

# Native Title Newsletter

July/August, No. 4/2010

## WHAT'S NEW

This Newsletter includes the first, of what we hope will be many articles detailing the work of organisations that are working on the ground in the native title sector.

In this Newsletter we will profile Yamatji Marlpa Aboriginal Corporation, an NTRB in Western Australia. See Page 8 for the full article.

If your organisation would like to provide an article for upcoming Newsletters please let the NTRU know by contacting Matthew O'Rourke at [morourke@aiatsis.gov.au](mailto:morourke@aiatsis.gov.au)

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## Turning the Tide Workshop

By **Matthew O'Rourke**, Research Assistant,  
NTRU

Held on 1–2 July 2010, the Turning the Tide workshop was an important 'first' in that it was designed specifically for anthropologists working in native title contexts in south east Australia. Co-ordinated by Dr Gaynor Macdonald of the University of Sydney and Ms Toni Bauman of AIATSIS, anthropologists from universities, government arenas, native title representative bodies, and independent consultants met in Sydney to discuss issues specific to anthropology with the aim of raising awareness of issues, sharing concerns, and developing strategic anthropological approaches to native title in south-east Australia. One outcome was the development of a collegial network for ongoing support.

The title of this workshop recalled the *Yorta Yorta* native title decision where it was determined that 'the tide had washed away'

any remnants of native title. There have been many people committed to turning this tide of misconception ever since by pushing forward the boundaries in the discipline of anthropology.



Dr Gaynor Macdonald of the University of Sydney



Douglas Hudson, from British Columbia in Canada

### DAY 1

The program contained a mix of papers, panels and small discussions. Starting with welcomes from co-ordinators, Toni Bauman and Gaynor MacDonald, Gaynor then presented the first paper, 'Unsettling the anthropology of "settled" Australia: ancestors, societies and country.' She questioned taken-for-granted notions, such as society, social boundaries and apical ancestors, within the knowledge systems of Aboriginal societies and the ramifications this has for native title claims. Mark Winters, consultant anthropologist, followed with 'Elephants in the room? Evidence, politics and anthropologists' which raised questions about the role of anthropologists in the political economies of the native title process, a paper which attracted the laughter of *déjà vu*.



Participants at the Turning the Tide Workshop at Sydney University's Darlington Centre

In 'A fine mesh: double descent and classical southeast Australian local organisation', Ray Wood, consultant anthropologist, argued that an undercurrent of descent logic informs classical serial patrilineage to land in Australia, and that double descent is the emic intent in many regions and implicit in one form or another in many others. Diana McCarthy of NTSV took a more phenomenological approach to

connection in her paper entitled 'Flowing substances: ways of connecting'. A panel discussion then focused on connection reports, with panellists Lee Sackett, Simon Blackshield, Ian Parry and Vance Hughston providing the workshop with anthropological and legal perspectives on the good, bad and ugly aspects of connection reports. Good reports were identified as those specifically addressing State concerns, based on good anthropological data and methodology, and which are honest about any flaws in the applicants' case. Bad and ugly reports are often disorganised, presume things are self evident, produce information beyond the requirements of the native title claim, attempt to influence other live cases rather than focusing on the case at hand, and can be so even handed that they don't mount a case for the claim.

The last session of the day involved Tony Jefferies and Kim de Rijke who spoke about the Caroline Tennant Kelly collection they had recently uncovered in northern New South Wales, and Tim Dauth gave a paper on 'Group names and native title: issues of authenticity and construction' which examined the dilemmas posed by group names, or ethnonyms, in the literature.

## DAY 2

Day 2 started with Sally Babidge discussing the tricky situation of 'Society without country', these

are cases where claimants whose histories have led them to be dislocated from country, often have limited, if any knowledge of claimed lands or histories of residence on them. A highlight for many was the very different situation

presented by Douglas Hudson, from British Columbia in Canada, where

he is also engaged in native title. His paper, 'Negotiating identity in the courts: kinship and Indigenous rights, explored court cases which have highlighted both matrilineal and bilateral kinship systems as the cultural frameworks within which land rights and social relationships are expressed.

Douglas was able to provide an interesting comparative framework between British Columbian and Australian approaches to native title.

A second panel followed, involving Marcia Langton, Paul Memmott, John Morton and Annie Keely discussing

'Continuity, change, transformation and society'.

On completion of these

sessions, a list of six key interest areas that had emerged over the two days that were discussed in more depth in small groups with a plenary feedback session. These were 'modelling cultural change', 'rights and interests', 'the significance of country', 'minimum threshold connection requirements', 'NTRBs, intellectual property and contracts', and 'genealogies, descent and apical ancestors'.

The afternoon of the final day was left aside for discussion about the upcoming research



Toni Bauman of AIATSIS



Ray Wood, consultant anthropologist

monograph based on the workshop presentations and discussions; and establishment of an ongoing supportive email network and website for anthropologists working on native title. Possibilities for further workshops were also explored.

The papers and proceedings of the Turning the Tide workshop will hopefully be published as a Special Edition of *Anthropological Forum* in late 2011.

## **Case Note: *Akiba on behalf of the Torres Strait Islanders of the Regional Seas Claim Group v State of Queensland***

Federal Court of Australia, Cairns

2 July 2010

Finn J

By Zoe Scanlon, Research Officer, NTRU

### Introduction

The Torres Strait Sea Claim was handed down by Finn J in the Federal Court of Australia in Cairns on 2 July 2010. This was a distinctive case as the native title claimants sought a determination of native title rights and interests over a large part of the sea area of the Torres Strait.

Justice Finn held that the claim group held non-exclusive native title rights and interests over approximately 37,800 square kilometres of sea between the Cape York Peninsula and Papua New Guinea.

Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda stated, 'Today's result is the end of a long process for the people of the Torres Strait and is testament to their resilience and determination'<sup>1</sup> and Torres Shire Councillor, Mr

Phillemon Mosby said, 'We've got a special kinship with that water...this is a very significant thing for the people of the Torres Strait....and I know that our ancestors would be very proud of us today.'<sup>2</sup>

### Background

Native title was first recognised over the Murray Islands in the Torres Strait in the historic decision of *Mabo v Queensland [No 2]* (1992) 175 CLR 1. Since that time, twenty-two native title consent determinations have been made in relation to the Torres Strait area. This has resulted in native title being recognised over all the inhabited islands and the majority of the uninhabited islands in the region.

In the current proceeding, a group of people constituted by living descendants of a long list of Torres Strait Island Elders sought a determination of native title rights and interests over a large area of sea in the Torres Strait region, between the islands over which native title is already held. The claim was divided into parts A and B. This decision covers part A, which encompasses a larger part of the claim area. Part B is yet to be determined and is constituted by areas over which overlapping native title sea claims exist.

### The number of societies

The applicant argued that the members of the native title claim group comprise – as their ancestors at the time of sovereignty comprised – one single society which exists across the Torres Strait. The State argued that there are thirteen societies in the area – each one containing one island community and the Commonwealth argued that four separate societies exist— made up of regional cluster groups of islands.

Justice Finn considered the laws and customs of the Torres Strait Island people, particularly in relation to descent, reciprocity and exchange, the emplacement of social identity by original occupation and subsequent inheritance, territorial

<sup>1</sup> M Gooda, Australian Human Rights Commission, 2 July 2010, [http://www.humanrights.gov.au/about/media/media\\_releases/2010/65\\_10.html](http://www.humanrights.gov.au/about/media/media_releases/2010/65_10.html), viewed 15 September, 2010.

<sup>2</sup> S Elks & N Lim, 'Torres Strait ruling a first: native title to cover vast expanse', *The Australian*, 3 July 2010.

control and the right to livelihood, elders, life stages, celebrations and feasts, funerals and mortuary rites, songs, dances and games, totems and clans, *gud pasin* and *ailan pasin* and other laws and customs.

It was found that the evidence supported a conclusion that the Torres Strait Islanders made up one single society before sovereignty, as they acknowledge a single set of traditional laws and customs. Justice Finn found that the communities are linked to each other by common 'domestic' laws and customs in relation to the sea but also by laws and customs that govern the relationships of each community's members with members of another. He acknowledged that the Islanders did not act as an 'integrated polity' but that this was not required. Each island observed and acknowledged a body of traditional laws and customs; that body, however, was a single one. Although there were some local differences in content and applicable laws, Finn J considered that these variances in practices and understanding over time are to be expected where local autonomy is in place.

Justice Finn was critical of the State and Commonwealth in relation to this aspect of the decision, which took up a great deal of argument and evidence before the Court. Justice Finn highlighted the 'irony' here, stating that his conclusion in relation to the native title rights and interests would have been the same, regardless of the number of societies found to exist in the region.

#### Native title rights and interests

Justice Finn was satisfied that the island communities held the following non-exclusive traditional native title rights to the claim area: the right to access, remain in and use those areas and the right to access resources and take resources for any purpose in those areas. He commented that the claim group is expected to respect their marine territories and the resources within them.

However, following the High Court decision in *Yarmirr*, the common law will not recognise these rights as conferring possession, occupation or use

of the waters to the exclusion of others. They do not confer the right to control the conduct of others in the area. This indicates that the right of commercial and non-commercial fishermen to fish in the area continues.

Justice Finn emphasised that the claim group members hold the native title rights and interests 'in aggregate'; they do not hold those rights 'communally'. He clarified that the laws and customs he had found determine which 'sub-sets' of the wider society have a connection to and interests in individual respective parts of the wider claim area.

#### *The right to take resources for commercial purposes*

The State suggested that the right to take resources for commercial purposes is an integral part of exclusive possession and cannot be sustained in the absence of a right to occupy an area to the exclusion of all others. Justice Finn did not consider that that rule could be universally applied or that, without a contrary legislative regime, that it was apparent that the marine resources may not be exploited despite lacking an exclusive right to possession of the area. Further, the State couldn't demonstrate a characteristic of the Islanders' laws and customs that required exclusive possession before group members could take resources for commercial purposes. He therefore ruled that the common law recognises the right to take for trading or commercial purposes.

The State and Commonwealth also argued that the legislative regimes of the governments concerning fisheries show a clear and plain intention to extinguish native title. Justice Finn found that the Acts in question were regulatory but not prohibitive and did not demonstrate an intention to extinguish. The regime of control was consistent with the continued enjoyment of native title rights. Justice Finn acknowledged that his view on this issue differed from the views of other judges before him, but considered that he had had the advantage of systematic and extensive submissions on the matter.

Responding to the Courts determination, Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda stated, 'Commercial fishing rights are essential to Indigenous peoples of Australia... Not only are they traditional rights but they are also integral to the economic development of Indigenous communities.'<sup>3</sup>

#### *The right to take water*

The State contended that sea water, as with all flowing water, is not capable of being owned at common law and therefore, the right to take such water is inconsistent with the common law and cannot be recognised. Justice Finn found that this position was flawed and noted that much of the jurisprudence on taking water refers to inland water in the context of protecting the rights of riparian owners. He stated that complications like this don't exist in the present matter and found that the right to take water is not inconsistent with the common law.

#### Spiritual connection

Justice Finn commented that the laws and customs of the Torres Strait Islander communities do not reflect an overarching spiritual connection with the waters, although there are some spiritual beliefs relating to the area. The laws and customs in relation to the seas are, to a large degree, based on considerations of utility and practicality. This fact is notable, as in previous native title decisions, the Court has often focused on the claim group's spiritual connection to the land they were claiming, despite the fact that such connection is not required by the law.

#### Exclusive economic zone

The rights will also be recognised in Australia's territorial seas in its Exclusive Economic Zone. In some parts of this area, the native title rights and interests are qualified by Australia's treaty with Papua New Guinea which settles the Seabed

Boundary Lines between the two countries and provides for Australia's fisheries jurisdiction.

#### The authorisation issue

When the claim was originally filed, four individuals made up the applicant; each representing the inhabitants of one of the four regional cluster groups in the Torres Strait. At present, only two of those individuals are still alive. Finn J noted that the purpose of the representatives of the claim group was to bring the claim of the native title holders to Court and that their claim had successfully been determined to all but finality. Despite a possible defect in authorisation, Finn J found that it was clearly in the interest of justice that the application be determined and the recognition of the native title holders' rights and interests be acknowledged. The Court was able to make this order through s. 84D(4)(a) of the NTA.

#### PNG parties

Five parties from Papua New Guinea had been joined as respondents to the application. Satisfied that these parties did not have interests that would be affected by the proceeding, because the native title group only held non-exclusive possession, Finn J ordered, under s. 84(4) of the NTA, that they be removed as parties to the proceeding.

## **Federal Court of Australia Native Title List of Mediators**

### **By the Federal Court of Australia**

The 2009 amendments to the *Native Title Act 1993* (Cth) empowered the Federal Court to consider and apply new approaches to the mediation of native title cases. One fundamental way in which the amendments achieved this was by providing the Court with a discretion as to whom it refers applications for mediation. The presumption that matters should be referred to mediation as soon as practicable after the end of the date of the notification period remains in place.

The Court welcomed this opportunity to expand the range of possible mediators and gave much

<sup>3</sup> M Gooda, Australian Human Rights Commission, 2 July 2010, <[http://www.humanrights.gov.au/about/media/media\\_releases/2010/65\\_10.html](http://www.humanrights.gov.au/about/media/media_releases/2010/65_10.html)>

consideration to the practicalities of the process to be used to identify, select and appoint a mediator other than the National Native Title Tribunal (the Tribunal) or a Registrar of the Court. What follows is a brief outline of the approach taken by the Court in creating the list and the approach the Court is likely to adopt in the appointment of a mediator.

The Court decided to call for expressions of interest (EOI) from suitably qualified mediators for inclusion on a list of names to be made available to the parties and the Court when considering the referral of a matter or part of a matter to a mediator (other than a member of the Tribunal or a Registrar). The list is best described as one that identifies mediators who would be willing and interested to work within the native title jurisdiction and who have satisfied certain criteria.

The Judges of the Court's Native Title Practice Committee (the Committee) agreed that it was desirable to require the mediator to advise the Court of their capabilities and experience and that the Court would be most interested in expressions of interest from mediators who hold special knowledge or have demonstrated experience in relation to:

- Aboriginal or Torres Strait Islander societies;
- land management;
- dispute resolution; and
- any other class of matters considered by the Chief Justice to have substantial relevance to the nature of the referral.

The Committee took the view that the Court would not assess the individual merits of each potential mediator but would include their stated areas of expertise in the list. Inclusion on the list does not amount to an endorsement of any particular mediator by the Court and for this reason, inclusion on the list should not be used by mediators as a means of self promotion. The EOI confirmed that inclusion on the list does not, of itself, create a contract between the mediator and the Court nor does it guarantee that the mediator will be appointed to a matter.

It is intended the list be reviewed annually to ensure currency however practitioners are invited to express an interest to be included on the list at any time. While satisfying one or more of the criteria was considered to be very important for inclusion in the list, the selection of the person to mediate a particular dispute is a matter preferably decided by the parties having regard to all the features of that dispute. In particular circumstances, it is possible that a person who is not on the Court's list and does not appear to meet the usual criteria concerning capabilities and experience may be appointed if the parties agree. In a situation where the parties cannot agree, the Court may nominate mediators from which the parties are to select or simply appoint a mediator.

The fees paid to a mediator and the contract type will be determined by the nature of the matter and length of commitment involved. For long term management of a matter a mediator will generally be appointed as an acting Registrar via an intermittent contract. If appointed for a particular issue or event, the mediator may be paid at a rate referable to the per diem rate of a member of the Tribunal. Where a prominent person is appointed for, say, evaluation of a claim or a particular legal or factual issue, the Court will generally award an amount up to the daily fee of an acting Supreme Court Judge.

The Court is excited by this initiative and the opportunity it presents to Indigenous Australians, the parties and the Court to achieve the effective resolution of native title cases.

The list is available for viewing on the Federal Court website:

[http://www.fedcourt.gov.au/litigants/native/litigants\\_nt\\_mediator.html](http://www.fedcourt.gov.au/litigants/native/litigants_nt_mediator.html). If you have an interest in being included on the list it is recommended you download the expression of interest document for further information, also available at the above address.

If you would like further information about this initiative please email Rebecca Shepherd at [rebecca.shepherd@fedcourt.gov.au](mailto:rebecca.shepherd@fedcourt.gov.au)



## Yamatji Marlpa ABORIGINAL CORPORATION



Yamatji Marlpa Aboriginal Corporation (YMAC) is the native title representative body for native title claims in the Pilbara, Murchison and Gascoyne areas of Western Australia. The organisation has a representative area of almost one million square kilometres and represents over 23

native title claims, all with their own language, culture and traditions. We have been in operation since 1994 with offices in Geraldton, South Hedland, Karratha, Tom Price and Perth.

YMAC is run by an Aboriginal Board and provides a range of services to its members including claim and future-act representation, heritage protection services, community and economic development and natural resource management.

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To stay up to date with Yamatji Marlpa latest news, subscribe here to the [YMAC e-news](#)

### Recent News from YMAC

The Kariyarra native title group announced a native title agreement with Hancock Prospecting on 28 August 2010. The agreement covers the company's proposed heavy haulage railway corridor to carry iron ore from its Roy Hill Project to Port Hedland.

The agreement provides a range of financial and non-financial benefits to the Kariyarra people, aimed at protecting cultural heritage and promoting economic development. The Kariyarra people will continue to have a say in protecting their heritage sites throughout the planning and development of the project.

"As Kariyarra People we do everything we can to protect and look after our country," said Donny Wilson, a Kariyarra elder. "We're glad to have entered into an agreement with Hancock to try to make sure that their railway doesn't go through any of our important places."

Under the agreement, Hancock will make sure that its employees go through cultural awareness training, and will develop an Aboriginal Employment Policy which takes into account the needs of Kariyarra People. They will also build an Aboriginal art centre in the Port Hedland area in consultation with the Kariyarra people.

Simon Hawkins, Chief Executive Officer of Yamatji Marlpa Aboriginal Corporation, said, "This native title agreement, like many others, gives Aboriginal people the chance to participate in the real economy in the Pilbara, by providing training and business development opportunities.



Hancock Prospecting's Tad Watroba with Kariyarra Elders Lena Alone and Elsie Williams. Photo courtesy of YMAC.



## What's New?

### Recent cases

**BHP Billiton Minerals Pty Ltd v Martu Idja Banjima People as registered native title claimants [2010] WAMW 1**

22 February 2010  
Mining Warden's Court, Perth  
Calder M

BHP Billiton Minerals Pty Ltd applied for the grant of 22 mining leases over approximately 204 square kilometres of land in Western Australia, encompassing land subject to the Martu Idja Banyjim people's native title claim. The Martu Idja Banyjim people objected to the grant of these leases based on alleged adverse effects that these mining operations have already had, and would have in the future, on the environment, their culture and traditions and their cultural landscape, including Aboriginal heritage sites. BHP argued that the Martu Idja Banyjim people should not be given the opportunity to be heard by the Minister in relation to these leases. They claimed that the grounds of objection were not sufficient to give rise to the Minister being required to consider the exercise of his/her discretion to terminate or refuse BHP's applications. Calder M found that, prima facie, the objections of the Martu Idja Banyjim people were sufficient, and, as such, they should be considered by the Minister.

**Goringe on behalf of the Mithaka People v State of Queensland [2010] FCA 716**

29 June 2010  
Federal Court of Australia, Brisbane Registry  
Mansfield J

Queensland South Native Title Services (QSNTS) sought to discontinue the native title application of Goringe on behalf of the Mithaka People. The application was instituted in 2002 and no reasons were provided to explain why the application had been discontinued. Justice Mansfield expressed concern as to the status of QSNTS and considered that the instructions it received to discontinue the application were inconsistent with previous

information provided to the Court and therefore could not be accepted. His Honour concluded that a motion to discontinue could not be approved until a number of considerations were addressed, for example, whether the authorisation extends to withdrawal, the effect on any ILUAs and the basis upon which the discontinuance is sought.

**Cheedy on behalf of the Yindjibarndi People v State of Western Australia [2010] FCA 690**

2 July 2010  
Federal Court of Australia, Perth Registry  
McKerracher J

The National Native Title Tribunal (NNTT) made two determinations that allowed FMG Pilbara Pty Ltd to carry out exploration activities (as future acts) over an area of land in Western Australia. This area of land adjoins land that was the subject of a native title determination made in favour of the Yindjibarndi people. In these determinations, the NNTT had allowed the future acts to be undertaken, subject to standard conditions. The Yindjibarndi people appealed both these decisions.

Justice McKerracher found the NNTT had taken a wide range of matters into account when reaching a decision and had weighed the evidence in light of the submissions of both parties. He found that the Yindjibarndi people had not established any basis on which the NNTT erred on any question of law in either determination. He therefore dismissed the appeals.

**Eden Local Aboriginal Land Council v NTSCORP Limited [2010] FCA 745**  
**Eden Local Aboriginal Land Council v NTSCORP Limited [2010] FCA 746**

15 July 2010  
Federal Court of Australia, Sydney Registry  
Jacobson J

The Eden Local Aboriginal Land Council (Eden LALC) applied for determinations that no native title exists in relation to two areas of land within Bega Valley Shire, New South Wales. The Eden LALC had determined that the land was not of cultural significance and thus proposed to lease one of the

areas of land to Telstra to operate a monopole facility and proposed to subdivide and possibly sell the other.

Justice Jacobson was satisfied that the Eden LALC was the registered proprietor of the land, that the application was unopposed and that the Federal Court had the power to make the orders. He ordered that native title did not exist in relation to the land in question.

### **Lennon v State of South Australia [2010] FCA 743**

16 July 2010  
Federal Court of Australia, Adelaide Registry  
Mansfield J

Since the registration of the native title application in this case, two of the six people named as the applicant had died. The Court was asked to remove the names of the two deceased people as parties to the proceedings.

The State supported this but the Commonwealth claimed that the Court had no right to do so and that s. 251B of the *Native Title Act 1993* (Cth) required the entire claim group to meet, and to authorise a group of people to be replaced as the applicant. The Commonwealth claimed that any changes to an applicant had to be made under s. 66B, which allows the claim group to replace the applicant.

Justice Mansfield found that it would be inconsistent with the autonomy of the claim group that just because one of the situations mentioned in s. 66B occurred (such as death, incapacity, lack of authorisation), the claim group would be obliged to apply under s. 66B to proceed. He suggested that s. 66B is permissive, but does not compel claim groups to use the section when one of the listed situations occurs. This would involve considerable hardship and there is no apparent reason that the legislature would intend to place such an obligation on the claim group.

Further, he considered that the authorisation given to the applicant by the claim group includes an implied understanding that the circumstances of the authorised persons may change (including the death of one or more of them) and the authorisation given under s. 251B would continue. He considered that at the time the authorisation was given, it was anticipated that that the claim would continue over a long period of time.

Justice Mansfield found that the four remaining people making up the applicant were still authorised to act in that capacity and ordered that the names of the two deceased parties be removed as parties to the proceeding.

### **Traditional Owners - Niyaparli People and Minister for Health Indigenous Affairs**

22 April 2009  
State Administrative Tribunal of Western Australia  
Chaney J

The Minister for Indigenous Affairs granted Pilbara Infrastructure Pty Ltd and FMG Chichester Pty Ltd consent to construct and operate a mine in the Christmas Creek area, Western Australia. The proposed works were likely to detrimentally affect certain Aboriginal sites. The Niyaparli People had registered native title claims over the land in question and sought a review of the decision.

In such a case, s. 18(5) of the *Aboriginal Heritage Act 1972* (WA) (AHA) allows the 'owner of any land' who feels aggrieved by the Minister's decision to apply for its review. The Niyaparli People claimed that the rights they have in relation to the land brought them within the definition of 'owner of any land'.

In examining the AHA, Chaney J considered that provision for the Minister's consent arises in the context where a particular 'owner' wishes to undertake work on the land they own that may interfere with sites of Aboriginal heritage significance (rather than anyone who might simply satisfy the definition of owner). The Minister's role is

then to preserve the community interest, with the competing interest being that of the proponent of the activities that require consent. He considered that this therefore meant that Aboriginal interests were automatically protected and the only 'owner of any land' that the Act envisages is an owner wishing to undertake such activities.

Further, he found that the fact that the Minister is required to inform the 'owner' of his decision in writing suggests that the AHA did not intend that several people be considered owners and also that the Parliamentary debate surrounding the provision supports his conclusion.

Justice Chaney found that there was no right of review available to the Nyiyaparli people and dismissed the application.

**James v State of Western Australia [2010] FCAFC 77**

29 June 2010

Federal Court of Australia, Western Australia District Registry

Sundberg, Stone and Barker JJ

This matter concerns the native title claim of the Martu people of the Western Desert area of Western Australia which was in the process of mediation. The presiding member of the National Native Title Tribunal had referred two questions relating to the proceeding to the Court, as it was considered that this would expedite the reaching of an agreement. The dispute concerned various mining leases held over the area.

The first question asked if the grant of a lease is a 'past act' (as defined in s. 228(2) of the *Native Title Act 1993* (Cth) (NTA)) for the purposes of Part 2 of the *Titles (Validation) Act* and *Native Title (Effect of Past Acts) Act 1995* (WA).

The Court suggested that s. 228(2) of the NTA, which defines a 'past act', asks whether, aside from the NTA, the grant of the mining lease was invalid to any extent. In this instance, it was invalid, by

operation of s. 10(1) of the *Racial Discrimination Act 1975* (Cth) (RDA) because it did not allow the native title landholders to own and inherit property, including the right to be immune from the arbitrary deprivation of property to the same extent as enjoyed by any other landholder. These two laws are therefore inconsistent, and thus, s. 109 of the Constitution will privilege the Commonwealth law (RDA) and render the State law invalid. Accordingly, the mining lease is a 'past act'.

The Court concluded that since it had been decided that the leases were past acts, each of the leases was a category C past act, as defined in s. 231 of the NTA; a past act constituting the grant of a mining lease.

**Roe v Kimberley Land Council Aboriginal Corporation [2010] FCA 809**

2 August 2010

Federal Court of Australia, Perth

Gilmour J

Mr Roe and Mr Shaw were the joint applicant in this proceeding as well as in the native title claim of the Goolarabooloo and Jabirr Jabirr People. Mr Roe applied for leave to file an amended application in which he would be the sole applicant and Mr Shaw would cease to be a party to the proceeding. Mr Shaw opposed the bringing of this proceeding and did not support the proposed amendments.

Mr Roe suggested that s. 84D of the *Native Title Act 1993* (Cth) could be applied in this instance; allowing the Court to use its discretion to make such orders as it considered appropriate (s. 84D(4)(b)). Justice Gilmour was not persuaded that s. 84D could be used in these circumstances- he suggested that the provision is used to hear and determine native title applications notwithstanding a defect in the applicant's authorisation. He found that the present application was not such an application and that therefore, Mr Roe had no standing in the proceeding.

The Court ordered that both Mr Roe's motions be dismissed and that the application be dismissed. Mr Roe was ordered to pay the costs of the respondents and the other applicant.

**Close on behalf of the Githabul People #2 v State of Queensland [2010] FCA 828**

6 August 2010

Federal Court of Australia, Brisbane

Collier J

The applicant for the Githabul People #2 native title determination sought leave to discontinue the application on the basis that he was unable to proceed as a result of a split in the claim group. The discontinuation was supported by all other parties to the proceeding.

The Court was satisfied that no injustice would be caused to the respondent parties and granted the applicant leave to discontinue with the proceeding.

**Brown (on behalf of the Ngarla People) v State of Western Australia (No 3) [2010] FCA 859**

6 August 2010

Federal Court of Australia

Bennett J

This (partial) consent determination concerns the native title claim of the Ngarla people over an area in North Western Australia. Non-exclusive native title rights and interests were found to exist in certain parts of the determination area, but not in others.

These rights and interests allow native title holders to access and camp on the land and waters, to take flora, fauna, fish, water and other traditional resources (excluding minerals) from the lands and waters, to engage in ritual and ceremony, and care for, maintain and protect particular sites and areas of significance to the native title holders from physical harm. They do not include the right to possess, occupy, use and enjoy the area to the exclusion of all others or the right to control access to the area and its resources. They are exercisable

in accordance with the traditional laws and customs of the native title holders and the laws of the State and the Commonwealth and do not include rights in relation to minerals, petroleum or geothermal energy resources.

Justice Bennett was satisfied that the applicant was entitled to the determination proposed. The Wanparta Aboriginal Corporation will hold native title in trust for the native title holders.

**Newchurch v The Minister for Aboriginal Affairs and Reconciliation [2010] SASC 245**

10 August 2010

Supreme Court of South Australia

Judge Burley

The applicant sought permission to proceed with a judicial review concerning a determination that allowed a hospital to be built on land over which the applicant claimed he was a traditional owner in central Adelaide. Judge Burnley found that the applicant's submission lacked appropriate detail and did not demonstrate that the plaintiff had standing to seek such relief. He refused the applicant permission to proceed with the matter.

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria [2010] FCA 904**

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria (No 2) [2010] FCA 905**

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria (No 3) [2010] FCA 906**

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria (No 4) [2010] FCA 907**

16 August 2010

Federal Court of Australia, Melbourne

North J

These four cases concern four separate parties that wished to be joined as respondents to Gunai/Kurnai People's native title claim over an area in Gippsland, in Eastern Victoria.

The Court dismissed the four applications. Justice North found that the four applicants; the Australian

Deer Association, David James Baldwin, William Maxwell Rheese and Colin Francis Wood, did not have sufficient interest in the case to be joined as parties under s. 84(5) of the *Native Title Act 1993* (Cth). He also found that their non-appearances at the hearings were also reason for the dismissal of their joinder applications.

**Edwards on behalf of the Wamba Wamba, Barapa Barapa, Wadi Wadi People v State of Victoria [2010] FCA 744**

16 August 2010

Federal Court of Australia, Melbourne

North J

In this application for the determination of native title, North J considered an agreement that had been reached between the native title claimants and the State which extended the date at which the application would be finalised from the date that had earlier been provided. The Court was concerned that the time for the conclusion of the application had almost doubled and therefore, despite the agreement of the parties and the recommendation of the NNTT, the matter was called on for further explanation.

The parties were using the principles of the Victorian Native Title Settlement Framework but the Court did not consider that this kind of delay was the intended result of the operation of the Framework.

Justice North adjourned the directions hearing until 29 November 2010, at which time the Court would hear a report on the progress of the application, as well as reports on attempts to expedite an outcome earlier than predicted.

**Sampi on behalf of the Bardi and Jawi People v State of Western Australia (No 2) [2010] FCAFC 99**

18 August 2010

Federal Court of Australia, Perth

North and Mansfield JJ

The Bardi Jawi appeal decision was handed down in April 2010 (*Sampi on behalf of the Bardi and Jawi People v State of Western Australia* [2010] FCAFC 26). In that case, the Bardi and Jawi peoples' native title rights and interests over their traditional lands were recognised. Orders were made for the parties to seek agreement to form a consent determination. The parties had substantially reached an agreement but the following areas of contention remained: the manner in which the right to care for, maintain and protect should be defined; the clarity with which Brue Reef should be defined and whether the determination should identify the rock feature known as Lalriny.

The right to care for, maintain and protect

Although it was not explicitly stated that the right to care for, maintain and protect was non-exclusive, North and Mansfield JJ stated the reasons and the decisions the Full Court referred to make this clear. The right to protect does not amount to an exclusive right.

Brue Reef

The Court held that Brue Reef would be included in the list of areas in which no native title exists. It was found that this was adequate and that it was not necessary (as the State and Commonwealth had suggested) to mention it specifically in other schedules.

Lalariny

The appellants requested that the exact location of Lalariny (a rock formation) not be revealed in the determination as it was not revealed in primary Judge's decision and its disclosure would be culturally problematic.

Justices North and Mansfield stated that they understood the concerns of the appellants, however, the omission of the location of Lalariny from the determination would create serious difficulties in the enforcement of native title rights and interests and future act processes in relation to it.

### The determination

With the above mentioned disputes resolved, the Court was able to make the determination.

Native title rights and interests are held by the Bardi and Jawi people, and exist in relation to certain parts of the determination area but not in others.

In areas where there has been no extinguishment or areas where extinguishment has been disregarded, the native title rights and interests in relation to the land and waters are the right of possession, occupation, use and enjoyment of that part as against the whole world. These include the right to live on the land, to access, move about on and use the land and waters, the right to hunt and gather on the land and waters, the right to engage in spiritual and cultural activities on the land and waters, the right to access, use and take any of the resources of the land and waters (including ochre) for food, shelter, medicine, fishing and trapping fish, weapons for hunting, cultural, religious, spiritual, ceremonial, artistic and communal purposes, the right to refuse, regulate and control the use and enjoyment by others of the land and its resources, the right to have access to and use the water of the land for personal, domestic, social, cultural, religious, spiritual, ceremonial and communal purposes.

In areas seaward of the mean high watermark, the native title rights and interests include the right to access, move about, in and on and use and enjoy those areas, the right to hunt and gather including for dugong and turtle, the right to access, use and take any of the resources thereof (including water and ochre) for food, trapping fish, religious, spiritual, ceremonial and communal purposes.

The native title rights and interests in relation to the Lalariny and the Alarm Shoals are the right to care for, maintain and protect those areas but do not include the right to access, move about in or on or use those parts, the right to hunt or gather in those parts, the right to access, use or take any of the resources on those parts.

There are no exclusive native title rights or interests in waters which flow within any river, creek, stream or brook or waters from and including an underground water source. There are no native title rights to minerals, petroleum or gas.

The native title rights and interests must be exercised in accordance with the traditional laws and customs of the traditional owners and the laws of the States and the Commonwealth. If these native title rights and interests prevent the doing of any activity permitted by any other rights and interests, the other rights and interests prevail over the native title rights and interests, but do not extinguish them.

### **Bullen v State of Western Australia [2010] FCA 900**

20 August 2010

Federal Court of Australia, Perth

Siopis J

This case was brought by members of the Esperance Nyungar native title claim group. The two people that made up the applicant for this claim group died before 2006, and in 2007, two mining leases were granted under the *Mining Act 1978* (WA) over the land subject to the native title claim.

Section 28(1)(b) of the *Native Title Act 1993* (Cth) (NTA) states that where there is no native title party, an act (such as the granting of a lease) is not invalid if done before negotiation or an objection or appeal (where otherwise, it would be). The respondents claimed that as the applicant was deceased at the time the leases were granted, there was no native title party and the granting of the leases was valid. Conversely, the applicants to this proceeding claimed that there was a registered applicant at the time the leases were granted and the granting of the leases was invalid.

The Court found that the applicants' contention was consistent with the fundamental concepts that the

NTA is based on. Justice Siopis contended that the NTA makes it clear, through the language and structure of s. 66B that even a deceased person remains the applicant, even in an inchoate form, until replaced on the register by a 'new applicant'. That section also uses the term 'the current applicant' not 'the former applicant' to describe the applicant, even after they have died. Those individuals will remain the applicant until replaced by a new applicant, despite being incapable of carrying out their statutory functions.

Justice Siopis also found that, contrary to the respondent's contention, the applicants' construction of the NTA would not render the right to negotiate provisions unworkable. He noted that subdivision P allows the government and grantee parties to obtain relief where native title parties unduly delay the replacing of the applicant, s 30(4) allows the applicant to be replaced during the negotiation process and subdivision P is flexible enough to deal with undue delay that could occur in replacing the applicant, where the applicant cannot satisfy their duties. This includes allowing the parties to negotiate in good faith, applications to arbitral bodies and Ministerial interventions.

It was found that if the construction the respondents advanced is correct, this would allow the act to be done. Justice Siopis considered that it was unlikely that this was Parliament's intention and concluded that the respondent's construction was therefore incorrect.

It was also suggested by one of the respondents that, on the applicants' construction, when an applicant died, their personal representatives or executors would then automatically succeed them. Justice Siopis found that this was not correct and that the only way of replacing the applicant is through s. 66B of the NTA.

The Court found that there was a registered native title claimant in respect of the area over which the mining leases were granted at the time the leases

were granted. The leases were therefore found to be invalid.

**Sambo v State of Western Australia (No 2)**  
**[2010] FCA 927**

26 August 2010

Federal Court of Australia, Perth

McKerracher J

A possible dismissal of these proceedings had already been considered in August 2009. There was a state of deadlock between various members of the applicant that was causing many issues. At that time, McKerracher J had declined to dismiss the proceedings, in order to allow the applicant to hold a claim group meeting to resolve some key issues. This claim group meeting never occurred.

Section 190F(6) allows a Court to dismiss a proceedings where the Court is satisfied that the application has not been amended since consideration by the Registrar, and, where there is no other reason that the application should not be dismissed.

Justice McKerracher suggested that to overcome defects in the claim, all the descendants of named apical ancestors that had previously been excluded from the claim would need to be included and those in relation to which there was insufficient material to prove connection would need to be deleted. He also found that the claim would need to be amended to remove the overlap with the Widji native title claim and that an authorised applicant would need to be appointed.

Justice McKerracher found that the application had not been amended since it had been previously considered by the Registrar and was not likely to be amended in a way that would result in any different conclusion by the Registrar. He found that there was no other reason the application shouldn't be dismissed, and therefore ordered its dismissal.

**Murray on behalf of the Yilka Native Title Claimants v State of Western Australia (No 2) [2010] FCA 926**

26 August 2010

Federal Court of Australia, Perth

McKerracher J

A number of parties had given notice that they wished to become party to the to the Yilka native title claim. The applicant suggested that their notices were deficient and shouldn't be accepted.

Justice McKerracher examined the notices and found that Perlie Wells, Lynette Graham, Bessie Dimer, Daisy Dookie Rundle, Laurel Cooper and Lorraine Griffiths should not be added as parties to the proceeding, however, Michael Tucker, Fabian Tucker, Alison Tucker, Daniel Tucker, Ron Harrington-Smith, Kathy Tucker, Corina Bennell, Lisa Bennell, Jarred Dimer, Brett Dimer, Shondelle Dimer/Garlett, Quinton Tucker, Shaun Dimer, Matthew Bennell and Hilda Dimer were granted leave to apply to be joined as parties to the proceeding. Contrary to the contention of the joinder parties, McKerracher J did not consider that the applicant's motion was unnecessary, as the motion was successful in part. He also stated that the applicant was not acting unreasonably by submitting comprehensive submissions. As this was not found to be unreasonable conduct as per s. 85A(2) of the *Native Title Act 1993* (Cth), which requires the unreasonable party to pay costs, McKerracher J ordered that each party pay their own costs.

## Legislation

### VICTORIA:

#### **Traditional Owner Settlement Bill 2010 (Vic) & Explanatory Memorandum**

The Traditional Owner Settlement Bill 2010 (Vic) was introduced into Victorian Parliament by the Hon. John Brumby on 27 July 2010.

- [Click here to view the Statement of Compatibility](#)
- [Click here to view the Second Reading Speech](#)

The framework outlined in the Bill allows Indigenous groups to settle with the Government out of court, if they drop current native title claims and agree not to lodge future claims. The government says it could lead to better economic opportunities for Aboriginal groups in managing Crown land. The Victorian Attorney General Rob Hulls said "It will mean quicker resolution of claims, reduced transaction costs, reduced compensation liability for the state, finality and certainty for the state, for business and for industry in relation to native title matters."

The co-hairman of Victorian Traditional Owner Justice Group Graham Atkinson says it will result in better economic development opportunities in Indigenous communities. "This is a groundbreaking reform for traditional owners in Victoria. It allows groups to work in an agreement-making context rather than litigation," he said.

#### **Bill:**

[http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/CC6FF54507608897CA25776E0003B0D0/\\$FILE/561458BI.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/CC6FF54507608897CA25776E0003B0D0/$FILE/561458BI.pdf)

#### **Explanatory Memorandum:**

[http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/CC6FF54507608897CA25776E0003B0D0/\\$FILE/561458exi1.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/CC6FF54507608897CA25776E0003B0D0/$FILE/561458exi1.pdf)



## Native title publications

### Articles:

- P Sutton, 'Mediating conflict in the age of native title', *Australian Aboriginal Studies*, No. 1, 2010, pp. 4-18.
- M Gregory & J Tropiano, 'Bardi & Jawi People's native title claim - a "single society"', *Australian Resources and Energy Law Journal*, Vol. 29, No. 2, 2010, pp. 151-156.
- S Young, 'A climate for change? : the 2009 Native Title Report', *Indigenous Law Bulletin*, Vol. 7, Issue 18, 2010, pp. 20-24.

### Toolkits:

#### RNTBC Toolkits

The NTRU has compiled toolkits for Registered Native Title Bodies Corporate (RNTBC). These toolkits have been created to assist native title holders to access information and resources regarding funding and training opportunities that may be relevant to their RNTBCs. The need for such toolkits was highlighted in the 2007 Australian Government report 'Structures and Processes of Prescribed Bodies Corporate' (Recommendation 2). The State and Territory Toolkits have recently been updated.

Download toolkits here:

- [New South Wales](#) (July 2010)  169Kb
- [Northern Territory](#) (July 2010)  191Kb
- [Queensland](#) (July 2010)  196Kb
- [South Australia](#) (July 2010)  143Kb
- [Victoria](#) (July 2010)  165Kb
- [Western Australia](#) (July 2010)  230Kb

### Reports:

#### National Report: Native Title - September 2010

The Tribunal's bi-annual report on the status of native title in Australia, *National report: native title*, has been released. The report outlines progress of native title claims during the period 1 January – 30 June 2010.

### Native title on Television:

#### The Keeper – ABC TV – Message Stick

"The Keeper" is a coming of age story about a sixteen year old Aboriginal girl and her growing awareness of life in a remote, South Australian community and family divided over a big mining deal. Jacinta Haseldine is a 15 year-old Kokatha girl growing up in the small town of Ceduna in far-west, South Australia. Jacinta's grandmother, Sue has taken her out bush to teach her how to hunt, find bush medicine, and most importantly take care of their sacred waterholes. But with more than 20 mining companies exploring for gold, uranium and mineral sands around Ceduna, caring for country is becoming far more difficult.

In February 2010, what will become the world's largest zircon mine opened just north of Ceduna, and native title negotiations around the \$390 million mine have divided Aboriginal families, including the family of Jacinta and Sue.

To view the transcript or watch the video visit the message stick website:

<http://www.abc.net.au/tv/messagestick/stories/s2962316.htm>

## Training and professional development opportunities

### Australian Anthropological Society (AAS) Annual Conference

The Society's principal academic activity each year is the Annual Conference. Attendance at the Annual Conference is open to all interested persons, whether or not they are members of the AAS, on payment of the conference fee. Each year, the conference is hosted by a different University.

The AAS Conference 2010 details are:

**Date:** September 22-24

**Location:** Deakin University, Waterfront Campus, Geelong, Victoria

**Hosts:** Anthropology, School of History, Heritage & Society, Deakin University

**Register:** Registrations are now closed.

**Conference Website:**

<http://www.deakin.edu.au/arts-ed/shhs/events/aas2010.php>

**National Indigenous Land and Sea Management Conference (NILSMC)**

The NILSMC will bring together Indigenous traditional owners and leaders, community organisations and people who work in the environmental conservation industry, key stakeholders and industry partners from around Australia. It will be a time for delegates to share knowledge and experiences and exchange ideas for sustainable natural resource and cultural heritage management. It will also be a time for the Aboriginal people and the wider community of Broken Hill to come together to showcase their region and take part in a truly national Indigenous event.

This NILSMC 2010 details are:

**Date:** November 2-5

**Location:** Broken Hill Regional Events Centre Broken Hill, NSW

**Register** - To register attendance go to [Register Now](#)

**Location** - Find out more information about [Broken Hill](#) and how to get there.

**Contact Us** - [Click here](#) for details

**Native Title Research Scholarship Program**

The purpose of the program is to increase the retention rate and skills of anthropology and research staff in NTRBs and NTSPs (jointly referred to as NTRBs). Scholarships are available to research staff with at least two years experience working in an NTRB.

The scholarships will support NTRB staff to undertake post-graduate study at the Masters or PhD level, in a field relating to native title with a focus on anthropology and history. Other related disciplines may be supported, subject to approval.

The scholarships are for full-time study only, with a maximum funding period of one year for a Masters by coursework, two years for a Masters by research and four years for a PhD.

Following the completion of their studies, scholarship recipients commit to work in an NTRB or in the native title system in a research role for a period of two years (in the case of a Masters Program) or three years (in the case of a PhD).

**Applications:**

Applications for the 2011 Native Title Research Scholarship Program will **open at 9am AEDST on Monday 4th October 2010** and will close at 5pm AEDST on Friday 29th October 2010. Candidates must apply online at the Aurora website

**For more information contact Kim Barlin at:** [kim.barlin@auroraproject.com.au](mailto:kim.barlin@auroraproject.com.au) or on (02) 9469 8113

**For further information:**

Download the flyer:

[http://www.auroraproject.com.au/Links/2010\\_Native\\_Title\\_Research\\_Scholarship.pdf](http://www.auroraproject.com.au/Links/2010_Native_Title_Research_Scholarship.pdf)

## Native title in the news

### National

**04/07/2010**

#### Native title reforms proposed

The Federal Government has released a list of proposed reforms to the native title system. The public discussion paper 'Leading practice agreements: maximising outcomes from native title benefits' includes plans for an independent body to review agreements, and a simplification of the claims process. [Click here to visit the FaHCSIA website to download the discussion paper.](#) *Sunday Tasmanian* (Hobart TAS, 4 July 2010), 10. *Sunday Telegraph* (Sydney NSW, 4 July 2010), 13. *Sunday Territorian* (Darwin NT, 4 July 2010), 5. *Sunday Canberra Times* (Canberra ACT, 4 July 2010), 7.

**8/07/2010**

#### Indigenous Land Corporation secures reliable income stream

Following the passing of the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Act 2010* the Indigenous Land Corporation (ILC) will receive a minimum Australian Government payment of \$45 million each year to continue its important role in purchasing and managing land to benefit Indigenous communities.

This delivers on a 2007 election commitment to provide the ILC with a steady and reliable income stream. The current funding arrangements had led to erratic annual payments. Over the past five years these payments have ranged from nil to \$71.9 million. The new funding arrangements recognise the ILC's valuable role in working with Indigenous corporations to deliver economic, environmental, social and cultural benefits to Indigenous people who are unable to claim rights and interests in land through the *Native Title Act*. *National Indigenous Times* (Malua Bay NSW, 8 July 2010), 4.

**30/07/2010**

#### Native Title Laws Reviewed

The Victorian Government is progressing a new out-of-court approach to settling native title in Victoria. The Traditional Owner Settlement Bill was introduced to Parliament in July 2010.

If passed, the Traditional Owner Settlement Bill will provide an alternative pathway to settle native title claims and address land justice in Victoria, that is more flexible, less technical and less costly than contesting in court under the Commonwealth Native Title Act 1993

Native title land claims will be more streamlined and cheaper under new legislation put to Victorian State parliament, according to Framlingham Aboriginal Elder Len Clarke, who helped with the framework. Mr Clarke was co-chairman of the Land Justice Group for more than six years until the draft legislation was handed to the government earlier this year. *Warrnambool Standard* (Warrnambool VIC, 30 July 2010), 6.

### New South Wales

**10/07/2010**

#### National Conference to be held in Broken Hill

The National Indigenous Land and Sea Management Conference is held every two years and hosted by an Indigenous community with the host location alternating between inland and coastal communities. The event brings together Indigenous traditional owners and leaders, community organisations and people who work in the environmental conservation industry.

This year Broken Hill will host the event, titled Leading Sustainable Tradition, which will focus on issues such as caring for land and water, governance, leadership, climate change, carbon markets, economic development and innovation, and the Indigenous Advisory Committee's draft National Caring for Country strategy. *Barrier Daily Truth* (Broken Hill NSW, 10 July 2010), 12.

**25/08/2010**

#### NSW Farmers' Association information forum

About 30 people attended a NSW Farmers' Association information forum in Orange concerning a native title claim lodged by the Wellington Valley Wiradjuri people. The claim extends from south Dubbo and takes in Orange, Wellington and Mudgee. *Central Western Daily* (Orange NSW, 25 August 2010), 5.

## Queensland

**01/07/2010**

### Torres Strait Sea Claim

Torres Strait Islanders have won a nine-year court process to secure native title rights over a vast tract of ocean to Australia's north. Federal Court Justice Paul Finn yesterday ruled in favour of their claim, covering more than 40,000 square kilometres of ocean between the top of Cape York and Papua New Guinea.

Justice Paul Finn of the Federal Court accepted the islanders had "non-exclusive" rights to the area, giving them ownership of waters but not excluding the access of others, such as commercial fisherman.

Justice Finn ruled that the Torres Strait Islanders formed one society and that their native title rights included marine resources for trading or commercial purposes. The Queensland and Federal Governments opposed the claim. The Queensland Government on the basis that there were 13 groups and the Federal Government deemed there to be four. This is the first time commercial rights have been included in a native title determination. *Cairns Post* (Cairns QLD, 1 July 2010), 4. *Barrier Daily Truth* (Broken Hill NSW, 3 July 2010), 7. *Ballarat Courier* (Ballarat VIC, 3 July 2010), 22. *Illawarra Mercury* (Wollongong NSW, 3 July 2010), 7. *Advocate* (Coffs Harbour, 3 July 2010), 27. *Kalgoorlie Miner* (Kalgoorlie WA, 3 July 2010), 8. *Canberra Times* (Canberra ACT, 3 July 2010), 7. *Weekend Australian* (National AU, 3 July 2010), 8. *Courier Mail* (Brisbane QLD, 3 July 2010), 2010. *West Australian* (Perth WA, 3 July 2010), 11. *Northern Territory News* (Darwin NT, 3 July 2010), 16. *Daily Liberal* (Dubbo NSW, 3 July 2010), 14. *Sunshine Coast Daily* (Maroochydore QLD, 3 July 2010), 24. *Northern Daily Leader* (Tamworth NSW, 3 July 2010), 17. *Townsville Bulletin* (Townsville QLD, 3 July 2010), 21. *Shepparton News* (Shepparton VIC, 3 July 2010), 17. *Launceston Examiner* (Launceston TAS, 3 July 2010), 4. *Launceston Examiner* (Launceston TAS, 3 July 2010), 8. *Warrnambool Standard* (Warrnambool VIC, 3 July 2010), 16. *Australian Financial Review* (National AU, 3 July 2010), 15. *Weekend Post* (Cairns QLD, 3 July 2010), 2. *Daily Advertiser* (Wagga Wagga NSW, 3 July 2010), 22. *Sunraysia Daily* (Mildura VIC, 3 July 2010), 26. *Newcastle Herald* (Newcastle NSW, 3 July 2010), 30. *Border Mail* (Albury Wodonga VIC, 3 July 2010), 29. *Torres News* (Thursday Island QLD, 7 July 2010), 1. *Australian Financial Review* (National AU, 8 July 2010), 60. *National Indigenous Times* (Malua Bay NSW, 8 July

2010), 5. *Torres News* (Thursday Island QLD, 21 July 2010), 7. *Western Cape Bulletin* (Weipa QLD, 14 July 2010), 6. *Western Cape Bulletin* (Weipa QLD, 7 July 2010), 10. *Torres News* (Thursday Island, 14 July 2010), 4.

**03/07/2010**

### Native title rights take another step

The Girramay People have completed the last step required for the recognition of their native title rights - the registration of four Indigenous land use agreements (ILUAs) negotiated with parties to their claim in Far North Queensland.

National Native Title Tribunal member Graham Fletcher, who mediated between the parties, said the registration of the ILUAs brought into effect the native title determination made by the Federal Court of Australia on December 10, 2009. The determination recognised the Girramay People's non-exclusive rights over 16 parcels of unallocated state land from Cardwell to Bilyana and Murray Upper area. *Innisfail Advocate* (Innisfail QLD, 3 July 2010), 13.

**10/07/2010**

### Land Use Deal

Charters Towers Regional Council, Isaac Regional Council, Whitsunday Regional Council and the Jangga People have celebrated the signing of an Indigenous land use agreement (ILUA) at a ceremony at Mount Coolon. The ILUA covers more than 20,700 sq km centred on the township of Mt Coolon, 120km west of Mackay and 150km south of Townsville under a native title claim. It provides a way forward where local government can work together with the traditional owners, the Jangga people, and all parties' rights are protected. The National Native Title Tribunal registered the legally binding agreement on February 11, 2010. *Morning Bulletin* (Rockhampton QLD, 10 July 2010), 12. *Daily Mercury* (Mackay QLD, 12 July 2010), 4. *Morning Bulletin* (Rockhampton QLD, 12 July 2010), 4. *Daily Mercury* (Mackay QLD, 20 July 2010), 4

**31/07/2010**

### Torres Strait Islander declaration delay

Torres Strait Islanders are disappointed at a delay in the official declaration of their native title rights over a vast tract of ocean to Australia's north. Earlier in July the Federal Court granted traditional owners native title rights over more than 40,000sqkm of ocean between Cape

York and Papua New Guinea after a nine year court battle.

Justice Paul Finn of the Federal Court accepted the Islanders had "non-exclusive" rights to the area, giving them ownership of waters but not excluding the access of others, such as commercial fisherman. However, he questioned the final form of the orders. He queried the boundaries and remained undecided on whether minerals and petroleum that didn't belong to the Crown should be included in the native title claim.

Barrister Robert Blowes said outside court it was unclear how much longer it would take to finalise the details. *Advertiser* (Adelaide SA, 31 July 2010), 55. *Townsville Bulletin* (Townsville QLD, 31 July 2010), 23. *Border Mail* (Albury-Wodonga VIC, 31 July 2010), 20. *Kalgoorlie Miner* (Kalgoorlie WA, 31 July 2010), 8.

#### 12/08/2010

##### Levy to be paid

Under the terms of an Indigenous Land Use Agreement signed in 2007, the Mount Isa City Council will pay the Kalkadoon Aboriginal community more than \$575,000 to compensate them for surrendering native title claims on a parcel of land flagged for a housing development. Mt Isa City Council moved to pay off a 10 per cent instalment of \$57,500 to the Kalkadoon Community as an upfront payment. The remaining \$517,500 must be paid within three months to keep within the terms of the ILUA between the council, the Aboriginal organisation and the State Government in 2007.

Ratepayers are paying a three-year "Kalkadoon levy" in their rates starting from this year to help pay the outstanding debt. Mount Isa City Council have confirmed that the Kalkadoon levy will be paid in full by October 1, 2010. *North West Star* (Mount Isa, QLD, 12 August 2010), 3. *Townsville Bulletin* (Townsville QLD, 14 August 2010), 23.

#### 24/08/2010

##### Largest Aboriginal Agreement on LNG

The largest set of Aboriginal agreements in Australia's resources history was signed in Gladstone yesterday. The Gladstone Liquefied Natural Gas (GLNG) project representatives and local Aboriginal traditional owners signed the seventh and final Indigenous land use agreement (ILUA) for the project during a ceremony at the GLNG office. Signing this final agreement, called the Murrumbindi Gap B agreement, which is one of 42

individual agreements with Aboriginal people for the GLNG project, means the project can begin construction.

The Murrumbindi agreement covers the GLNG pipeline corridor roughly between the Expedition Range in the west and the Dawson Range in the east. Collectively, the 42 signed agreements are the largest set of agreements with Aboriginal people in Australia's resources sector history. *Gladstone Observer* (Gladstone QLD, 24 August 2010), 5. *Gladstone Observer* (Gladstone QLD, 24 August 2010), 5.

## Victoria

#### 07/07/2010

##### Native title proposal

Boort could have a multi-million dollar cultural and environmental centre, under a plan that is being negotiated between the State Government and the Dja Dja Wurrung Native Title Group. The proposed multi-purpose centre could combine an art gallery, museum, office, educational facilities and conference centre, with other tourist attractions including environmental tours.

*Loddon Times* (Loddon VIC, 7 July 2010), 1.

#### 19/07/2010

##### Methane Reserves in Colac District

A methane mining company is a step closer to producing clean energy from methane reserves in Colac district. The Department of Primary Industries has given notice of an impending licence to explore an area around Barongarook for methane. People opposed to the licence have until October 14 to become a native title claimant and object under the *Native Title Act 1993*. *Colac Herald* (Colac VIC, 19 July 2010) 12

#### 05/08/2010

##### Native Title Framework

The Traditional Owner Settlement Bill 2010 (Vic) was introduced into Victorian Parliament by the Hon. John Brumby on 27 July 2010. The Victorian and Federal Governments say it could lead to better economic opportunities for Aboriginal groups in managing Crown land. The Victorian Attorney General Rob Hulls said "It will mean quicker resolution of claims, reduced transaction costs, reduced compensation liability for the state, finality and certainty for the state, for business and for industry in relation to native title matters." The Co-chairman of Victorian Traditional Owner Justice Group Graham Atkinson says it will result in better economic

development opportunities in Indigenous communities. "This is a groundbreaking reform for traditional owners in Victoria. It allows groups to work in an agreement-making context rather than litigation," he said. *National Indigenous Times* (Malua Bay NSW, 5 August 2010), 7. *Lakes Post* (Lakes Entrance VIC, 4 August 2010), 21. *Hamilton Spectator* (Hamilton VIC, 31 July 2010), 41. *Portland Observer* (Portland VIC, 13<sup>th</sup> August 2010), 5.

## Western Australia

01/07/2010

### WA gas negotiations continue

The KLC has suspended negotiations with Woodside and the State Government over a \$30 billion Browse Basin gas project, while a Federal Court challenge by native title applicant Joseph Roe is heard. Mr Roe filed a statement of claim in the Federal Court challenging the validity of the deal the KLC struck with Woodside and the State on behalf of traditional owners early in 2009.

Mr Roe believes the deal was made contrary to the unanimous decision in 2005 of traditional owners that permission for the development should be refused because it would irreversibly damage a "song cycle" running through the region.

WA Premier Colin Barnett has said that the WA Government would consider compulsory acquisition after providing \$16 million in negotiating funding, unless an agreement is attained quickly. Opposition State Development Minister Mark McGowan said compulsory acquisition could only delay the process and bring shame on the State.

Lawyer Greg McIntyre said notice of compulsory acquisition would trigger a statutory negotiation process under the *Native Title Act*. This process would result in a commencement of a six-month right to negotiate procedure. If no resolution was reached after six months of negotiation in good faith, either of the parties could go to the NNTT for the matter to be arbitrated. *Australian Financial Review* (National, 1 July 2010), 12. *West Australian* (Perth WA, 1 July 2010), 3. *Kalgoorlie Miner* (Kalgoorlie WA, 2 July 2010), 5. *Advertiser* (Adelaide SA, 2 July 2010), 76. *West Australian* (Perth WA, 2 July 2010), 7. *Advertiser* (Adelaide SA, 2 July 2010), 34. *West Australian* (Perth WA, 3 July 2010), 21. *West Australian* (Perth WA, 5 July 2010), 20. *Australian Mining Review*

(National AU, July 2010), 18. *Broome Advertiser* (Broome WA, 8 July 2010), 3. *Australian Financial Review* (National AU, 9 July 2010), 41. *Australian* (National AU, 16 July 2010), 6. *Broome Advertiser* (Broome WA, 22 July 2010), 8.

01/07/2010

### Men's action like 'home invasion'

Barrister, George Irving, hired by the Kimberley Land Council to defend accused men Lenny and John Hopiga, has described the actions of two men who were allegedly assaulted after they entered native title lands south of Bidyadanga as being equivalent to a home invasion.

Bidyadanga law man Lenny Hopiga faces two counts of assault occasioning bodily harm and carrying an article with intent to cause fear and John Hopiga one count of wilfully destroying property and threats to injure over the incident in September 2008. Mr Irving said he would argue the men's actions were appropriate and they were within their duty, obligation and right to protect their land.

Mr Irving also said the lands surrounding Bidyadanga were a private pastoral lease, owned by the Karajarri Traditional Lands Association on behalf of the Karajarri traditional owners. The Karajarri people won native title over the area in 2002, giving them exclusive possession – the right to exclude anyone from the property. The trial will resume in November when anthropologists will be called on to complete the evidence. *Broome Advertiser* (Broome WA, 1 July 2010), 9. *West Australian* (Perth, 23 July 2010), 16. *Broome Advertiser* (Broome WA, 29 July 2010), 6

01/07/2010

### Central Desert services wins \$136,000 boost

Central Desert Native Title Services has received \$136,000 in 'Royalties for Regions Regional Grants Scheme' funding. The money will pay for the majority of the proposed \$196,000 Wiluna Land Management Unit.

The Unit aims to enable ongoing care to Wiluna and Birriliburu native title lands. Central Desert CEO Ian Rawlings said the project was a base for their land management workers and would help develop job opportunities for the people of those lands. *Mid-West Times* (Geraldton WA, 1 July 2010), 10.

**02/07/2010****Native title ruling a win for Martu**

A test case brought by the Central Desert Native Title Services for the Martu people resulted in the judgement that full native title rights and interests continued to exist over areas covered by mining leases granted between 1975 and 1993.

The Central Desert Native Title Services stated where there had been no earlier tenure and the grant of a mining lease during that period was now considered a 'Category C Past Act' under the *Native Title Act 1993* (Cth).

This means the 'non-extinguishment principle' applies. The mining lessee may still carry out all the operation permitted under the lease, but it will not extinguish native title and the native title holders will be entitled to compensation for any disturbance on their land. *Kalgoorlie Miner* (Kalgoorlie WA, 2 July 2010), 3.

**3/07/2010****Pilbara traditional owners announce pipeline agreement with Chevron**

The Kuruma Marthudunera (KM) people are this week celebrating the conclusion of negotiations with Chevron Australia for the future construction of a domestic gas pipeline from Barrow Island through the KM peoples' native title claim area.

The agreement was officially endorsed at a meeting held in Point Samson Friday, 18 June, and was attended by KM community members and Chevron representatives.

The project involves the construction of a single gas pipeline to connect a processing plant on Barrow Island with the Dampier to Bunbury natural gas pipeline. The agreement provides for the payment of compensation to the KM people for the impact on their native title rights and interests and upholds their continued rights to access the area under their traditional laws and customs.

*Pilbara Echo* (Pilbara WA, 3 July 2010), 5. *Yamaji News* (Geraldton WA, July 2010), 20

**10/07/2010****Karratha Land Agreement**

The Western Australia State Government and the Ngarluma Aboriginal Corporation have signed an agreement which will make land available for development in Karratha. Brendon Grylls the Regional Development and Lands Minister said the agreement

enabled the Government to proceed with a number of proposed developments in the town, as well as providing benefits for the Ngarluma native title holders.

*Pilbara Echo* (Pilbara WA, 10 July 2010), 3.

**02/08/2010****Sacred Site defence in Court**

Two Indigenous brothers, Lenny and John Hopiga, who are accused of assaulting two non-Indigenous men on a claimed sacred site, are arguing in court they were defending their land under traditional law. The Kimberley Land Council (KLC) said the 2008 alleged assault took place in an area deemed 'exclusive possession native title', KLC are arguing that the brothers have the right to exclude people from their land and use reasonable force to defend it against trespassers. The case which is being heard in Broome could end up in the High Court and is expected to set a precedent over the extent of rights traditional owners have over their land. *Australian* (Australia, 2 August 2010), 3.

**05/08/2010****Gas Hub at James Price Point**

A meeting of the Goolarabooloo and Jabirr Jabirr claim group was held in Broome WA, and voted to change the named applicants on their native title claim. This in affect, opens the way for resumed negotiations on the \$30 billion gas hub project.

The meeting followed a Federal Court decision in Perth dismissing legal action by Mr. Roe who had sought to prevent the KLC from representing native title claimants in negotiations over the proposed liquefied natural gas hub. Mr. Roe and other claimants are against the plant being built at James Price Point as they say it is an important sacred area and a crossing point of song lines. *National Indigenous Times* (Malua Bay NSW, 5 August 2010), 6. *Advertiser* (Adelaide SA, 5 August 2010), 54. *Sydney Morning Herald* (Sydney NSW, 5 August 2010), 5. *West Australian* (Perth WA, 4 August 2010), 16. *Canberra Times* (4 August 2010), 13. *Age* (Melbourne VIC, 4 August 2010), 10. *Barrier Daily Truth* (Broken Hill NSW, 4 August 2010), 8. *West Australian* (Perth WA, 3 August 2010), 15. *General News* (Broome WA, 12 August 2010), 3

**06/08/2010****Traditional Owners warn explorer's**

West Australian exploration company, Groote Resources, have been urged to talk to traditional owners before exploring for manganese near Groote Eylandt, off Arnhem Land.

Traditional owners and the Northern Land Council are concerned that "in the 21st century despite the High Court's Mabo decision and the Native Title Act any mining company would come to Arnhem Land and commence exploration without consultations and agreement with traditional owners".

Walter Amagula, chairman of the Anindilyakwa Land Council, which represents traditional owners in the area, says "The sea country has immense cultural and environmental significance, including sacred sites and song cycles which connect Groote to the mainland as well as dugong, turtle and seagrass habitats". *Age* (Melbourne VIC, 6 August 2010), 3. *National Indigenous Times* (Malua Bay NSW, 19 August 2010), 8.

#### 12/08/2010

##### Milestone for Yawuru

The registration of the Yawuru people's Indigenous land use agreement with the State and Broome Shire by the National Native Title Tribunal marks the end of a six month transition period, opening up a new era in Broome's development. Registration of the ILUA resulted in the delivery of the first instalment of benefits from the \$200 million Native Title agreements signed in February this year. WA Attorney General Christian Porter said "the first benefits will be transferred to the Yawuru people as soon as possible and will include \$29m for capacity building, economic development, cultural preservation and social housing," Mr Porter said "An additional \$6m will be provided to the Department of Environment and Conservation for joint management of a conservation estate." The ILUA covers 5291sqkm of land in and around the Broome townsite. *Broome Advertiser* (Broome WA, 12 August 2010), 1. *Farm Weekly* (WA, 12 August 2010), 138. *National Indigenous Times* (Malua Bay NSW, 19 August 2010), 15

#### 26/08/2010

##### James Price Point Gas Hub

Traditional owner of James Price Point have said they could withdraw support for the \$40 billion Kimberley gas hub after WA Premier Colin Barnett broke off talks and said he would move to compulsorily acquire the land. Mr Barnett has warned of a forced acquisition of the 2500ha site and 1000ha of sea if the parties could not reach an agreement by June 30. Wayne Bergmann, CEO of Kimberley Land Council accused the Premier of unfairly criticising the \$16 million cost of negotiations which requires extensive consultation on social, cultural and environmental effects as well as complex talks with

experienced dealmakers from big corporations. *West Australian* (Perth WA, 26 August 2010), 13. *West Australian* (Perth WA, 26 August 2010), 13. *Australian* (Australia, 26 August 2010), 4.












#### 28/08/2010

##### Pilbara Agreement

The Kariyarra native title group has signed a native title agreement with Hancock Prospecting to cover a proposed railway to carry iron ore from its Roy Hill project in Port Hedland. The agreement is designed to protect cultural heritage sites throughout the planning and construction of a rail corridor in the Pilbara. The native title agreement provides for a range of financial and non-financial benefits for the region's Aboriginal community including a policy to promote employment of Kariyarra people on the project. Under the agreement, Hancock employees will go through cultural awareness training and the company will build an Aboriginal arts centre in the Port Hedland area in consultation with the Kariyarra people. *Shepparton News* (Shepparton VIC, 28 August 2010), 22. *Daily Liberal* (Dubbo NSW, 28 August 2010), 14. *Weekend Gold Coast Bulletin* (Queensland AU, 28 August 2010), 126. *Advertiser* (Adelaide SA, 28 August 2010), 87.



## Indigenous Land Use Agreements

NAME	TRIBUNAL FILE NO.	TYPE	STATE OR TERRITORY	REGISTRATION DATE	SUBJECT-MATTER	REGISTER EXTRACT
<a href="#">Surat Gladstone Pipeline SGP Iman ILUA</a>	QI2010/004	AA	Queensland	30/08/2010	Pipeline	 <a href="#">Register Extract</a>
<a href="#">Islanders Board of Industry and Services and Mabuiag People</a>	QI2010/012	BCA	Queensland	23/08/2010	Access Development Infrastructure	 <a href="#">Register Extract</a>
<a href="#">Wooroonooran ILUA</a>	QI2010/001	AA	Queensland	23/08/2010	Access Co-management	 <a href="#">Register Extract</a>
<a href="#">Cairns Regional Council - Combined Dulabed and Malanbarra Yidinji - Goldsborough Valley ILUA</a>	QI2009/022	AA	Queensland	20/08/2010	Exploration	 <a href="#">Register Extract</a>
<a href="#">Yandruwandha/Yawarrawarrka Cordillo Downs Pastoral ILUA</a>	SI2010/002	AA	South Australia	11/08/2010	Access Co-management Community living area	 <a href="#">Register extract</a>
<a href="#">Combined Dulabed and Malanbarra Yidinji and Ergon Energy</a>	QI2009/018	AA	Queensland	10/08/2010	Access	 <a href="#">Register Extract</a>
<a href="#">Yawuru Area Agreement ILUA</a>	WI2010/004	AA	Western Australia	06/08/2010	Access Government	 <a href="#">Register Extract</a>
<a href="#">Islanders Board of Industry and Services and Ugar People ILUA</a>	QI2010/013	BCA	Queensland	02/08/2010	Access Development Infrastructure	 <a href="#">Register Extract</a>
<a href="#">FMG Pilbara Pty Ltd and Wintawari Guruma Aboriginal Corporation RNTBC</a>	WI2010/005	BCA	Western Australia	14/07/2010	Access	 <a href="#">Register extract</a>
<a href="#">Lot 87 Town of Kalkarindji ILUA</a>	DI2010/001	AA	Northern Territory	08/07/2010	Extinguishment	 <a href="#">Register extract</a>
<a href="#">Katherine Regional Cultural Precinct Agreement</a>	DI2010/002	AA	Northern Territory	08/07/2010	Access Community living area Development	 <a href="#">Register extract</a>

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

AA = Area Agreement      BCA = Body Corporate Agreement

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

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

## Determinations

SHORT NAME	CASE NAME	DATE	STATE OR TERRITORY	OUTCOME	LEGAL PROCESS
<a href="#">Combined Dulabed and Malanbarra Yidinji Claim</a>	Combined Dulabed Malanbarra Yidinji People v State of Queensland [2009] FCA 1498	23/08/2010	Queensland	Native title exists in the entire determination area	Consent determination
<a href="#">Torres Strait Regional Sea Claim</a>	Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v State of Queensland (unreported, FCA, 23 August 2010, Finn J)	23/08/2010	Queensland	Native title exists in parts of the determination area	Litigated determination
<a href="#">Ngarla People (Mount Goldsworthy Lease Proceeding)</a>	Brown (on behalf of the Ngarla People) v State of Western Australia (No. 3) [2010] FCA 859	06/08/2010	Western Australia	Native title exists in parts of the determination area	Consent determination
<a href="#">Eden Local Aboriginal Land Council #2</a>	Eden Local Aboriginal Land Council v NTSCORP Limited [2010] FCA 745	15/07/2010	New South Wales	Native title does not exist	Consent determination
<a href="#">Eden Local Aboriginal Land Council #3</a>	Eden Local Aboriginal Land Council v NTSCORP Limited [2010] FCA 746	15/07/2010	New South Wales	Native title does not exist	Consent determination

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

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

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

## Items in the AIATSIS Catalogue

The following list contains either new or recently amended catalogue records of material relevant to native title. Please check MURA, the AIATSIS on-line catalogue, for more information on each entry. You will notice that some entries may not have completed citations because they are preliminary records.

This issue continues with citations from *Native Title News*. All of these are listed under three categories at the end.

The section on Historical documents and accounts contains a substantial number of books, some of which can be accessed online. Also, we now hold two early sources of Proceedings- one from the Royal Colonial Institute in London (Vol. XXII, 1890-1891) and another from the Royal Society of Edinburgh (1844-1941). Another item of interest is a manuscript left by the Rev. John Bulmer entitled "His life, manners, customs and traditions of the Aborigines" (1909).

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### Sound recordings

AKIBA\_S01 [Kalaw Kawaw Ya narratives]. Sound recordings of Samuel Akiba from Saibai, recorded in 1982.

BELCHER\_D01 Belcher family collection. Sound recordings made in Mornington Island and Ernabella, recorded in 1960 and in 1981.

MCGINTY\_S01 Gug Badhun ; digital history project. Sound recordings made around Townsville, recorded in 2004 – 2005.

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