

# THE CROKER ISLAND DECISION AND NATIVE TITLE OFFSHORE

## Overview

Croker Island is a small island (43 km x 14.5 km) 225 km north east of Darwin, 6.5 km by boat from the Cobourg Peninsula. The waters surrounding it are the subject of the first Australian claim to exclusive native rights over the sea, lead by plaintiff Mary Yarmirr. The High Court decision on *Commonwealth v Yarmirr; Yarmirr v Northern Territory* was handed down on 11 October 2001. This web page pulls together recent information about the case, as well as other relevant materials on native title and sea rights issues.

## Cases

*Commonwealth v Yarmirr; Yarmirr v Northern Territory* [2001] HCA 56 (11 October 2001) - High Court Decision

*Commonwealth of Australia v Yarmirr* [1999] FCA 1668 (3 December 1999) – Full Federal Court decision

*Mary Yarmirr & Ors v Northern Territory & Ors* [1998] 771 FCA (6 July 1998) - Federal Court decision

## Comment

Paul Burke, *Analysis of the High Court Decision in the Croker Island Case*

Paul Burke, *Summary of the High Court Decision in the Croker Island Case*

Lisa Strelein, 'Native Title Offshore', *Native Title News*, Butterworths, Sydney, 2001.

## Media

Media Release from the National Native Title Tribunal

## Resources

Bibliography of materials related to Croker Island

Dillon, Rodney 2001. 'Exercising your culture: Indigenous cultural heritage and the environment', paper presented at Native Title Representative Body Legal Conference, Townsville, 28-30 August.

Glaskin, Katie 2000. 'Limitations to the recognition and protection of native title offshore: The current "accident of history"', *Land Rights Laws – Issues of Native Title*, Vol. 2, No. 5, June.

- Hiley, Graham 2001. 'Key legal developments in native title', paper presented at Native Title Representative Body Legal Conference, Townsville, 28-30 August.
- Hiley, Graham 2001. 'The Croker Island Appeals' in B. Keon-Cohen (ed), *Native Title in the New Millenium*, Aboriginal Studies Press, Canberra.
- Hiley, Graham 2001. 'Fishing in the seas off Croker Island', paper presented at Native Title Representative Body Legal Conference, Townsville, 28-30 August.
- Howie, Ross 2001. 'Where are we at with native title following the Appeals in Croker Island, Miriuwung Gajerrong and Yorta Yorta', in B. Keon-Cohen (ed), *Native Title in the New Millenium*, Aboriginal Studies Press, Canberra.
- Levy, Ron 1999. 'Native title and the seas: The Croker Island Decision', *Indigenous Law Bulletin*, Vol. 17, No. 17, January.
- McAvoy, Tony 2001. 'Recent developments in native title seminar', Paper presented at Native Title Representative Body Legal Conference, Townsville, 28-30 August.
- Meyers, Gary D. 1997. 'Gone fishin': Native title rights in Australia's territorial waters', prepared for AIC Conference: Working with the Native Title Act: The Political and Commercial Realities, Brisbane, 16-18 June.
- Meyers, Gary D., Malcolm O'Dell, Guy Wright, and Simone C. Muller 1996. *A sea change in land rights law: The extension of native title to Australia's offshore areas*, Native Title Research Unit, AIATSIS.
- Smyth, Dermot 1994. 'State and Territory laws affecting coastal areas and marine areas', summary of proceedings of a workshop, Proof and management of Native Title, Canberra, 31 January – 1 February.
- Smyth, Dermot. 'Saltwater country: Aboriginal and Torres Strait Islander relationships with Australia's oceans', Issues Paper No. 6, Australia's Oceans Policy, Commonwealth of Australia.
- Sparkes, Stephen 2001. 'Native title - all at sea?', paper presented at Native Title Representative Body Legal Conference, Townsville, 28-30 August.