

NATIVE TITLE NEWSLETTER

DECEMBER 2013



AIATSIS

AUSTRALIAN INSTITUTE OF
ABORIGINAL AND TORRES STRAIT
ISLANDER STUDIES

CONTENTS

Land, Language,
Family, Stories 3

IBA's Traditional Owner
and Native Title Unit 5

Ganalanga Mindibirrina 8

Living with
native title 10

Towards a
community of practice 12

Review of
Roles and Functions 14

Australia's First 15

WA PBC Workshop 16

National Indigenous
Studies Conference 18

WELCOME TO THE NATIVE TITLE NEWSLETTER

The *Native Title Newsletter* is produced three times a year (April, August and December). The Newsletter includes feature articles, traditional owner comments, articles explaining native title reforms and significant developments, book reviews and the Native Title Research Unit (NTRU) project reports. The Newsletter is distributed to subscribers via email or mail and is also available at www.aiatsis.gov.au/ntru/newsletter.html. We welcome your feedback and contributions. For more information, please contact: bhiamie.williamson@aiatsis.gov.au.

NTRU also produces monthly electronic publications to keep you informed of the latest developments in native title throughout Australia.



IBA's traditional owner
and native title unit 5



Ganalanga Mindibirrina
A new Indigenous Protected Area 8



Living with Native Title 10



Australia's First 15

Cover image: Jack Hogan standing outside his outstation at Murun Murula 2011.
Credit: Sean Kerins, Centre for Aboriginal Economic Policy Research, ANU.

Aboriginal and Torres Strait Islander people are respectfully advised that this publication may contain names and images of deceased persons, and culturally sensitive material. AIATSIS apologises for any distress this may cause.

Editors: Gabrielle Lauder and Bhiamie Williamson, NTRU, AIATSIS
Design and typesetting: Jake Smith and Bhiamie Williamson, NTRU, AIATSIS
Printed by: CanPrint, Australia

Editor's Note: In the previous Native Title Newsletter- August 2013 An image appeared on the top right of p.7 with caption 'Executive members of Jabalbina Yalanji Aboriginal Corporation RNTBC'. Readers are advised that this caption was incorrect. The correct caption reads: 'Jabalbina Yalanji Aboriginal Corporation RNTBC with Office of the Registrar of Indigenous Corporations (ORIC) at Staff member training day in Cairns'.

LAND, LANGUAGE, FAMILY, STORIES: THAT'S CULTURE

By Bradley Saunders with Bhiamie Williamson

I am a Gunggari fellow, born in Mitchell back in 1958. My parents and grand-parents are all Gunggari and we are one of the major families of the Gunggari people. The Gunggari people have a number of family totems including the snake, the kangaroo and the emu. We've always called the Maranoa River home; it's the centre of our country. Our country starts up in the Chesterton Ranges around Mt Moffat, near the Carnarvon Gorge. We follow the river down until the Balonne River, which comes off the Condamine and all waters join the Maranoa. We go west quite a way from the Maranoa River, out across the Wallam Creek towards a little town called Morven. Then east across Amby Creek and towards a little place called Muckadilla, which is renowned for its hot springs.

It's good old outback western Queensland country. Around the rivers



Banner: Gunggari Aboriginal Property Association: <http://gunggari.org.au/>
Image: Bradley Saunders
Credit: Bradley Saunders

it's really sandy, you can find a lot of Booggley (crayfish) to eat, Buddbudda (Echidna), binke (kangaroo tail), and of course all the yellowbelly. You've got the rocky ridges where women used to meet, and there are all the old Yumbas, old fringe dwelling camps that were set up back in the 1800s and 1900s on the east side of the river. The council bulldozed those back in 1961 and that caused a lot of sadness because a lot of our people grew up there. There are wonderful stories about the women going down, sitting underneath the chicken wire lean to and playing cards down at the Yumba. We also had a lot of sadness when our children were being taken away, taken to places like Cherbourg, Woorabinda and Purga.

We are river people and have a long and rich history living on and around the Maranoa. These days a lot of us have taken up roles in other places throughout Queensland and Australia. We are a proud people; we have a wonderful capacity to reach a decision without a lot of hoo-ha. Even when we are vehemently opposed to things, Gunggari people can reach consensus. That has been one of our real strengths as we've gone through the native title journey, which can be quite heated as people come together and try to make sure that their interests are heard and acknowledged. I live at Laidley these days for work, it's about 8 hours east, and every time I go home and we do business, we can always get to a stage where we can get consensus. So that's a really good thing.

Back in June 2012, Justice Reeves handed down a determination by consent recognising us as the native title holders. Again, I think it shows the strength of the Gunggari people to get all of those parties to consent

to determination. We have non-exclusive rights, which obviously limit our capacity to pursue economic independence. I was involved in the last eight years of the claim, after a dear cousin of mine succumbed to cancer. So we had to go back and authorise new claimants to continue the work that he and the other old people had started. It was a fifteen year battle, and we lost many elders along the way whose knowledge and counsel are sorely missed. We've had two expert reports, saw three changes to the *Native Title Act* (Cth), and re-negotiated with bodies to represent us until Queensland South Native Title Services (QSNTS) took up the mantle. Those people helped us magnificently and we got across the line. We also negotiated two Indigenous Land Use Agreements (ILUAs) with the Queensland Government, one for free-hold title for land at Dunkeld and another one for Aboriginal Freehold Title which is through the *Aboriginal Lands Act* here in Queensland. As we were negotiating all of these agreements it required us to establish new organisations. We have the Gunggari Native Title Corporation, which is the Prescribed Body Corporate (PBC); the Gunggari Lands Trust which holds the Aboriginal freehold land; and a lands trust, Gunggari Aboriginal Property Assoc Inc. We also have a cultural heritage body which is part of the Association. We need these to manage all the different pieces of legislation that the Gunggari people must now comply with. Each of these organisations needs a committee and so you've got to have volunteers, people who are willing to give up a lot of their time to help you manage those organisations. Eventually it takes a toll on people as you try and bring things together. So it

has been a really complex process but we are thankful that our wishes were listened to. Obviously we would have preferred that it didn't take fifteen years, but I guess that is how the law operates.

One of our biggest challenges with so many organisations is communication, especially as many families don't live on Country. We rely heavily on the internet to keep that communication flow. We have established a social media presence through a Facebook page; Proud to be Gunggari, and our property association has recently established its own webpage; Gunggari.org.au. We've got a couple of deadly young Gunggari people who have helped to set up our webpages and Facebook which is a magnificent communication tool. We've got another young lady who is an IT guru and she set up the Gunggari webpage so we've got a lot of good young people around and they are all contributing in their own little ways.

In the early days after the determination, establishing our organisations was all about compliance. We operate across five different legislative regimes and it's just so different for each of them. Getting yourself compliant is the most critical thing. Now that they are established though, we are trying really hard to get our initiatives off the ground. We've got a wonderful museum in Mitchell, which is at the old school house. We call it Yumba, after our old camps. Back in the 20's and 30's, Murri kids weren't allowed to go to school so we had our own little school at the Yumba and that little school was brought back to the Yumba many years ago. We've got an interpretive trail that tells stories, so if you visit Mitchell, you can get a tour and people take you for a walk from the caravan park to the Yumba and tell you some of the stories of the Yumba and the families that used to live there. We have some young Gunggari entrepreneurs making beauty and medicine products using traditional bushes and lotions. We've also got our own language laboratory that a few of our old Aunties have spent years working on. The Council looks after the language laboratory,



Top: Gunggari native title, June 2012. Credit: Bradley Saunders

and both the public and private schools have been learning our language for years. I think we were one of the first schools in Queensland to have it part of the curriculum. I remember at a photographic exhibition that was opened about eighteen months ago, kids from the catholic school with Gunggari and other Murri kids sung the Hoki-Poki in Gunggari. It was just the greatest thing to see. At the moment our language resources are a big collection of nouns and verbs and we want to get back conversational Gunggari. With the help of our old Aunties and some recordings made back in the 60's, we are hoping to get back to conversational language in the next five to ten years.

The hard thing with native title now is that it really is a secondary legislation when it comes to importance. You've got petroleum, mining and farming acts that have precedence over you. So you're always dealing with pieces of legislation that have precedence over native title and trying to find a way around those is where we have to rely on those with legal knowledge.

Native title is the most complex thing that I have ever been involved in. When you think you've got everything done you find out that you have to provide more and more evidence to be able to show ongoing attachment to land. You've got to deal with the different types of legislation with accessing land, and the only time you find out a lot of this is when you try to do something and you find out you can't. How do I teach that to somebody? We've got a couple of young people on the Gunggari #3 and #4 claims which are currently ongoing, in the hope that by experience they will pick up that knowledge. But gosh, I wish I could teach that to everybody, so that's the tough part.

The good things? Well, for Gunggari

people it was the greatest day of our lives to hear the judge say we had native title. The euphoria in the room is something that we are still riding on. We battled with some neighbors that didn't seem to think that we belonged in the land. To be recognised irrefutably that we are the custodians of the land and always have been, that recognition alone makes everything worth it.

I still say culture is four things: Land, Language, Family and Stories. It's the stories of Uncles and Aunties cooking binke, hugging the doctor tree, eating snotty gobbles with Auntie Irene, we tell those stories. Those old fellas might be gone, but the stories about them keep going on for generations. For our young ones', it gives them more strength and cements their culture and connection to the land. It makes everybody stronger. To let people know you're Gunggari, you come from the Maranoa. No matter where you are in Australia, that's where you come from. And when you visit people in Australia, in the Northern Territory, Western Australia or Tasmania, you can say 'I'm from the Maranoa', and you can talk in detail about your land, that's what our people do. We want everybody to come home, that's why we share our language so willingly. For someone to come back and say my grandmother was Gunggari, we say, 'Oh yeah, we know her, that's where you ended up. Do you know about our website? Do you know about our Facebook page? What else do you need? If we can find it, we'll get it to you'. That's why we are so big, we welcome those people. We want all the Gunggari people to come home and know that they have a place here; they are all welcome to come home and leave their footprint in the sand and make sure that the spirits recognise them and know who they are.

IBA'S TRADITIONAL OWNER AND NATIVE TITLE UNIT



By Ken Markwell & Sonali Hedditch

From the outset

IBA has been supporting native title holders to achieve their economic development objectives from the outset. IBA was involved in the first native title settlement, the McArthur River Agreement, which remains enshrined in the *Native Title Act* (Cth).

As part of the agreement, IBA formed a joint venture – Carpentaria Shipping Services – with Mawa Riinbi Pty Ltd (representing the four native title groups whose lands are affected by the McArthur River silver, lead and zinc mine) and P&O Maritime Pty Ltd. Nearly 20 years later, the business continues.

This venture has produced sustainable wealth and opportunities for native title holders since commencing operations in 1995. Mawa Riinbi has used profit distributions from its investment in Carpentaria Shipping Services to purchase some of IBA's equity and has steadily increased both its ownership level and annual profit distribution. It has also used these distributions to help finance its acquisition of a convenience store in Borroloola.

Since these early days, IBA has invested in partnership with many traditional owners and native title holders. IBA has also provided access to affordable finance and business development support.

Growing need

IBA recognises that traditional owners and native title holders have a growing need for access to commercial advice and support. The IBA Board established a specialist Traditional Owner and Native Title Unit in February 2013. The focus of the unit is on building strong partnerships with native title holders and ensuring that IBA uses expertise and resources in ways that assist traditional owners on the journey to economic independence. The unit is initially focused on developing the capability of traditional owner groups and native title holders, particularly in areas of

corporate governance, performance, strategy, and financial viability and sustainability. While IBA cannot assist all native title holders, it can play an important strategic role in creating opportunities, strengthening partnerships with the private sector and building commercial capability.

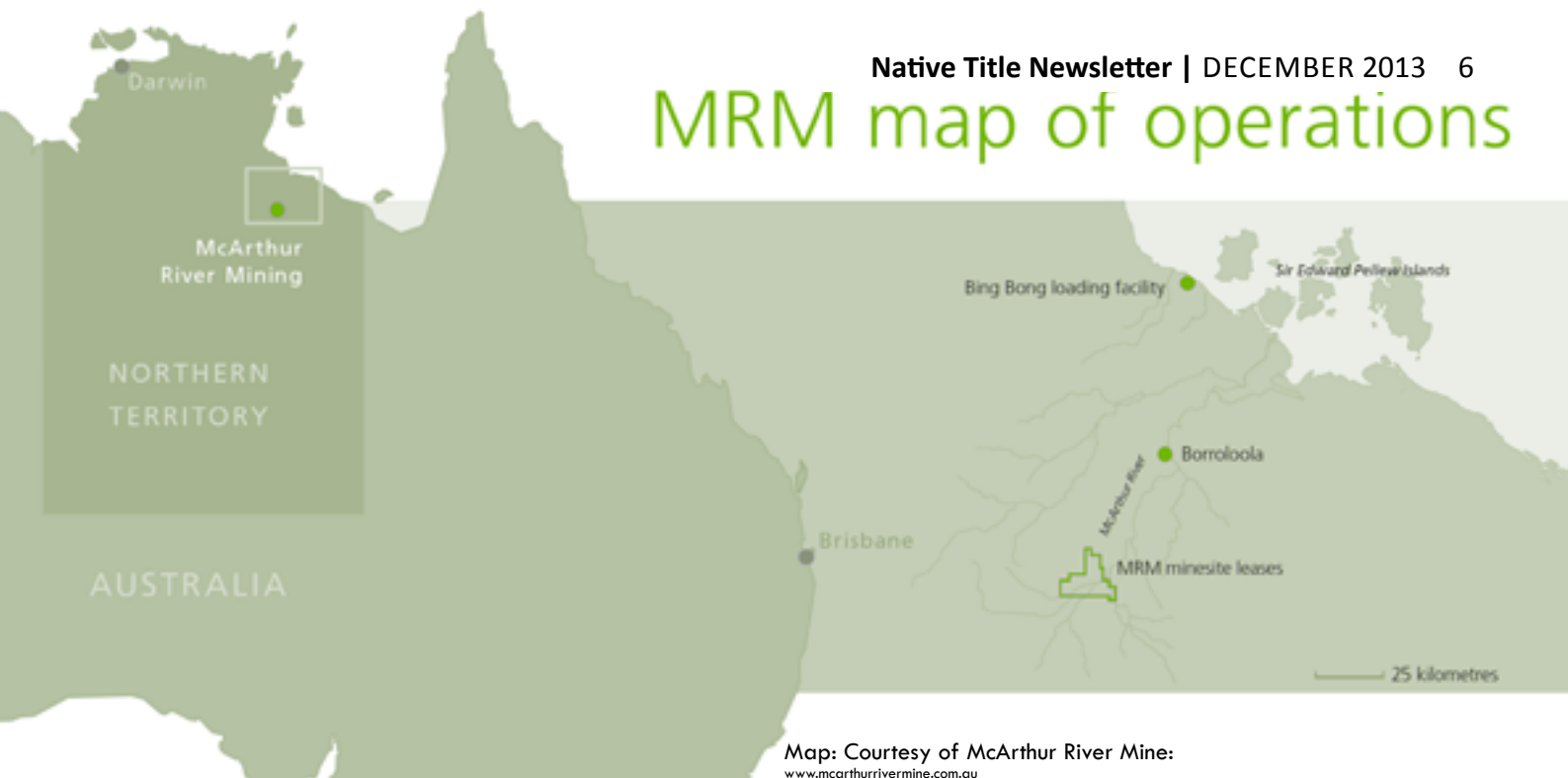
Strategic projects to develop resources

IBA is undertaking a number of projects to develop resources that will assist native title holders to build their commercial capabilities, and has recently developed a commercial capability health check tool.



Top of page: Bitter Springs, Mataranka. Credit: Bhiemie Williamson
Bottom of page: Ship docked at Bing Bong Port. Credit: Courtesy of Carpentaria Shipping and IBA

MRM map of operations



This tool is designed to:

- enable native title holders to identify areas where their organisation is functioning well and areas where they may require assistance in the core areas of corporate governance, corporate performance, strategy and financial sustainability. IBA will use the tool to assist native title holders to obtain information that will enable them (with assistance if requested) to identify their organisation's strengths and identify and prioritise where it needs advice to strengthen its commercial capabilities
- monitor developments periodically, including tracking improvements made by the native title holders and their impact on economic, social and cultural goals
- assess the quality and appropriateness of advice received, as part of an overall assessment of the Native Title Holders' commercial capabilities.

IBA is also developing resources to assist native title holders to access appropriate advisors. These will:

- provide access to the right type of advisor (e.g. corporate governance and corporate performance advisors, strategic planners and investment strategy advisors), with key information such as contact details, locations, website, key staff

members, fee structure and, most importantly, relevant experience

- offer detailed reference checks conducted with other Indigenous organisations, including native title holders, to ensure highly rated advisors have consistently delivered commercially prudent advice tailored specifically to the organisation's needs and capabilities, and that advisors have also built capabilities as needed
- receive ongoing maintenance by IBA, to ensure only advisors with a continuous record of good advice (which has been successfully implemented and has achieved the organisation's key performance indicators) are on the registry.

IBA is producing guidelines to assist native title holders to:

- develop scopes of work to accurately match their commercial needs
- undertake a best practice procurement process to ensure the best possible advice will be delivered and meet the organisation's needs will be delivered
- consider case studies of other Indigenous organisations and Native Title Holders that have had strong and weak advisor procurement processes, and the lessons learnt
- understand their rights

and responsibilities in procuring and managing advisors.

IBA also plans to develop a toolkit and training program in 2014 that will assist Native Title Holders to build their commercial capabilities to achieve economic sustainability.

In addition to developing these commercial capability resources, IBA will work with selected clients to broker and assure the quality of advice.

Case Study: Dja Dja Wurrung

In early 2013, Dja Dja Wurrung became the second group of traditional owners to settle its native title claims under the *Victorian Traditional Owner Settlement Act*. IBA is assisting Dja Dja Wurrung to build their commercial capabilities by brokering, funding and assuring the quality of advisory services for developing and executing an investment strategy that ensures economic independence and sustainability. They are developing the investment strategy in four stages:

1. August 2013: Background research into the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC) and its subsidiary, including benefits to be received under the traditional owner agreements with the Victorian Government, and previous corporate and business planning and governance arrangements and capabilities.

2. 24–25 August 2013: Develop and deliver an aspirations and investment workshop, including key DDWCAC (and subsidiary) Board members, staff members and stakeholders.
3. September–November 2013: Develop a draft investment strategy that meets Dja Dja Wurrung's aspirations and the obligations outlined in the Settlement Agreement, and delivers long-term sustainability for Dja Dja Wurrung. In mid-October, Dja Dja Wurrung Board members were surveyed by Deloitte as part of the process to finalise the draft strategy, and the survey findings were tested with the objective of

achieving group consensus at a Board meeting on 19 October. It is anticipated that the strategy will be finalised by the end of November.

4. December 2013 onwards: Assist Dja Dja Wurrung to successfully execute the investment strategy. This will include reviewing the governance structures and capabilities that will underpin the organisation's investment approach and assisting Dja Dja Wurrung to make decisions in accordance with the investment strategy.

Throughout the process, IBA continued to add value through:

- a) assisting Dja Dja Wurrung to ensure rigour in selecting and monitoring the performance of the investment strategy advisor
- b) providing best practice guidance to Dja Dja Wurrung and the advisors developing an investment strategy and implementation plan, including stakeholder engagement and traditional owner capacity building. Best practice guidance is often delivered during a weekly Project Steering Committee meeting
- c) assuring the quality of the investment strategy and implementation plan to ensure the best possible advice is delivered, aligned with Dja Dja Wurrung's corporate plan and the investment strategy development process
- d) providing after-care support, assisting Dja Dja Wurrung to monitor and evaluate its performance against the investment strategy and implementation plan, including identifying and assisting on constraints such as internal capacity, governance, engaging other advisors to implement aspects of the strategy and adjusting the strategy as needed.

Drive to economic independence

As a result of building commercial capabilities in corporate governance, corporate performance, strategy and financial sustainability, native title holders will:

- possess a strong, commercially capable governance mechanism

and a management team that is trusted by all beneficiaries to achieve the Native Title Holders' economic, social and cultural development goals

- meet or exceed the strategic plan's key performance indicators
- receive solid commercial returns on investments, and progress on economic, social and cultural development goals and intergenerational wealth
- be perceived as an attractive investment partner by other organisations
- possess the commercial capability to diversify, innovate, and broker or manage ongoing commercial advice as needed
- be able to teach peer Indigenous organisations about building their commercial capabilities.

Can IBA assist you?

If your traditional owner or native title organisation can answer 'yes' to all of the questions below, and you are interested in working with IBA to build your organisation's commercial capabilities and asset base, please contact us.

1. Are you an established traditional owner-based Indigenous organisation?
2. Do you have legal and community-recognised responsibility for all assets and funding associated with your traditional owner and native title agreements (settlement, determination, compensation, ILUA or similar)?
3. Do you have a vision for your future based on economic independence?
4. Can you demonstrate commitment to establishing and maintaining prudent self-governance?
5. Are you financially able to obtain professional commercial advice?
6. Would you like to partner with IBA to build your organisation's commercial capabilities and sustainable economic development practices?

If so, please write to IBA's Traditional Owner and Native Title Unit at tontu@iba.gov.au or call on 1800 107 107.



Image: Courtesy of Living with Native Title



GANALANGA MINDIBIRRINA A NEW INDIGENOUS PROTECTED AREA

By Dr Sean Kerins, Centre for Aboriginal Economic Policy Research, ANU

Sometime next year Waanyi and Garawa people will declare the Waanyi/Garawa Aboriginal Land Trust an Indigenous Protected Area. This will be a significant moment in their long struggle to protect and care for their country.

In the mid-1970s, Garawa and Waanyi people heard that they would soon be able to reclaim some of their ancestral land. As soon as the news reached the southwest Gulf of Carpentaria many of them relocated from the harsh and often violent living conditions their families had endured for the past hundred years to settle on their country in the Nicholson River region of the Northern Territory. They erected humpies, built cattle yards and constructed miles of road and airstrips using only hand-tools. Finally, in 1985, 11,000 square kilometres of unalienated Crown land was granted to them as the Waanyi/Garawa Aboriginal Land Trust (ALT).

For 10 years, with government support for housing, health, education and social security (their citizenship entitlements), and with Outstation

Resource Agencies providing for day to day administration life at last seemed to flourish. They lived on their land in small outstation communities running cattle, keeping gardens, and hunting, fishing and gathering. Estelle and Noreen George who first went to live on the land in the 1970s speak fondly of this period of their lives. It was sometimes tough but they were happy as they grew-up their kids, taught them law and how to live in the land.

Things started to change in the late-1990s when outstation support services began to breakdown and schools were no longer supported by government. Slowly, many families were forced to move back to the surrounding townships they had escaped from. Betty Jack says: "It was real sad that time, leaving our country we fought hard for". Some people, like Jack and Iris Hogan, managed to remain living almost permanently on their country where access is less rugged. However, with little upkeep of roads it soon became difficult to even visit country. Many people worried, the less time they spent on their country

the less knowledge their children and grandchildren would receive about law, ceremonies, sites, stories, songs and plants and animals.

Not living on country soon meant that people were not burning the land. This inactivity saw fuel loads increase. Once lit, massive hot late-season wildfires consumed vast areas of land, quickly changing vegetation cover and destroying the habitat of endemic species. Without vegetation cover the sandy soils quickly erode, choking creeks and wetlands. Further compounding this damage were thousands of feral animals.

In 2005, landowners, with help from several agencies, held some planning meetings to decide how to combat the threats to their land. Through consensus decision-making they drafted planning documents and started a ranger program to manage fire and provide some meaningful employment in a region with few opportunities. They also made a decision to work with scientists to establish a number of fuel-load monitoring sites to measure greenhouse gas emissions with the



intention of participating in future carbon markets.

Over the last eight years they have made significant steps in managing their land. They have taken control of fire, replacing the boom and bust cycle of wildfires with an early season mosaic burning regime which has seen a considerable reduction in greenhouse gas emissions. They have improved access, grading roads and tracks to act as fire breaks. They have also reconnected many young people with their country, bringing them to camp on country to participate in burning activities, planning meetings and fauna surveys. They have also been developing a Plan of Management for the soon to be declared Ganalanga Mindibirrina Indigenous Protected Area to help expand their work activities, engage young people, create more employment and develop enterprises such as cultural tourism and carbon farming. While they have been making significant progress in land management in a very remote and rugged region they have been encountering significant barriers. One of the most challenging is their inability to live permanently on the land due to the lack of basic services.

Since the development of their cultural and natural resource management work many more Waanyi and Garawa people visit their country. They stay at the dilapidated outstations, sometimes until the water supplies run out. The outstations play a vital role in Waanyi and Garawa land management activities. Families hosted several of the IPA planning meetings at their outstations organising trips around the

area to look at the sites or areas that had have been damaged from too much fire or too many feral animals. They use them to host young people from surrounding communities who participate in fauna surveys looking for the endangered species such as the Carpentaria Grasswren and the Carpentaria Rockrat. Waanyi and Garawa rangers often stay at the outstations, using some as fuel depots for their aerial controlled burning. The IPA Plan of Management outlines how the outstations will continue to play an important role in land management, knowledge transfer and in the development of small-enterprises such as cultural tourism.

The NT Government in its *Homeland Policy a Shared Responsibility* recognises the important role outstations play in Aboriginal life. The policy states that the: "Government will continue to provide funding to assist homelands residents and service providers to repair and maintain houses where homelands are used as principal places of residence or where formal programs delivering ongoing, social, cultural and economic development activities are run."

Despite this policy, and Waanyi and Garawa developing their IPA as a formal program to deliver ongoing, social, cultural and economic development activities, they have not been able to get any support from the NT Government. During the development of the IPA, Waanyi and Garawa people invited government ministers and officials to their meetings

on three occasions to talk with them about support for homelands. Their invitations were never accepted leaving a bad taste in the mouths of many people. 'They've forgotten us,' says Ringo Jack a senior Garawa landowner, 'Or they're just too comfortable sitting on their padded chairs in their air-conditioned offices to come and meet with us.'

What Waanyi and Garawa people wanted to tell the NT Government is that their hub and spoke model for homeland service delivery doesn't work in border regions when the hub (Doomadgee) is in Queensland and the spokes (outstations) are in the NT. This raises very difficult questions in relation to service delivery and issues of responsibility that have not been resolved.

Jack Green, senior cultural advisor to the Waanyi/Garawa Rangers says: 'We all working hard down here. Solving problems like with the wildfire that government couldn't fix. We been making plans about how we want to look after this country, create jobs, get the young ones off the grog. We are doing our bit, but the government aren't listening to us. They don't show up to our meetings when we invite them. It makes us feel really bad'.

What Waanyi and Garawa people want from the NT Government is some sharing of responsibility. They have stopped the region's wildfires and developed plans for managing the land as a protected area and now they want a little help with service delivery to their outstations.



Above left: Malcolm Spring at China Wall 2012. Credit: N. Gambold

Above middle: Jimmy Morrison Waanyi/Garawa Ranger Coordinator clearing out a spring at Brumby Springs 2011. Credit N. Gambold.

Above: Waanyi and Garawa people participate in an Indigenous Protected Area Planning meeting at Nudjabarra 2012. Credit S. Kerins

LIVING WITH NATIVE TITLE:

THE EXPERIENCES OF REGISTERED NATIVE TITLE CORPORATIONS

Edited by Toni Bauman, Lisa M Strelein and Jessica K Weir

Living with native title presents the experiences of native title holders and the corporations they have established to look after their native title interests. There are now more than 100 Registered Native Title Bodies Corporate (RNTBCs) across Australia. They operate in a profoundly intercultural context, where 'western' and Indigenous laws are constantly being interpreted and negotiated as part of generating a new suite of land management and holding practices for contemporary Australia.

Living with native title documents their experiences through case studies from the Torres Strait, Far North Queensland, the Kimberley and Central Australia as well as the experiences of native title corporations that are parties to large mining agreements. The introduction and overview chapters provide further information on the RNTBC regime, the RNTBC review and reform process, findings from AIATSIS's long-term research with RNTBCs, and an analysis of the key issues from the case studies.

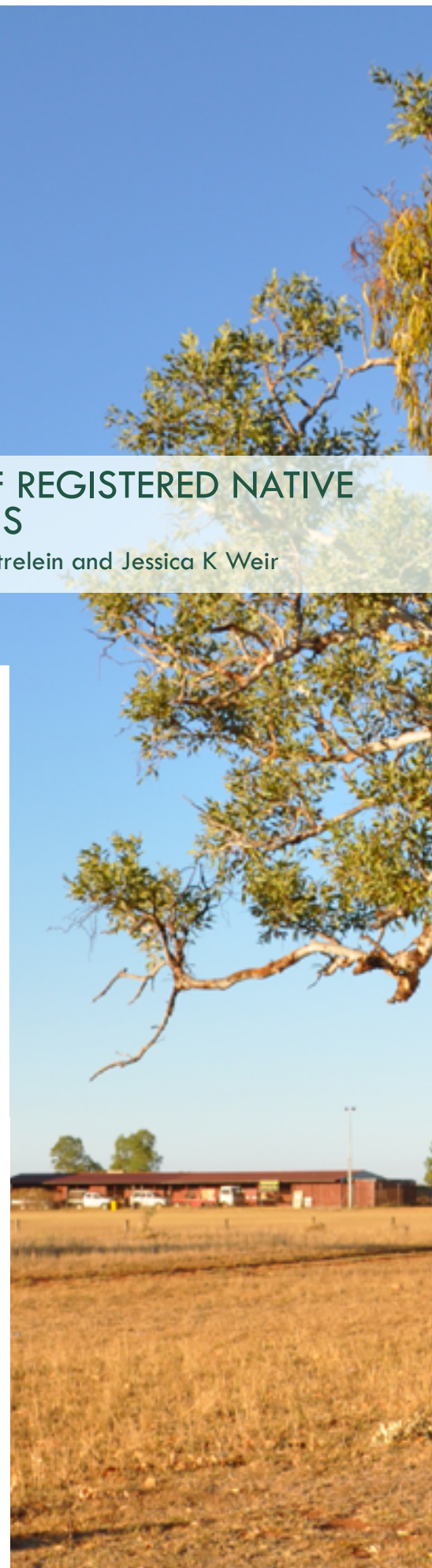
Living with native title is the outcome of a three-year AIATSIS research project on RNTBCs in partnership with the Minerals Council of Australia and the

Office of the Registrar of Indigenous Corporations with funding from the Department of Family and Housing and Community Services and Indigenous Affairs. The experiences of RNTBCs remain a significant research agenda for AIATSIS.

This book is downloadable free of charge at www.aiatsis.gov.au/research/publications.html

'This is a timely book confronting the failures of Australian governments to incorporate Indigenous people's inherent rights within the institutional fabric of Australian nationhood. The breadth of case studies explores the often overwhelming challenges faced by RNTBCs since their conception. It ignites a necessary reimagining of how this nation could embrace the potential for connecting Indigenous peoples, policy makers, governments and corporate bodies into the governance fabric of modern Australia.'

June Oscar,
AO, AIATSIS council member,
Chairperson Bunuba
Dawangarri RNTBC, and CEO
Marninwarntikura Women's
Resource Centre Fitzroy Crossing







TOWARDS A COMMUNITY OF PRACTICE

**By Toni Bauman, Rodney Carter, Mick Harding, Tony Kelly, Sally Smith,
Austin Sweeney, Brendan McKeague, Michael Meegan & Jayne Weepers**

Since the 2013 AIATSIS national native title conference in Alice Springs, a group of us, energised by the synchronicity of our presentations, have been holding regular teleconferences. These teleconferences are aimed at building a community of practice in native title engagement and community development processes which are reflective and participatory, and which acknowledge the impact that processes have on outcomes. We are interested in 'how' things are done: how people are engaged in the first place to participate; how their intentions are identified; how their emotional, procedural and substantive interests are accounted for; how relationships are built and sustained; how agendas are developed and issues are explored and communicated; and how decisions are made and disputes managed to ensure outcomes are reality checked and owned.

This process work is at the centre of effective governance not only for native title holders and traditional owners but also for Native Title Representative Bodies and Service Providers (NTRBs/NTSPs) and governments. There is a need for a

paradigm shift which moves beyond viewing 'big meetings' as the only mechanism for engaging Aboriginal and Torres Strait Islander people. In many instances these have become the modus operandi and can be unhelpful without effective preparation and forms of prior engagement as the views of participants may go unheard and decisions and agreements fall apart. New and innovative approaches are required which engage not only participants but also other decision-makers and which minimise harm, engage complexity successfully, build on the wisdom of the entire group, foster ownership of the process by participants and recognise the potential in conflict for growth and creativity and as an agent for change.

Each of the approaches taken in process-related presentations at the conference was in one way or another based on such principles. Michael Meegan, Principal Legal Officer at Yamatji Marlpa Aboriginal Corporation (YMAC) in the Pilbara region and Brendan McKeague, an open space facilitation consultant, described their approach in 'The Emergent Way: Engaging the power

of collective wisdom within Indigenous organisations.' For them the need to change processes was obvious: trust funds had been languishing for many years in the face of disputes hindering the realisation of community development aspirations. Their 'open space' practice involves creating circles of co-learning; acknowledging complexity and living with ambiguity and paradox; engaging collective wisdom and mutual respect; stating intentions and purposes transparently; participating by invitation; opening opportunities for self-organisation; collaborative learning; carefully planned individual and family meetings and modelling nonviolent methods of community development which begin within one's own circle of influence. The work began by developing YMAC's legal team's community of practice, then expanding insights within the organisation and beyond to client groups.

For Sally Smith, Tony Kelly and traditional owners Rodney Carter and Mick Harding from the Right People for Country Project funded by the Victorian government, processes should be 'imaginative' in the Lederach sense



of imagining processes grounded in current challenges yet able to create something new and different from the status quo. Right People for Country supports traditional owners to reach agreements about group composition and boundary issues and aims to provide government with greater certainty about who to talk to about land issues. In 2012 it supported three pilot projects with traditional owner groups in Victoria. Each aimed to empower traditional owners and build collaborative relationships. As relationships developed, trust increased and more mature collaborations emerged. An evaluation of the pilots identified five dimensions of effective agreement making processes: traditional owner leadership; collaborative partnerships; co-ordinated and tailored support; capacity building from the beginning including negotiation training for traditional owners; and the use of independent facilitators. For governments and industry, in particular, the most provocative finding of the evaluation lies in its cost benefit analysis. The Central Land Council (CLC) has a long history of consultative and engagement processes with communities in central Australia.

Since 2005, it has had a dedicated Community Development Unit (CDU) and framework with clear processes for progressing community initiatives across the CLC region (<http://www.clc.org.au/articles/cat/community-development/>). Jayne Weepers outlined issues the CLC is confronting in developing a meaningful and systematic policy and implementation strategy around dispute management, following an AIATSIS workshop of senior CLC staff and Executive members in 2012. The CLC's draft Dispute Prevention and Management Framework sets out a three-tiered approach: prevention of disputes; recognition and assessment of disputes; and dispute management. Fundamental premises are that Aboriginal people should be supported to manage their own disputes rather than relying on the CLC or other third parties, but also that in some cases external expertise in the form of independent facilitation may be needed. Critical challenges include clarifying how and when the CLC will be involved in dispute management and how to systematically build staff capacity.

To think in the ways the conference presentations suggested and to reflect this thinking in daily practice requires a paradigm and organisational cultural shift to ensure that every aspect of an engagement process is seen as an opportunity. Some common themes we have identified suggest the need for: a strong intention to build both client and staff capacity in designing and facilitating meetings; frameworks which strengthen relationships and build consensus while respecting difference; recognition of the significance of independent facilitation as it takes pressure off lawyers and anthropologists and other professional staff from having to lead processes as well as addressing content; creating opportunities for Indigenous facilitators; designing processes according to context; identifying stakeholders and inviting them into

collaborative processes early; and ongoing critical reflection. There are many models and approaches that may be employed to build community consensus and arrive at durable outcomes – forms of dialogue, open space, evaluative, facilitative and transformative mediation and interest-based and deep democracy facilitation for example - and many practitioners may combine elements of a number of these. The key is designing processes in collaboration with the parties with an understanding that societies are dynamic and that meaning is being constantly negotiated in changing conditions.

Our shared concerns recognise that 'business as usual' may not be good enough. Native Title Services Victoria has begun a process of change by providing a significant number of staff with training in transformative mediation and these staff are now accredited mediators and can facilitate each other's meetings. Such a model could work amongst NTRBs and NTSPs nationally as each assists the other. The CLC's CDU with its eight years of



Top left: Sally Smith presenting Mediation and Dispute Resolution, Alice Springs, 4 June, 2013.

Top middle: Michael Meegan presenting Mediation and Dispute Resolution, Alice Springs. Bottom right: Right People for Country presenters, Sally Smith, Rodney Carter, Tony Kelly and Mick Harding. Credit: Matthew O'Rourke

experience and annual monitoring and evaluation is becoming increasingly skilled in facilitating complex planning processes with Indigenous people including the use of funds from land use agreements. Right People for Country is building a network of Indigenous facilitators in many ways mirroring the recommendations of the 2003-2006 NTRU AIATSIS Indigenous Facilitation and Mediation Project (IFaMP) for a small national co-ordination service which links regional services, acts as a clearing house of best practices and develops national training and curriculum. There are also implications for the kind of training that the Aurora Project delivers.

We invite traditional owners and native title holders, NTRB and NTSP staff and government policy and decision makers to create opportunities for exploring new models of engagement, participation and decision making in what is a growing area of practice nationally and internationally. This will require cultural and institutional change which is cost efficient, attracts the interest of all stakeholders and provides real and tangible benefits for Indigenous people.



Top left: Toni Bauman Chair of Session, Mediation and Dispute Resolution.
Top right: Rodney Carter, Mediation and Dispute Resolution presenter.
Middle: Mick Harding, Mediation and Dispute Resolution presenter.
Credit: Matthew O'Rourke.

REVIEW OF ROLES AND FUNCTIONS OF NATIVE TITLE ORGANISATIONS

PUBLIC SUBMISSIONS
NOW AVAILABLE ONLINE



Image: Courtesy of Living with Native Title

Are you interested in finding out more about what native title claimants and holders, independent lawyers, Aboriginal organisations and mining interests had to say about the issues raised in the Discussion Paper of the Review of the Roles and Functions Native Title Organisations? AIATSIS' substantial submission is included, along with 42 others from interest groups as diverse as

the National Native Title Council, Indigenous Business Australia, native title representative bodies, the Western Australian and Victorian state governments, the Association of Mining and Exploration Companies and the Law Council of Australia. Collectively these submissions tell us a lot about the current state of the native title system and the strategic challenges facing native title holders into the future.

You can find all non-confidential submissions
to the Review online at

<http://www.deloitteaccesseconomics.com.au>



Australia's First

native title compensation consent determination

By South Australian Native Title Services

Australia's first native title compensation consent determination was granted to the De Rose Hill native title holders in South Australia's far north earlier this month.

The hearing of the Federal Court was held at an important rock hole, Ilpalka, on De Rose Hill Station. Justice Mansfield said the Ngunaritja people (native title holders) will be remembered for their native title battles. 'The name of the Ngunaritja people will go down in Australian legal history for a number of reasons. First, because you brought one of the early claims for recognition of your native title rights over this country, and because you had the first hearing of such a claim in South Australia. Now, again, you are leading the charge. This is the first time an award of compensation for native title rights and interests which have been extinguished has been made' said Justice Mansfield. Karina Lester, De Rose Hill-Ilpalka Aboriginal Corporation chairperson said this is also a significant achievement for the State, who played a key role in this outcome and has worked closely with De Rose

Hill-Ilpalka Aboriginal Corporation through the entire process, 'We were in uncharted waters and we did not know how it would pan out, and this meant open communication between parties and of course overcoming the language barriers and we thank the State for its cooperation for what was at times a challenging process' said Ms Lester.

Peter De Rose of De Rose Hill Station said the compensation determination was a better experience compared to the group's fight for native title recognition which lasted ten years. The De Rose Hill native title holders were the first Aboriginal people in SA to have native title recognised after a trial and appeal process that began in 1996 and concluded in 2006. Mr De Rose said, 'Looking back on the journey for us to achieve native title, the claim took so long and it was often difficult, so the claim for compensation was a short time for us and we thank them [the State] for recognising our dreamtime stories and our spiritual connections to our land. I also thank family members and all those involved who have walked the road with me and are here today to celebrate this

outcome. I also acknowledge elders and those we have lost over the years and who cannot be with us today.'

In 2011, the De Rose Hill native title holders claimed compensation from the State Government because a portion of the Stuart Highway, a rest-stop next to the Stuart Highway and a freehold block of land extinguished their native title rights and had significant impact on sacred sites. In 2013, an agreement was reached between the State and the native title holders without the need for a trial.

The confidential agreement resolves all of the State's liability to the De Rose Hill native title holders up until the date of the determination, resulting in, amongst other things, a confidential monetary benefit to the native title holders. The compensation is to be paid to the De Rose Hill-Ilpalka Aboriginal Corporation which manages native title rights and other matters for De Rose Hill.

Top image: Karina Lester and Mary Tjarwara Anderson at the De Rose Hill Compensation Determination. Credit: South Australian Native Title Services

WA PBC Workshop

20-22 NOVEMBER 2013 Perth

By Claire Stacey



The first state wide meeting of Western Australian Prescribed Bodies Corporate (PBCs), who are also known as Registered Native Title Bodies Corporate (RNTBCs), was held on the 20th-22nd November this year at the University Club of Western Australia in Perth, WA. This workshop follows on from a series of regional workshops that have been convened by AIATSIS, in partnership with Native Title Representative Bodies and Service Providers (NTRBs/NTSPs), in Queensland, Victoria and South Australia.

The WA PBC Workshop was attended by representatives from 15 of the 28 PBCs in Western Australia. Representatives from some native title claim groups, NTRBs/NTSPs, the National Native Title Council (NNTC) and Indigenous Business Australia (IBA) also attended the workshop. The workshop was facilitated by Gordon Cole, a Director of the South West

Aboriginal Land and Sea Council (SWALSC) and Lisa Strelein from AIATSIS.

The first day of the workshop focused on mapping what activities PBCs are currently involved in, what PBCs would like to achieve in the future, how PBCs run their business and the barriers that PBCs face. PBCs talked about wanting to achieve cultural, social, economic and environmental outcomes for their communities, but also discussed the challenges facing the majority of PBCs to achieve these outcomes without the financial resources needed to get their PBC off the ground. PBCs also discussed the need for strategic planning, cultural and demographic mapping of their communities, adequate training programs for Directors and the need for formal arrangements between PBCs and their respective NTRB or NTSP.

At one point in the meeting a PBC director from the Pilbara expressed

frustration at the ongoing lack of financial and other resourcing for PBCs, concluding that 'whoever invented PBCs didn't do their homework'.

The second and third days of the workshop provided PBCs with the opportunity to get information about relevant resources and programs and build relationships with government stakeholders. Presentations were made by the Department of the Prime Minister and Cabinet (PM&C), six WA state government departments, the National Native Title Tribunal (NNTT), the Indigenous Land Corporation (ILC), the Aurora Project, the Australian Charities and Not-for-profits Commission (ACNC) and the Foundation of Independent Directors of Indigenous Organisations (FIDIO).

The workshop concluded by PBCs at the meeting resolving to form a WA PBC Network, whose aims include PBC networking, lobbying government on behalf of PBCs interests and building regional alliances over specific issues and concerns. PBCs requested the support of AIATSIS to help get the network off the ground and are currently looking at future opportunities to bring PBCs in WA together again.

For more information about the WA PBC Network or AIATSIS's work with PBCs, please contact Claire Stacey at the Native Title Research Unit on (02) 6246 1158 or Claire.stacey@aiatsis.gov.au.

Top: Courtesy of Living with Native Title.

Left: Representatives of PBCs at the WA Workshop, Nov. 20-22, 2013.

Credit: Pamela McGrath





Left to right, top to bottom: Representatives from PBCs inside the WA Workshop, Nov. 20-22, 2013; Marlene Nampatjinpa and Eugenia Leslie-George at the Workshop BBQ; Gordon Cole speaking at the PBC Workshop; Joseph Edgar inside the Workshop; Michelle Riley inside the Workshop.

Credit: Pamela McGrath and Ludger Dinkler



50 years on

AIATSIS National Indigenous Studies Conference 2014

In 2014, AIATSIS will be celebrating its 50th year. To commemorate this milestone, AIATSIS will be holding its biennial Indigenous Studies Conference with the theme 'Breaking Barriers in Indigenous Research and Thinking: 50 years on'. This conference will begin AIATSIS' anniversary celebrations by acknowledging how far we have come in the area of Indigenous studies in Australia in the past 50 years.

The conference will bring together multi-disciplinary expertise from across the Indigenous studies sector, including researchers, policy makers, community members, academics, representative organisations, consultants, traditional owners and service providers. Whether your interest in the conference topic is from the perspective of Aboriginal and Torres Strait Islander education, health, cultural heritage, arts, policy, sport, economics, language, anthropology, archives, IT or other equally relevant sectors, the conference presents a unique opportunity to communicate information about your research,

projects and programs with a wide audience and to benefit from discussion around shared areas of interest.

The conference will be held from Wednesday 26 - Friday 28 March 2014 at the National Convention Centre Canberra ACT, with a welcome reception to begin the proceedings on Tuesday 25 March and a cultural program that will run throughout the conference. For more information about the program go to <http://www.aiatsis.gov.au/research/50yearson.html>

We are thrilled to announce the latest addition to our exciting line-up of keynote speakers for the conference.

Professor James Lance Taylor is an associate professor and Chair of the Department of Politics at the University of San Francisco, where he teaches in the areas of religion and politics, race and ethnic politics, law and public policy, and African American politics. He is the author of the much lauded *Black nationalism in*

the United States: from Malcolm X to Barack Obama and more recently he co-edited, with Katherine Tate and Mark Sawyer, *Something's in the air: race and the legalisation of marijuana*. Professor Taylor serves as the university's commentator on US politics and speaks frequently with youth and community groups on issues of education and community empowerment.

Linda Tuhiwai Smith is Pro-Vice Chancellor Maori at the University of Waikato in Hamilton, New Zealand. She is the author of *Decolonising methodologies: research and Indigenous peoples*, which has significantly informed research methods in social justice since its original publication in 1999 (a new edition was published in 2012). Professor Smith was made a Companion of the New Zealand Order of Merit in 2013 for services to Maori and education.

THE CONFERENCE WILL BE HELD FROM WEDNESDAY 26 - FRIDAY 28 MARCH 2014 AT THE NATIONAL CONVENTION CENTRE CANBERRA, ACT.

Martin Nakata was the first Torres Strait Islander to receive a PhD in Australia. He is Director of Nura Gili at the University of New South Wales and Chair of Australian Indigenous Education. He has presented more than 20 plenary and keynote addresses at national and international conferences in 10 countries and has published on Indigenous Australians and education in various academic journals and books in Australia and abroad. His current research focuses on higher education curriculum areas, the academic preparation of Indigenous students, and Indigenous knowledge and library services.

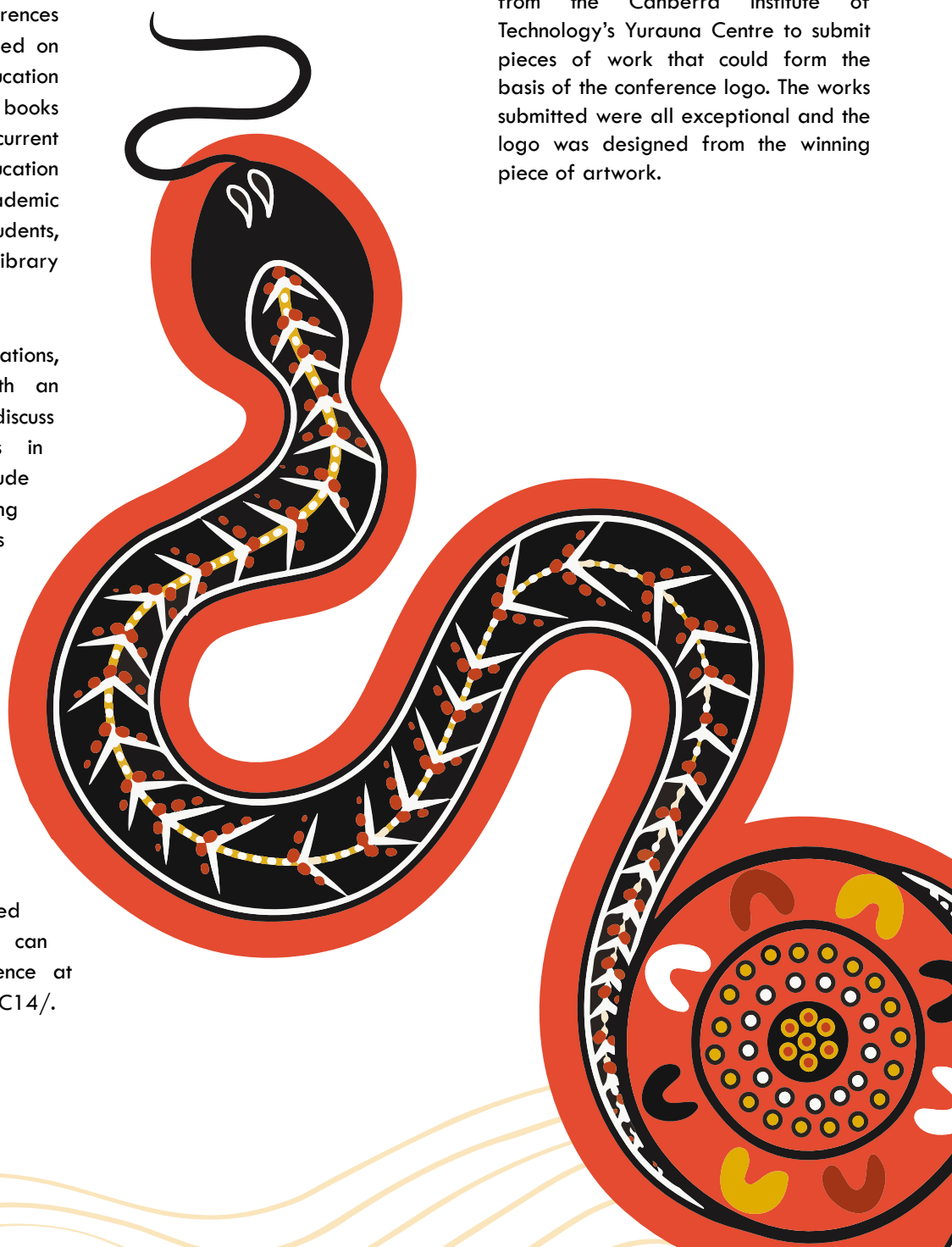
Along with the keynote presentations, the conference will start with an introductory panel which will discuss 'What is Indigenous Studies in Australia'. Other key panels include three high profile panels discussing critical topics including: '50 years – who owns it?', 'Languages and education' and 'Bringing on Indigenous scholars'.

Registrations for the 2014 AIATSIS National Indigenous Studies Conference are now open. The early bird registration rates will close at close of business on 18th December 2013. No registrations will be accepted after 5th March 2014. You can register to attend the conference at <http://wired.ivvy.com/event/NISC14/>.

To stay up to date with conference news and developments please follow us on Twitter @indigitweet or visit the conference website, <http://www.aiatsis.gov.au/research/50yearson.html>.

If you have any questions please contact AIATSIS on (02) 6261 4223 or via email at 50yearson@aiatsis.gov.au.

For our 50th anniversary conference, AIATSIS invited Indigenous students from the Canberra Institute of Technology's Yurauna Centre to submit pieces of work that could form the basis of the conference logo. The works submitted were all exceptional and the logo was designed from the winning piece of artwork.



ABOUT US

The Native Title Research Unit (NTRU) was established through collaboration between the Aboriginal and Torres Strait Islander Commission and AIATSIS in 1993 in response to the High Court decision in *Mabo v Queensland [No 2]*, which recognises Indigenous peoples' rights to land under the legal concept of native title. The NTRU's activities are currently supported through a funding agreement with the Commonwealth government.

The NTRU provides high quality independent research and policy advice in order to promote the recognition and protection of the native title of Aboriginal and Torres Strait Islander peoples. We facilitate access to the Institute's records, materials and collections and publish the results of our research both as a source of public information and in academic publications.

Located within the wider AIATSIS research program, the NTRU aims to provide ongoing monitoring of outcomes and developments in native title; independent assessment of the impact of policy and legal developments; longitudinal and case study research designed to feed into policy development; ethical, community based and responsible research practice; theoretical background for policy development; recommendations for policy development; and policy advocacy designed to influence thinking and practice.

SUBSCRIBE TO NTRU PUBLICATIONS AND RESOURCES

ISSN 1447-722X

THE NATIVE TITLE RESEARCH UNIT

AIATSIS acknowledges the funding support of the Commonwealth Government

© Australian Institute of Aboriginal and Torres Strait Islander Studies

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

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the *Copyright Act 1968*, no part of this publication may be reproduced without the written permission of the publisher.

Views expressed in this Newsletter are not necessarily those of AIATSIS.