed an ILUA covering over 40,000sq km. The coalition was formed by members of local governments which are part of the

Central Country Zone of the WA Local Government Association (WALGA). The South West Aboriginal Land and Sea Council is the representative body for the Noongar claimants. Benefits from the agreement for the Noongar claimants include significant protection of cultural heritage sites, cross-cultural training, employment, training and contracting opportunities, along with consultation with the State, Councils and other land developers. *Narrogin Observer*, pg 3. 16-Mar-05. Single Noongar Claim.

---

A Noongar people's claim, which is the largest ever to be filed in Western Australia, is currently in notification. The claim is 194,000sq km and spreads from Jurien Bay, east to Coorow and southwards to Hopetoun. The claim is made up of several smaller claims that have been filed over the years and excludes privately owned land. *Central Midlands & Coastal Advocate*, pg 4. 17-Mar-05. Single Noongar Claim.

---

BHP Billiton Iron Ore and the Njamal People signed an agreement at a ceremony in Port Hedland during mid March. The Njamal People will receive some financial compensation along with other benefits. The agreement will also ensure the expansion of the company's operations at Yarrrie mine, which is 180 km east of Port Hedland. The Njamal People are represented by the Pilbara Native Title Service. *North West Telegraph*, pg 3. 23-Mar-05. Njamal People.

---

An agreement signed between the State Government and the Rubibi community in October last year has allowed for the residential development of 33 hectares of prime land near Cable Beach and will also allow for the creation of an aged care facility. Under the agreement the Rubibi

traditional owners are compensated for extinguishment of native title over the area by cultural, economic and social benefits. Kimberley Land Council Executive Director Wayne Bergmann said the agreement was a solid building block in the relationship between the Rubibi traditional owners and the State. *Business News*, pg 18. 24-Mar-05. Rubibi People.

---

Nickel miner Minara Resources is facing a \$20 million legal claim from the Wongatha people for breach of agreement when the company was known as Anaconda Nickel and Andrew Forrest as the then CEO. The Wongatha people and five signatories are seeking damages and compensation as they claim Minara breached its obligations under an ancillary agreement in July 1998 to make payments to the Wongatha Trust. *West Australian*, pg 38. 01-Apr-05. Wongatha People.

---

Yamatji Land and Sea Council have refuted Gurrmayinhwonga elder Gladys Walker's claims in the *Pilbara News* that the Council's Working Party processes removed the rights and interests of native title claimants, and were in conflict with Aboriginal law and customs with the process benefiting the State Government and mining companies by expediting the decision-making process. The Yamatji Land and Sea Council said the Working Group members which are nominated and authorised by the members of the underlying native title group have proved effective and successful thus far. *Pilbara News*, pg 3. 20-Apr-05.

---

The Federal Court has received a native title application from the Ngarlawangga people over land earmarked for development by Hope Downs, an iron ore mining company, about 50 km west of Newman in Western Australia. Working Group member Diane Limerick said

although this was only the first step, it was a great moment in history for the Ngarlawangga people. *North West Telegraph*, pg 4. 20-Apr-05. Ngarlawangga People.

*Kalgoorlie Miner*, pg 5. 23-Apr-05. Wongatha People.

A Federal court decision in relation to the long-running Wongatha native title claim is expected in May 05. The claim which has been ongoing for more than a decade encompasses more than 160,000 sq km of land in the Goldfields region. Goldfields Land and Sea Council executive director Brian Wyatt expressed disappointment in how long an outcome has taken. He believes that the matter could have been resolved in a way which supported both the claimants and industrial needs.

The signing of a native title agreement between the Tjurabalan people and Tanami Gold mining company over almost 26,000 km will pave the way for a new mining development of the Coyote Gold project, 200km south-east of Halls Creek in northern Western Australia. The mining operation will cost \$20 million to develop and could commence as soon as early 2006. The agreement also includes a commitment by Tanami Gold to create employment opportunities for Aboriginal people. *Business News*, pg 20. 28-Apr-05. Tjurabalan People.

## APPLICATIONS LODGED

The National Native Title Tribunal posts summaries on their website of applications that are lodged with them, [www.nntt.gov.au](http://www.nntt.gov.au). The following applications were lodged in March/April 2005.

### Claimant Applications

Date Filed	Application Name	State/Territory	Tribunal File No.	Federal Court File No.
08/03/05	Gangalidda & Garawa People #2	QLD	QC05/3	QUD66/05
18/03/05	East Comet/West Dawson People	QLD	QC05/5	QUD79/05
18/03/05	Wangan/Jagalingou People	QLD	QC05/4	QUD78/05
22/03/05	Gugu Badhun People #2	QLD	QC05/7	QUD85/05
22/03/05	Gudjala People	QLD	QC05/6	QUD80/05
23/03/05	Ghungalu People #2	QLD	QC05/8	QUD86/05
30/03/05	Irrwanyere Mt Dare Native Title Claim	SA	SC05/1	SAD66/05
07/04/05	Ngarla #2	WA	WC05/2	WAD77/05
08/04/05	Ngarlawangga People	WA	WC05/3	WAD78/05

11/04/05	Gurambilbarra People	QLD	QC05/9	QUD97/05
11/04/05	Mount Doreen	NT	DC05/2	NTD5/05
12/04/05	Napperby	NT	DC05/3	NTD6/05
29/04/05	Kurnai	VIC	VC05/1	VID398/05

### Non-Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
04/03/05	Anthony Bernard Kelly, MLC, Minister for Lands for the State of New South Wales as the State Minister under the Native Title Act 1993 (Cth)	NSW	NN05/5	NSD327/05
04/03/05	Anthony Bernard Kelly, MLC, Minister for Lands for the State of New South Wales as the State Minister under the Native Title Act 1993 (Cth)	NSW	NN05/6	NSD333/05
14/03/05	Dennis and Susan Hunt	NSW	NN05/8	NSD407/05
16/03/05	Worimi Local Aboriginal Land Council	NSW	NN05/7	NSD396/05
29/03/05	The Hon. Bob Debus MP, Minister for the Environment for the State of New South Wales	NSW	NN05/9	NSD468/05



## REGISTRATION TEST DECISIONS

---

The National Native Title Tribunal posts summaries of registration test decisions at [www.nntt.gov.au](http://www.nntt.gov.au) . The following decisions are listed for March/April 2005. If an application has not been accepted, this does not mean that native title does not exist. The applicants may still pursue the application for the determination of native title. If an application does not pass the registration test, the applicant may seek a review of the decision in the Federal Court or re-submit the application.

Decision Date	Application Name	State/Territory	Tribunal File No.	Federal Court File No.	Decision
02/03/05	Widi Binyardi	WA	WC04/8-1	WAD286/04	Not accepted
02/03/05	Amangu People	WA	WC04/2-1	W6002/04	Accepted
03/03/05	South West Glen Helen	NT	DC05/1-2	NTD2/05	Accepted
03/03/05	South West Glen Helen	NT	DC05/1-1	NTD2/05	Accepted
07/04/05	Olkola People #2	QLD	QC04/12-2	QUD1/05	Accepted
18/04/05	Pilki People	WA	WC02/3-1	W6002/02	Accepted

## APPLICATIONS CURRENTLY IN NOTIFICATION

---

Closing Date	Application Number	Application Name
08/06/05	NN05/3	Anthony Kelly MLC Minister assisting the Minister for Natural Resources (Lands) for the State of NSW as the State Minister under the Native Title Act 1993 (Cwth)
08/06/05	NN05/2	Woromi Local Aboriginal Land Council and Administrator Peter Hillig
08/06/05	NN05/1	The Awabakal Local Aboriginal Land Council
08/06/05	NN04/12	Peter Hillig as Administrator of Worimi Local Aboriginal Land Council
22/06/05	WC03/6	Single Noongar Claim (Area 1)
05/07/05	NN05/4	Brady
19/07/05	NN05/5	Anthony Bernard Kelly, MLC. Minister for Lands for the State of New South Wales as the State Minister under the Native Title Act 1993 (Cth).
19/07/05	NN05/6	Anthony Bernard Kelly MLC. Minister for Lands for the State of New South Wales as the State Minister under the Native Title Act 1993

For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or [www.nntt.gov.au](http://www.nntt.gov.au).

## RECENT ADDITIONS TO THE AIATSIS COLLECTION CATALOGUES

---

The following are newly catalogued items that have just become available on Mura, the AIATSIS on-line catalogue. Please check Mura for more information on each entry, including annotations.

### AUDIOVISUAL MATERIALS:

The Central Australian Aboriginal Media Association (CAAMA) lodged a number of tapes containing stories and histories in Warlpiri, Pitjantjatjara, Luritja and Arrernte that were recorded from 1981-1989. Also, tapes from the 1980's CAAMA series, Bushfire, and interviews from the 1984 Oral History project sponsored by CAAMA have recently been catalogued. A set of black and white photographs taken at Mullewa, WA by Ruth Latukefu in 1954 has been catalogued.

### PRINT MATERIALS:

In addition to the material listed below, the Pilbara Language Centre has released a number of grammars, word lists and texts in the following languages from the Pilbara: Nyamal, Ngarluma, Kariyarra, Manyjilyjarra, Nyangumarta and Yindjibarndi.

#### Native Title - Archaeology

Akerman, Kim.

'A note on shell tools from Western Australia.' In *Australian Archaeology* no.58, (June 2004), p.41.

Bruno, David, et.al.

'Archaeology of Torres Strait turtle-shell masks: the Badu cache.' In *Australian Aboriginal Studies* no.1 (2004), p.18-25.

Bruno, David, et.al.

'The Argan stone arrangement complex, Badu: initial results from Torres Strait.' In *Australian Archaeology* no.58 (June 2004), p.1-6.

Sharpe, K.J. et al.

'Line markings: human or animal origin?' In *Rock Art Research* Vol.21, no.1 (May 2004), p.57-84.

Smith, M. A. and Peter Veth.

'Radiocarbon dates for bailer shell in the Great Sandy Desert.' In *Australian Archaeology* no.58 (June 2004), p.37-38.

Webb, R. Esmee and R.G. Gunn.

'Re-recording culturally significant Aboriginal sites in south-western Australia as a guide to Noongar usage of the region in the past.' In *Rock Art Research* Vol. 21, no.1 (May 2004), p.93-97.

#### History - exploration and accounts

Auty, Kate.

'Patrick Bernard O'Leary and the Forrest River massacre, Western Australia: examining 'Wodgil' and the significance of 8 June 1926.' In *Aboriginal History* Vol. 28 (2004), p. [122]-155.

Cole, Noelene. Battle camp to Boralga: a local study of colonial war on Cape York Peninsula, 1873-1894. In *Aboriginal History* Vol. 28 (2004), p. [156]-189.

Grey, George, Sir.

*Journals of two expeditions of discovery in North-west and Western Australia, during the years 1837, 38, and 39, ... describing many newly discovered, important, and fertile districts, with observations on the moral and physical condition of the Aboriginal inhabitants, &c. &c.*

London : Thomas W. Borges & Co., 1969.

Meeting for Sufferings (London, England). *Further information respecting the Aborigines, containing extracts from the proceedings of the Meeting for Sufferings in London, and of the committees on Indian affairs of the yearly meetings of Philadelphia and Baltimore...*

London : Edward Marsh, 1843.

Roberts, Anthony John.  
*Frontier justice : a history of the Gulf country to 1900.* St Lucia, Qld. : University of Queensland Press, 2005.

Rous, James.  
'A description of the Rivers Clarence and Richmond, in latitude 28 deg 9 m. and 28 deg. 53 m. respectively, etc, in New South Wales; from recent observations.' In *Australian Quarterly Journal* ; Vol. 1 Oct 1828 : p. 352-355.

Sassoon, Joanna.  
Becoming anthropological: a cultural biography of EL Mitchell's photographs of Aboriginal people. In *Aboriginal History* Vol. 28 (2004), p. [59]- 86.

#### Native Title - Coexistence

Baird, Warwick and Rachel Lenehan.  
'Recent developments in joint management of Aboriginal owned land in New South Wales and the register of Aboriginal owners.' In *Journal of Indigenous policy*, Issue 4, Dec. 2004 p. 15-26.

Gordon, Michael et al.  
[Age newspaper articles on mutual obligation]. The Age ; 15 Dec 2004 : p. 1, 2, 17.

Hughes, Helen, Jenness Warren et al.  
*A new deal for Aborigines and Torres Strait Islanders in remote communities.* St Leonards, N.S.W. : Centre for Independent Studies, 2005.

New South Wales. Dept. of Aboriginal Affairs.  
*Development in the native title era.* [Papers from a conference held in 1998 in Sydney]. See catalogue record for names of speakers and topics.

New South Wales. Dept. of Environment and Conservation.

*Aboriginal people protecting country : environmental sustainability success stories.* Department of Environment and Conservation (NSW). Sydney : Dept. of Environment and Conservation, 2004.

South, James.  
*Law, lore, accountability and responsibility.* Southport, Qld : Keeaira Press, 2004.

#### Indigenous rights: Overseas

Durham, W.Cole.' The Aboriginal and comparative law : a United States perspective : agenda 1.A.1.' [United States] : American Association for the Comparative Study of Law, c1986.

Tatz, Colin and ANZAAS. Congress (43rd : 1971 : Brisbane, Qld.).  
'Education and land rights : Australian and South African ideologies.' Source: *Times for change* / Colin Tatz, 1971, p. 1-[11].

#### Native Title - Land and Sea rights

Cahir, Sandra.  
*Land rights.* Cambridge ; Port Melbourne, Vic. : Cambridge University Press, 2002.

Peterson, Nicolas.  
'On the visibility of Indigenous Australian systems of marine tenure.' In *Senrei ethnological studies* ; Vol. 67 : p. 427-444.

Russell, Denise.  
'Aboriginal- Makassan interactions in the eighteenth and nineteenth centuries in northern Australia and contemporary sea rights claims.' In *Australian Aboriginal Studies Australian* no.1 (2004), p.3-17.

Strang, Veronica. 'Showing and telling : Australian land rights and material

moralties.' *In Journal of material culture*  
; Vol. 5 no. 3 2000 : p. 275-299.

### Native Title - Mediation

Williams, Rhian and Toni Bauman et al.  
*Report on native title representative  
body workshops : directions, priorities  
and challenges*. Canberra : Native Title  
Research Unit, Australian Institute of  
Aboriginal and Torres Strait Islander  
Studies, 2004.

### Native Title : Legal issues and governance

Blagg, Harry and Law Reform Commission  
of Western Australia.  
*A new way of doing justice business?  
Community justice mechanisms and  
sustainable governance in Western  
Australia*. [Perth, W. A.] : Law Reform  
Commission of Western Australia, 2005.

Lester, Jim and Institute for Aboriginal  
Development (Alice Springs, N.T.)  
*Aborigines and the courts and  
interpreting in the court*. Alice Springs,  
N.T. : Institute for Aboriginal  
Development, [1982?].

### Land Rights - Case Studies

Day, Ron.  
'Ten years since Mabo - native title at  
Mer.' In *Journal of Indigenous policy*,  
Issue 4, Dec. 2004 p. 45-48.  
Langford, Ben.  
'The tide of history or a trace of racism?  
The Yorta Yorta native title tragedy.' In  
*Journal of Indigenous policy*, Issue 4, Dec.  
2004 p. 65-83.

Whop, John  
'Native title at Mabuiag: the experience  
of Goemulgaw since recognition.' In  
*Journal of Indigenous policy*, Issue 4, Dec.  
2004 p. 126-128.

## NATIVE TITLE RESEARCH UNIT PUBLICATIONS

---

### Land, Rights, Laws: Issues of Native Title

The Native Title Research Unit Issues Papers are available through the native title link  
at [www.aiatsis.gov.au](http://www.aiatsis.gov.au) or are available, at no cost, from the NTRU. Receive copies  
through our electronic service, email [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au), or phone 02 6246 1161 to  
join our mailing list.

#### Volume 3

- No. 01 *Authorisation and replacement of applicants: Bolton v WA [2004] FCA  
760 (15 June 2004)*  
Lisa Strelein

#### Volume 2

- No. 30 *The Recognition Level of the Native Title Claim Group: A Legal and  
Policy Perspective*  
Daniel Lavery
- No. 29 *An Anthropological Perspective on Writing for the Court*  
Katie Glaskin

- No. 28 *Promoting Economic and Social Development through Native Title*  
The Aboriginal and Torres Strait Islander Social Justice Commissioner
- No. 27 *Practical Reconciliation, Practical Re-Colonisation?*  
Professor John Borrows
- No. 26 *Agreeing to Terms: What is a 'Comprehensive' Agreement?*  
Dr. Stuart Bradfield

## MONOGRAPHS

The following NTRU publications are published by Aboriginal Studies Press and are available from the AIATSIS Bookshop located at AIATSIS, Lawson Crescent, Acton Peninsula, Canberra, or telephone 02-6246 1186 for prices and to order.

Treaty: Let's get it right! Aboriginal Studies Press, Canberra, ACT, 2003.

Through the Smoky Mirror: History and Native Title edited by Mandy Paul and Geoffrey Gray, Aboriginal Studies Press, Canberra, ACT, 2003.

Language in Native Title edited by John Henderson and David Nash, Aboriginal Studies Press, Canberra, ACT, 2002.

Native Title in the New Millennium edited by Bryan Keon-Cohen, proceedings of the Native Title Representative Bodies Legal Conference 16-20 April 2000: Melbourne, Victoria, 2001, includes CD.

A Guide to Australian Legislation Relevant to Native Title two vols, lists of Acts summarised, 2000.

Native Title in Perspective: Selected Papers from the Native Title Research Unit 1998-2000 edited by Lisa Strelein and Kado Muir.

Earlier publications dating back to 1994 are listed on the Native Title Research Unit's website at <[www.aiatsis.gov.au](http://www.aiatsis.gov.au)>, go to the Native Title Research Unit and then click on the 'Previous Publications' link. Orders are subject to availability.

## ABOUT THE NATIVE TITLE RESEARCH UNIT

---

AIATSIS acknowledges the funding support of the OIPC - Native Title and Land Rights Centre.

For previous editions of this Newsletter, click on the Native Title Research Unit link at [www.aiatsis.gov.au](http://www.aiatsis.gov.au)

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  
([ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au))