



Native Title Newsletter

AIATSIS Native Title Research Unit

May/June 2003

No.3/2003

Contents

News from the Native Title
Research Unit 2

Features

Edited extracts from summary address for
Closing Plenary – NT Conference 2003
Where to from here? 4

Youth Forum Rap Poetry 9

Daniel v Western Australia 10

Regular items

Native title in the news 11

Applications lodged 15

Registration test 16

Notifications 16

Recent publications 17

Recent Additions to the AIATSIS library 19

Native Title Research Unit publications 22

The Native Title Newsletter is published is published every second month. The newsletter includes a summary of native title as reported in the press. Although the summary canvasses media from around Australia, it is not intended to be an exhaustive review of developments.

The Native Title Newsletter also includes contributions from people involved in native title research and processes. Views expressed in the contributions are those of the authors and do not necessarily reflect the views of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Stop Press

Several job vacancies within the Native Title Research Unit at AIATSIS are presently being advertised. To obtain position descriptions, and selection criteria, go to the AIATSIS web site at:
<www.aiatsis.gov.au/corp/jobs/jobs.htm>

The Newsletter is also available in ELECTRONIC format. This will provide a FASTER service for you, and will make possible much greater distribution. If you would like to SUBSCRIBE to the Native Title Newsletter electronically, please send an email to ntru@aiatsis.gov.au, and you will be helping us provide a better service. Electronic subscription will replace the postal service, please include your postal address so we can cross check our records. The same service is also available for the Issues Papers series.
ISSN 1447-722X

Native Title Conference 2003, Alice Springs: a summary

The Australian Institute of Aboriginal and Torres Strait Islander Studies and the Central Land Council convened the annual Native Title Conference. Held in Alice Springs the conference was conducted over three days from June 3 to 5. The Lhere Artepe and the native title-holders of Alice Springs hosted the 2003 conference.

Now in its fourth year, the Native Title Conference provides the preeminent forum for collective discussion on issues related to native title in Australia. The conference is a platform for Australia's best thinkers on indigenous issues to present current research, concepts, and policy directions. Just as importantly, the conference is an opportunity for native title-holders, representative bodies, academics and government representatives to meet in one place to exchange ideas and technical advice, and to debate, listen and respond to the wide scope of views.

AIATSIS acknowledge the generous support and sponsorship provided by the Aboriginal and Torres Strait Islander Commission (ATSIC). Without this support the conference could not be held. Similarly, we would like to thank the National Native Title Tribunal (NNTT) for their support of the conference.

This year's conference attracted some 471 delegates including 92 speakers, chairs, and session convenors.

Spanning six plenary, a total of 11 keynote lectures were delivered, including the Mabo Lecture delivered by Noel Pearson, and introduced by Bonita Mabo, wife of the late Koiki (Eddie) Mabo. International guest, Professor Christine Zuni Cruz provided a keynote lecture on self-determination and Indigenous nations in the United States (see Issues Paper 2(23)).

Thirteen tailored breakout sessions explored a wide range of issues related to native title. Each session had a thematic title that informed delegates of its content. Most sessions had no more than three papers presented, which allowed ample time for discussions.

The Lhere Artepe and traditional owners of Alice Springs held a welcome to country ceremony on the evening of June 2. The picturesque venue for this ceremony was on the banks of the Todd River. Light refreshments were served following the formal part of the evening.

To conclude and celebrate the conference, a dinner was held on the Thursday night. Local Indigenous entertainers enthralled the delegates with dance and song. During the dinner, the inaugural Native Title Research Body Outstanding Achievement Award was presented to the South West Aboriginal Land and Sea Council by Prof. Michael Dodson.

Mr Greame Neate, President of the NNTT, presented a circumspect and concise summary of the substantive aspects of the conference. We include an edited version of this paper in our features section of this edition. (see page 4).

Staff Movements

Jane Anderson is no longer in the Native Title Research Unit. She is now a Visiting Research Fellow in Research at AIATSIS. Her research project will involve investigating issues of intellectual property and indigenous knowledge. In particular it will examine contested ownership of indigenous cultural material held in cultural institutions from a variety of perspectives.

Native Title Conference papers

By now, conference delegates have received copies of papers presented at the NT Conference. NTRU is yet to receive all papers and we will be distributing these as they come in. With permission of the authors a number of papers have been placed on the conference web site.

New Seminar Series – Health and Society

The AIATSIS seminar series titled 'Health and Society: An Australian Indigenous Context' (21 July – 27 October 2003) is being convened by Graham Henderson, Heather McDonald and Jo Victoria. This series aims to provide an overview of Indigenous health issues in Australia – issues that range from government agreements to the provision and reception of medical services in Aboriginal communities. The seminar series locates health within its historical, social and cultural contexts. There is a diversity of speakers, many of whom are Indigenous Australians. The speakers will discuss Indigenous men's and women's health issues, maternal and child health, social and emotional well being, and health delivery by Aboriginal community-controlled organisations in urban and rural settings. Also to be discussed are management and policy development issues, Indigenous health expenditure, work and life experiences of Indigenous health professionals, and the new Cooperative Research Centre for Aboriginal Health. AIATSIS is planning to publish the seminar series through Aboriginal Studies Press.

Web site under review

The Native Title Research Unit web resources are currently under review. To assist users navigate the site in a more user-friendly way the site will be overhauled in the coming months. Our aim is to help people gain easy access to the services and in-

formation provided by the unit. We look forward to your feedback.

New Issues Paper

The May Issues Paper is now available. Issue number 23, 'Indigenous Pueblo Culture and Tradition in the Justice System: Maintaining Indigenous Language, Thought and Law in Judicial review' by Professor Christine Zuni Cruz. In this paper Prof. Zuni Cruz considers several issues that have emerged from her personal experience working as an Associate Justice on the Pueblo Appellate Court in the United States. These concerns relate to maintaining the culture of the Pueblo within an acknowledged western, and specifically Anglo-American, framework of justice. The key elements discussed include language, process and knowledge. This paper provides a North American perspective on the interface between Indigenous law and western legal frameworks.

Recent additions to the AIATSIS library

The AIATSIS Library receives many books, articles, journals, pamphlets and other works that will be of special interest to Native Title clients. From now on, the Newsletter will periodically include listings of newly catalogued items that may be helpful in preparing background information for a claim or other native title research.

The Native Title Research and Access Officer has compiled this edited listing of titles catalogued in May and June 2003 for you. Entries are grouped under headings that generally describe what types of items are listed, such as Government Reports and Native Title Cases or Indexes, directories and guides. Library call numbers appear at the top of each entry, and you may wish to use them as search terms to see the full description of the item on the AIATSIS online catalogue, MURA.

All items are available for you to read in the AIATSIS Library, and many items may be photocopied in full or part according to copyright rules and conditions of deposit.

Some special items of interest are:

- early contact accounts written by Daisy Bates (1910-1942), Philip Gidley King (1817-1904), or Joseph Bradshaw (1891)
- Canadian and Brazilian documents about agreements and policies concerning land claims
- the list of records holdings relating to Aboriginal people in the Northern Territory, compiled by the Northern Territory Archives Service
- the negotiators draft agreement between Pancontinental Mining Limited, Getty

Oil Development Company Ltd and the Northern Land Council.

- the article by John Litchfield on how history research was viewed in the Mabo and Yorta Yorta Claims

Please contact the Native Title Research and Access Officer ntss@aiatsis.gov.au or 02 6246 1103 for further information about any of the items on the listing.

You will find a complete listing of new additions to AIATSIS library on page 19 in this edition of the newsletter.

FEATURES

The Native Title Conference: 'Native Title on the Ground'

Edited extracts from summary address for Closing Plenary – Where to from here?

By: Graeme Neate. President, National Native Title Tribunal. Alice Springs, 5 June 2003

Introduction

Providing a summary or overview of this conference is a daunting task. This conference has been wide ranging in its scope. The numerous papers have been descriptive, analytical, conceptually challenging and, in some cases, deeply personal. Some speakers have reported on where we are in native title and others have looked at what might lie ahead.

What I will say is both a selective and personal account, outlining eight of the main themes or messages that have come out of this conference, and illustrating those themes by specific references to some of the presentations made here.

1. The challenges are great, and there are many ways of meeting them

Speakers, such as Noel Pearson, John Basten and David Parsons, offered detailed critiques of aspects of the current state of the law on native title and pointed to some of the practical implications of the law as it is currently understood.

For some people, recent court decisions have led to a sense of despair or grim resignation that there is no prospect of recognition of what they believe to be their native title rights. It is certainly the case that many groups will have difficulty in proving that they meet the strict legal requirements for a determination of native title.

What is clear is that the goal posts, if not finally fixed, are pretty firmly in place.

It is in that context that parties need to work out how to deal with the 635 claimant applications, 22 non-claimant applications and 22 compensation applications currently on the books.

Indigenous groups need to be given clear advice about their prospects in getting such

an outcome. They need to reconsider why they lodged their claimant applications and what they want to achieve from the process.

The Native Title Act provides for various outcomes - including determinations that native title exists,¹ particular forms of agreement such as Indigenous land use agreements,² and agreements that may involve matters other than native title.³

The options for resolving some applications may lie outside, or may be additional to, native title outcomes. They may include outcomes that can only be derived under state or territory laws. The Wotjobaluk in principle agreement is an example of this approach.

Senator Aden Ridgeway argued that the way forward must be about negotiated outcomes and agreements. He pointed out that going to court narrows what you can negotiate about. Senator Ridgeway and others spoke of the value of comprehensive settlements and regional agreements, as well as local or claim specific outcomes. One example of the comprehensive approach is the state-wide negotiation taking place in South Australia.

Some speakers urged a consideration of native title in a much broader social and economic context, including as one way of addressing the relative disadvantages faced in their daily lives by many Indigenous Australians. Noel Pearson lamented that the courts had stripped native title of any economic meaning or benefit, and compared the Australian situation with that of Canada where the courts expressly use the language of reconciliation when dealing with native title (or aboriginal title) issues.

I would suggest, however, that although native title itself may not be an economically valuable commodity, economic benefits as well as heritage protection and other benefits are being secured by groups as a by-

¹ *Native Title Act 1993* ss 94A, 225.

² *Native Title Act 1993* ss 24BA-24EC, 199A-199F.

³ *Native Title Act 1993* s 86F.

product of the process. People are using their procedural rights to negotiate agreements before and independently of a determination of native title.

2. People are at the heart of the native title

Judges and lawyers often say that native title rights and interests are rights in rem, not just the rights of the parties⁴ – they attach to the land, and hence a determination of native title has an indefinite character which distinguishes it from a declaration of legal rights as ordinarily understood.⁵

Yet it is people who are at the heart of native title. The preamble to the Native Title Act makes numerous references to Aboriginal peoples and Torres Strait Islanders. The definition of ‘native title’ is suffused with human elements. Native title rights and interests are, in essence “the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait islanders in relation to land or waters”.⁶

That message has come through in many ways at this conference. It was apparent from the moving opening remarks by Mrs Bonita Mabo, who said that Indigenous people all over Australia are proud and are saying where they come from and who they are since native title was recognised.

⁴ See *Wik Peoples v Queensland* (1994) 49 FCR 1 at 6-8; 120 ALR 465 at 470-472 per Drummond J; *Fourmile v Selpam Pty Ltd* (1998) 80 FCR 151 at 175 per Drummond J; *Western Australia v Ward* (2000) 99 FCR 316 at 368-369 [190], 375 [219]; 170 ALR 159 at 208-209 [190], 214-215 [219] per Beaumont and von Doussa JJ; *Mitakoodi/Juhnjar People v Queensland* [2000] FCA 156 at [12], [21] per Spender J; *Munn for and on behalf of the Gungari People v Queensland* (2001) 115 FCR 109 at 114 [22], quoted with approval by Sackville J in *Kennedy v Queensland* (2002) 190 ALR 707 at 714 [30].

⁵ *Western Australia v Ward* (2000) 191 ALR 1 at 21 [32] per Gleeson CJ, Gaudron, Gummow and Hayne JJ.

⁶ *Native Title Act 1993* s 223(1).

3. Young people have a significant role – now and in the future

A special feature of this conference has been the Indigenous Youth Forum.

Young people can have an important role in the resolution of native title proceedings and land claims. Certainly the elders will usually be the main witnesses, speaking with knowledge and authority about their traditional country. But for native title to survive,⁷ the traditional laws and customs must be passed on from generation to generation.

If it is the responsibility of older people to teach the young, it falls to young people to keep the culture alive. In the *De Rose* case, for example, Justice O’Loughlin said that, in his opinion, it was “very disappointing and somewhat significant not to have received evidence from more young people. One is left wondering” he said “whether the members of the younger generations have the same interest in native title entitlements as their elders.”⁸

4. For native title to work on the ground, relationships must be created, nurtured and maintained

Native title is in part about sharing the country, and to do that effectively requires sound relationships.

Geoff Clark drew inspiration from a church service in New York to make the point that people who share each other’s pain and suffering can also give each other encouragement. He urged Aboriginal people to do just that and walk to the top of the hill together. Others here have demonstrated the strength of such relationships.

The other challenge is to build relationships between people who may not have a relationship before they are thrown together by native title proceedings, or who may have

had a difficult or hostile relationship. And the challenge is for all the participants. In negotiations that factor can influence choosing an option or approach which at the very least does not damage relationships, but actually enhances them into the foreseeable future.

5. To secure sound agreements or just litigated outcomes there needs to be clear communication

There are various types and levels of communication. Most of the engagement in the native title arena is by written and spoken word.

But not all communication is by language. The elaborately decorated dancers at the opening session gave us a rare glimpse of the rich cultural heritage that they maintain through traditional dancing.

Max Stuart told us that what he has is not in a book, it is in his heart and mind.

Alison Anderson reminded us that English is a foreign language, yet much native title work is transacted in that language. Christine Zuni Cruz pointed out so clearly the cultural gaps between systems of law which must be recognised and respected before justice can be done.

How does one adequately convey in words the essence and detail of the connection between people and land?

This challenge of finding ways to communicate effectively does not just arise between Indigenous and non-Indigenous Australians. It is an issue for practitioners in different disciplines – lawyers, anthropologists, historians and linguists – and is an issue when litigants, lawyers and witnesses engage in the judicial process.

Many other examples given at this conference support the proposition that to secure sound agreements or just litigated outcomes there needs to be clear communication between the participants.

⁷ See *Western Australia v Ward* (2002) 191 ALR 1 at 21 [32] per Gleeson CJ, Gaudron, Gummow and Hayne JJ.

⁸ *De Rose v South Australia* [2002] FCA 1342 at [15], see also [905].

6. The institutions administering native title must keep their practices under review, and refine or change them as necessary

By now, the institutional aspects of the native title system are well known. In particular, the various powers and functions of native title representative bodies, the National Native Title Tribunal and the Federal Court are widely understood.

Indeed, in his powerful Mabo lecture, Noel Pearson made the point that in the past decade much has been written about the procedures rather than the content of native title. In that lecture, he offered a critique of the law and the institutions administering it.

He noted how Indigenous organisations and leaders had responded to and dealt with the challenges of native title. He observed that they had failed to control the actions of professionals who they engaged, allowing them to run the claims. He was implicitly challenging native title representative bodies to raise the level of performance and to raise the level of discourse on the law of native title.

Brian Stacey from ATSIC outlined the need to tackle head on the question whether we are making progress in native title and foreshadowed a review of policy by ATSIC – the body which provides funding to the native title representative bodies. He expressed the hope that the service delivery function of representative bodies will become more effective.

There was detailed discussion of mediation practice used to deal with native title issues. The practices and personnel of the National Native Title Tribunal came under the spotlight and various suggestions were offered. Dr Gaye Sculthorpe, a member of the Tribunal, outlined the Tribunal's proposed training strategy for improving the knowledge and skills of members and staff of the Tribunal in this sensitive and significant aspect of the Tribunal's work.

In a plenary session, the role and practices of the Federal Court were examined. Professor Mick Dodson looked at some of the procedures and values of the court which guide its case management and yet, although well suited to other forms of litigation, may not fit as well to the proper resolution of native title issues. In a suitably measured address, Registrar Warwick Soden outlined the limitations within which the Federal Court operates but pointed out the opportunities for the court, operating as a court, to review and amend its procedures in discharging its responsibilities under the Native Title Act.

For each of those institutions, as well as for governments, such ongoing reassessment is essential if we are to improve our performance and show the leadership expected of us in dealing with the many challenges that native title issues provide.⁹

7. The parties need adequate resources to achieve just outcomes

Resource limitations continue to pose threats to the capacity of the system to deliver outcomes.

Professor Mick Dodson pointed to the apparent disparities in the relative funding of the main participants in native title proceedings.

Resources are not confined to money. One of the real challenges is finding people who are qualified and available to do the work as lawyers or expert witnesses, whether as employees or consultants.

The other resource that is sometimes in short supply is time to do what needs to be done – time to do research, to get instructions, to prepare for a hearing or negotiations, and to comply with court orders.

⁹ For references to the leadership role of the Tribunal see NNTT *Strategic Plan 2003-2005*, What we want to be known for; Key success areas.

8. There are runs on the board and more can be scored – but take care how you do it

There have been 31 determinations that native title exists and 14 that native title does not exist. To date some 77 Indigenous land use agreements have been registered and some 23 are being considered for registration. Many more are being negotiated.

Some people have suggested that, after a decade or so of activity, these figures are too low. But these are the tip of the iceberg. Indigenous land use agreements, whether they provide the practical working out of native title determinations or are “stand alone” agreements reached before, and quite independently of, native title determinations are but one form of agreement. Thousands of other agreements have been negotiated under the Native Title Act or because of the possibility that native title exists.

Various speakers have acknowledged that Aboriginal people and Torres Strait Islanders are at the table negotiating about matters in ways and with people that could not have been imagined a decade ago. There has been a change in the mindset of many Australians, and particularly in key industries, so that it is increasingly part of day-to-day business to engage in discussions or negotiations with Indigenous people about a range of land use matters. Many of those negotiations proceed irrespective of whether the group has or can prove native title. Indeed many agreements are made long before native title is shown to exist and, potentially at least, with groups who could not prove that they have native title.

Professor Marcia Langton and her colleagues at Melbourne University, together with project partners, have developed an agreement database, which demonstrates the range and variety of agreement making to date, and will be expanded in the years ahead. It was launched and demonstrated at this conference. It can be accessed at <www.atns.net.au>.

But experience to date is showing that not all agreements will stand the test of time. We are far enough down the track to be able to make an assessment of what works and what doesn't, and even to attempt to describe what the elements of a good agreement are.

So we should acknowledge, indeed celebrate, that there are runs on the board, and we should work in the expectation that more will be scored, but we should work in a more experienced and informed fashion to ensure that agreements are durable.

Conclusion

Native title has received mixed assessments – at this conference and elsewhere. Some of our speakers have referred to a system that is “clearly flawed”, to the progressive “whittling away” or rights by legislation and court processes, and to a “growing gap between expectations and outcomes”.

Others suggested that as we are stuck with the present system we should do our best to make it work, and make the most of the opportunities that exist. As Professor Larissa Behrendt put it succinctly, there needs to be “a marriage of vision and pragmatism at a local level”.

In the Mabo lecture, Noel Pearson said that, despite concerns that the native title system is not delivering, native title is not a dead issue. It will be a crucial factor in land issues for years to come. He described what he saw as the strengths of the Native Title Act and problems with it, and argued that Indigenous people will have to develop new strategies.

Certainly the combined effect of judicial decisions and some provisions of the Native Title Act is that the road will be long, tortuous and expensive if some groups are to achieve native title outcomes. This is a marathon, not a sprint. If people are to embark upon it, they need to have guidance on where they are heading, and what might be encountered along the way.

There have been and will be positive outcomes. As my colleague Fred Chaney sometimes says, one's assessment of these matters depends on whether one sees a glass half full or a glass half empty.

Despite the difficulties, much has been achieved by and for groups of people in different parts of Australia. For those people, Marcia Langton reminded us, a "price cannot be put on that success". Indeed, in a real sense those local outcomes are "priceless, valuable and mean so much" to those people who have achieved them.

The Native Title Act provides, and this conference has demonstrated, that much more than native title determinations and associated agreements can be gained from the system. As I suggested earlier, the challenges are great, but the ways of meeting them are many.

People need to look inside and outside the framework of native title laws to fashion outcomes that meet their needs and aspirations. The challenge we must face is to build on the experience of the past decade to make an even better future.

Youth Forum Rap Poetry

Youth delegates at the Native Title Conference Youth Forum in Alice Springs wrote the following rap poems. We include them here as a testament to the spirit of Indigenous Youth.

There's a demand for land

There's a demand for land
Should be in our hands
 Our powers should expand
 So we can make our plans
Instead of taking your commands
 like a dog
My people been driven to grog
Can't see through the racist fog
 Long road to jog
 Looks like we 're bogged

By: Willie Sevallos. Robert Niland. Rohan McLoughlin. Michael McDonald. Ryan Liddle. Mitchell I.K

We are the Youth, we are the future

We are the Youth, we are the future
People try to put you down & dispute ya
 We wanna put things right
 We're not here to fight
 Keep things tight
 Keep our culture in sight
 Respect our elders & our land
Devise a plan to stand hand-in-hand
 Be strong, be all we can
Don't pretend, be proud till the end
Don't be shame, play your own game
 We want rights to our land
 So our children can understand
 This is theirs to take in hand
 To pass on
 After the elders are gone
We are strong, we have pride
 We will take the land
 Under our stride

By: Lorena Walker. Mica Fleming. Catherine Greene. Gerry Reid. Jessica Laruffa. Meghan Robertson. Centralian College

This is an edited version of the Native Title Update 4/7/2003 Ngarluma Yindjibarndi -- Federal Court decision published by Blake Dawson Waldron on the website <http://www.bdw.com.au>, authored by Geoff Gishubl, Partner.

Daniel v Western Australia

On July 3 2003 Justice Nicholson of the Federal Court handed down his decision in *Daniel v State of Western Australia* [2003] FCA 666 (Ngarluma Yindjibarndi), this being the first native title determination application decision since the High Court's rulings in *Ward* or *Yorta Yorta*.

The area claimed by the Ngarluma and Yindjibarndi peoples in the Pilbara region includes the Port of Dampier and the Burrup Peninsula. The decision has significant implications for substantial mining, pastoral, transport, and future development interests.

The decision also determined the overlapping claims of three other groups (the Wong-Goo-TT-OO people, the Yaburara Mardudhunera people and the Kariyarra people).

Some of the key findings in regards to connection are that:

- The Ngarluma people hold non-exclusive rights and interests to (broadly) the lowlands and the Yindjibarndi to the tablelands within the claimed area.
- There is no native title in the Burrup Peninsula or the islands in the determination area.
- There is no native title in the sea beyond the low water mark.
- The three overlapping claimant groups held no native title rights in the determination area (save that the Wong-Goo-TT-OO may do so as Ngarluma or Yindjibarndi people).

The rights of the Ngarluma and Yindjibarndi peoples include the rights to access and remain, engage in ritual and ceremony, take and use drinking water and care for sites and objects of significance. In certain areas the rights extend to the right to camp, hunt and forage, fish, gather bush medicine

and food, take flora and fauna, gather ochre, and light fires for cooking.

The key findings in regards to extinguishment largely follow the High Court's decision in *Ward*. Some of the findings include that:

- Mining leases granted under the *Mining Act 1978* do not wholly extinguish native title.
- His Honour found that the grant of a mining tenement extinguished rights such as a right to live on the land. Other rights, such as the right to enter, survive.
- The vesting of certain areas of seabed under the *Marine and Harbours Act 1981* wholly extinguish native title.
- Certain reserves in the claim area wholly extinguish native title.
- His Honour did not make findings on the native title rights and interests that survive the grant of a pastoral lease. However, his Honour considers that more can coexist than with say, a mining lease.

What are the implications of these findings?

Once a native title determination has been made, (after additional submissions from the parties) there will be certainty within the area in relation to:

- 1) the application of the right to negotiate;
- 2) the native title rights and interests that will be the subject of the right to negotiate and other future act procedures;
- 3) the identity of the native title holders with whom developers must deal.

The Ngarluma and Yindjibarndi People's native title rights may in reality be limited in many parts of the determination area because of the extinguishing effects of other interests. Consequently, managing co-existence on the ground, Aboriginal heritage and securing non-native title outcomes are likely to assume greater importance for stakeholders in the determination area.

National

In order to promote faster and more effective resolution of Native Title, the Commonwealth Government says it will spend an extra \$24 million in 2003-2004. This is the third year of a four year agreement for an additional \$86 million to Native Title. This extra funding is to be shared between the NNTT, the Federal Court, ATSIC and Attorney-General's Department.. *Koori Mail*, 21 May 2003.

The Federal Government has been under renewed pressure from the United Nations to amend its discriminatory Native Title laws. Professor Ole Henrik Magga, chair of the UN Permanent Forum on Indigenous Issues in New York, described the 1998 Wik amendments to the Native Title Act as a barrier to Indigenous Australians enjoying their human rights to land and culture. The forum adopted resolutions and recommendations made by ATSIC, in conjunction with the Human Rights and Equal Opportunity Commission (HREOC) and the Foundation for Aboriginal and Islander Research Action. ATSIC chairman Geoff Clark said it had been a successful and productive visit to the UN and he was pleased with the outcomes of the Permanent Forum. *Maitland Mercury*, 26 May 2003.

Noel Pearson, speaking recently in Alice Springs on the 11th anniversary of the Mabo decision, accused the High Court of blatant racial discrimination and attacked Australia's Indigenous leadership over Native Title. He said that Native Title had been reduced to a lesser form of ownership, stripping it of economic meaning or benefit. He also stated that Aboriginal leaders had been unable to control the "greed and power struggles" that emerged with Native Title.

Despite recent Native Title claim outcomes in court, Mr Pearson does not see it as a dead issue. He believes Native Title would continue to be a "crucial factor" in land tenure and use for many decades. *The Australian*, 04 June 2003.

South Australia

The Commonwealth Government recently offered three Native Title claimant groups \$90,000 each to extinguish their native title rights over parcels of land set aside for a low level radioactive waste dump. The offer was seen at an insult by the Kokatha people. Kokatha spokesperson Roger Thomas, told Commonwealth officers to stop being disrespectful and rude by offering \$90,000 to pay out our country and culture. The offer had caused anxiety and tension among claimant groups. Another Kokatha spokesperson, Andrew Starkley, said it was "shameful" wanting people to sign off their cultural rights for money. *The Age*, 17 May 2003. Kokatha claim: SC96/6, SG6013/98.

Backlogs of mining and exploration applications are now likely to be cleared, since most States are using the Commonwealth Native Title processes, according to Chris Sumner, deputy president of the NNTT. Since the Northern Territory started using the Native Title Act in 2000, it had eliminated the backlog of exploration applications resulting from Native Title. During early May, Mr Sumner appeared before a House of Representatives inquiry into impediments to resources exploration. In his statement, he mentioned if Governments actively use the procedures set out in the Native Title Act, then disputes can be resolved and exploration and mining backlogs can be reduced. Queensland will begin using the Federal system from 01 July 2003, leaving South

Australia as the only State not using the Commonwealth system. *National Indigenous Times*, 14 May 2003.

Western Australia

A Native Title application has been notified covering land and waters in the north-east Kimberley Region of Western Australia. The National Native Title Tribunal has invited people with interests to register for talks aimed at reaching negotiated agreements. The claimant group is the Wanjin/Wunggurr-Wilinggin people. They have applied for their traditional rights to be recognised over a 7150 square kilometre area about 40km south-west of Wyndham. The claim area includes exploration tenements, reserves, a stock route, and pastoral leases including Pentecost Downs, Durack River and a portion of Home Valley. *Koori Mail*, 07 May 2003. Wanjin/Wunggurr-Wilinggin claim: WC99/11, W6015/99.

Australia's largest regional land use agreement has been reached involving local government authorities and Native Title claim groups. Sixteen councils have signed an ILUA with claim groups, represented by the South-West Aboriginal Land and Sea Council. This agreement will speed up land grant decisions for commercial and residential developments in country towns. The Native Title claim groups are the Ballardong, Gnaala Karla Booja and Wagyl Kaip people. The WA Local Government Association have joined with the SWALSC calling on the State Government to co-sign the agreement, which has the potential to become a model for the rest of the country. SWALSC chief executive Darryl Pearce said the agreement provided the framework for a new relationship between Noongar people and local governments to work through issues such as Native Title. *West Australian*, 10 May 2003. Ballardong claim: WC00/7, WG6181/98. Gnaala Karla Booja claim: WC98/58,

WG6274/98, and Wagyl Kaip claim: WC98/70, WG6274/98.

The Miriuwung Gajerrong people are to receive over 50,000 hectares of land near the Northern Territory border, after confirmation from the State Government. Deputy Premier Eric Ripper, said the conversion of the Yardungarll reserve to freehold and its transfer to the Miriuwung-Gajerrong people was an important step in resolving Native Title issues in the region. Mr Ripper further stated this was evidence of the Government's commitment to resolving Native Title issues by agreement. The Deputy Premier and Premier Geoff Gallop confirmed the offer at a meeting with the Miriuwung-Gajerrong people during late March. *Kimberley Echo*, 29 May 2003. Miriuwung-Gajerrong claim: WC94/2, WG6001/95

A new mine near Meekatharra will be developed after a landmark agreement between Native Title holders and a mining company. The Nharnuwangga Wajarri and Ngarla people signed the agreement with Peak Hill Manganese Pty Ltd over 45,000km sq of land in the Upper Gascoyne region. This area of land was previously recognised by Native Title almost three years ago. The new mine will be developed at Horseshoe Range in the Peak Hill area, 150km north west of Meekatharra. Compensation, employment opportunities and protection of Aboriginal heritage are included in the agreement, in addition to the environmental cleanup and rehabilitation of an area previously mined by another company. Nharnuwangga Wajarri and Ngarla elder, Linda Riley said they were very excited by the agreement. She also added the company involved was respectful and reasonable in the negotiation. *Geraldton Guardian*. 30 May 2003. Nharnuwangga Wajarri & Ngarlawangga claim: WC99/13, WAG72-75/98.

The Aboriginal and Torres Strait Islander Commission may be issued a subpoena by the Federal Court, to explain why the Goldfields Native Title claimants have been left unfunded in a case now before the Federal Court. After ATSIC failed to answer letters from the Goldfields Land and Sea Council asking for funds, Justice Kevin Lindgren adjourned a hearing in the Wongatha case to decide how to proceed. Justice Lindgren criticised ATSIC at the June 4th hearing, stating it was difficult when parties were left unrepresented. The 15 month old Wongatha claim covers the city of Kalgoorlie-Boulder and the shires of Laverton, Leonora, Menzies, Sandstone and Wiluna. Claimants' representative, Bertus de Villiers, said the current process was not serving Indigenous people or the public, and criticised the State Government's suggestion that each of the 1500 Indigenous claimants could contribute \$100 each. *West Australian*, 20 June 2003. Wongatha claim: WC99/1, WAG6005/98.

Nearly 9000 hectares of prime grazing land on Moola Bulla Station will be excised by July and given back to the Aboriginal people. After almost 100 years Indigenous people will again be able to walk on the land which is located in the Kimberley. Planning and Infrastructure Minister, Alannah MacTiernan, accepted the surrender of 8088ha from pastoral leaseholder Andy Cranswick. Mr Cranswick said it was good grazing land but conceded it was important for the Aboriginal people to be given the land back. *West Australian*, 26 June 2003.

New South Wales

A recent agreement between Wiradjuri Condobolin Native Title claim group and Barrick Australia Limited brought Barrick one step closer to commencing the Cowal Gold project. Richard Weston, Cowal Gold general manager, released a joint statement with the Wiradjuri Condobolin Native Title claim

group stating they had reached agreement. This agreement seeks to promote and protect Wiradjuri cultural heritage while ensuring benefits flow back into the Wiradjuri community. Under the agreement, Barrick would support the Wiradjuri people in establishing a Corporation to deliver benefits to the Wiradjuri community, and also provide cultural heritage services to Barrick and others operating in Wiradjuri Condobolin country. *West Wyalong Advocate*, 23 May 2003. Wiradjuri claim: NC02/03, N6002/02.

The Mooka and Kalara Traditional Owners are pushing to strike out the registered Native Title claim group who have signed the agreement giving the go ahead for the \$1.2 billion Cowal Gold project to proceed. They gave evidence asserting the claimants had no authority or rights to represent the Wiradjuri people to allow mining at Lake Cowal, which they say, will destroy one of the most sacred sites within the Wiradjuri Nation. Barrick Gold and the NSW Government would face a multi-million dollar law suit if a Native Title agreement is finalised over the controversial Lake Cowal Gold project. Judgement on this case was reserved for 10 days. *West Wyalong Advocate*, 17 June 2003. Wiradjuri claim: NC02/3, N6002/02.

A Native Title claim has been lodged by four Wiradjuri people on behalf of their Indigenous group over land in and around Ben Bullen State forest that has been claimed for coal mining. The area includes the parishes of Cullen Bullen and Ben Bullen, with the Castlereagh highway passing through it. NNTT senior case manager Frank Russo, said the claim was in response to two mining claims and a land acquisition claim lodged by State forests. He went on to say that the lodging of this claim is an important step for the Wiradjuri people, in order to have a say in future developments. People who believe they may be affected by this mining claim, can apply to be a party by contacting the

Federal Court on 1800 451 291. *Mudgee Guardian & Gulgong Advertiser*, 24 June 2003. Wiradjuri claim: NC02/3, N6002/02.

Victoria

Members of the Yorta Yorta Indigenous group plan to erect a bridge on the steps of Parliament House in Melbourne during late May in protest at not having more say on the placement of the proposed new Echuca-Moama bridge. The Yorta Yorta people will join with members of Australians for Native Title and Reconciliation (ANTaR) in the protest. The card-board bridge will be built in protest at the process in which after long debate the western option was chosen for the proposed bridge. Chris Atmore from ANTaR said the protest was to voice dismay and anger at the way that the Victorian Government had ignored Yorta Yorta views. He said the Yorta Yorta People felt the bridge would be 'desecrating land and culture values at the bridge site'. *Shepparton News*, 28 May 2003. Yorta Yorta claim: VPA94/1, VG6001/98.

The Mirimbiak Native Title Representative Body, which covers south-west Victoria is being replaced. In an effort to streamline the Native Title process in Victoria the committee voted itself out of existence, said Mirimbiak deputy chairman Lenny Clarke. The new system, would be based on the NSW model. The new structure will be part of ATSIC and was pushed by Aboriginal Affairs Minister Philip Ruddock. Mr Ruddock said yesterday independent experts revealed that Mirimbiak was not an appropriate structure to deliver Native Title services in Victoria. The replacement body is to be known as the Victorian Native Title Services. *Warrnambool Standard*, 19 June 2003.

Queensland

After two years of negotiations, two Native Title agreements have been signed by the Flinders Shire Council and the Yirandali People. These agreements will see benefits flow to the entire Hughenden community. At a special meeting in Hughenden, council representatives and the Yirandali People signed an Indigenous Land Use Agreement ensuring continued economic growth and development in the Flinders shire. The area in question was a 38ha parcel of land intended for future industrial expansion. The new Hughenden industrial estate will be created following the transfer of crown land into freehold. The agreement also allows for the transfer of a parcel of freehold land to the Yirandali people. *Northern Miner*, 29 April 2003. Yirandali claim: QC00/9, Q6008/00.

Aboriginal elders in Ipswich are outraged at planned wedding reception facilities at Kholo Gardens. Elders from two Indigenous groups in the area involved in current Native Title claims, have said they have not been consulted about future developments. Conversation, Parks and Sport committee chairwoman Denise Hanly claimed they had been working with traditional owners on the project. She stated that meetings had been held in Brisbane to ensure cultural interests were protected. *QLD Times*, 29 May 2003. Jagera People: QC02/33 & Q6031/02.

All Torres Strait Island communities are being called upon by the Torres Strait Regional Authority (TSRA) to use this week's Mabo Day celebrations to highlight the region's struggle to protect its Native Title. Margaret Mau, TSRA Deputy Chairperson, said this year's celebrations should not only reflect Eddie Mabo's victory, but also prepare traditional owners for the battle that lies ahead to protect what "Koiki" achieved. She also stated that Torres Strait Island

communities were at a crossroad because their rights to traditional lands is currently under dispute in the Federal Court. The current battle between the Torres Strait people and the State over public works is a significant Native Title issue. Since 1992, fourteen islands have gained Native Title determinations in the Torres Strait. All of these communities are now faced with uncertainty until the Federal Court decides on the public works issue. *Torres News*, 06 June 2003.

The Queensland Government stated a landmark hearing in the Torres Strait as to whether public works can extinguish Native Title could have serious implications for future determinations across the nation. The dispute, which reached the Federal Court in Brisbane in a test case, centres on whether infrastructure such as schools and dams extinguish Native Title. The Torres Strait Regional Authority said the case had created a lot of uncertainty for all island councils, due to fears that any new infrastructure built, including housing, would extinguish Native Title. *The Australian*, 16 May 2003. Erubam Le (Darnley Islanders): QC01/20, QG6036/98.

An expected backlog of around 980 exploration permits are expected to be cleared in Queensland within the next 12 months after an agreement was made between the Queensland Mining Council (QMC) and the Queensland Indigenous Working Group

(QIWG). Under the new Native Title Protection Conditions to begin on 01 July 2003, explorers can opt to have applications processed by an accelerated process or finalised through Queensland's Indigenous Land Use Agreement (ILUA) process. The accelerated process is subject to a template set of Native Title protection conditions which protect and safeguard the cultural heritage of land subject to Native Title. In return, objections that are then lodged with the NNTT against the State's use of expedited procedures, will not be recommended or supported by Native Title Representative Bodies. Stephen Robertson, minister for Department of Mines, said it heralded a new era of cooperation and goodwill between Native Title parties and the mining industry. *North West Star (Mt Isa)*, 17 June 2003.

Northern Territory

A Council plan to build an Indigenous sporting complex in the Northern Territory had been halted by Native Title. The multipurpose sports facility has been proposed for land under Native Title of the Larrakia Nation. The NT Soccer Federation has shifted its attention from Marrara to Berrimah, due to the Native Title complexities. The Larrakia originally asked for 50 per cent of employment within the complex, and 50 per cent of gross royalties. *Northern Territory News*, 21 May 2003. Larrakia claim: DC96/7, DG6017/98.

APPLICATIONS LODGED

The National Native Title Tribunal posts summaries of applications that are lodged with them, on their website, <www.nntt.gov.au>. The following lodgements are listed for May/June.

Claimant Application

Date Filed	Application Name	State/Territory	Tribunal File No.	Federal Court File No.
07/05/03	Tjupan #2	WA	WC03/1	W6001/03
09/05/03	Gingirana	WA	WC03/2	W6002/03

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
29/05/03	Wik, Iyeny/Bakanh/ Olkol/Olkola Peoples	QLD	QC03/5	Q6005/03
24/06/03	Town of Borroloola	NT	DC03/3	D6003/03

Non Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
28/05/03	Darkinjung Local Aboriginal Land Council	NSW	NN03/2	N6003/03

REGISTRATION TEST

The National Native Title Tribunal posts summaries of registration test decisions at <www.nntt.gov.au>. The following decisions are listed for May to June. If an application has not been accepted, this does not mean that native title does not exist. The applicants may still pursue the application for the determination of native title. If an application does not pass the registration test, the applicant may seek a review of the decision in the Federal Court or re-submit the application.

Decision Date	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.	Decision
21/05/03	Eringa #2	SA	SC99/4	S6002/99	Accepted
04/06/03	Pine Creek #3	NT	DC02/19	D6020/02	Not Accepted

APPLICATIONS CURRENTLY IN NOTIFICATION

Closing Date	Application Number	Application Name
22/07/03	NC01/8	Byron Bay Bundjalung People #3
23/07/03	NC01/7	Widjabul Aboriginal People
06/08/03	NN03/1	John Joseph Aquilina, MP, Minister for Land & Water Conservation
06/08/03	WC02/4	Wanjina/Wunggurr-Wilinggin #2
20/08/03	QC02/5	Yulluna People #2
20/08/03	QC02/29	Kullilli People #3
20/08/03	QC02/28	Kullilli People #2
20/08/03	DC02/16	Buchanan Downs
20/08/03	DC02/15	Burrumurra

Closing Date	Application Number	Application Name
20/03/03	DC02/14	McArthur River #2
20/08/03	QC01/30	Boonthamurra people
20/08/03	DC02/23	Auvergne #2
20/08/03	DC02/22	Victoria River
20/08/03	DC02/21	South Bynoe
20/08/03	DC02/20	West Bynoe
20/08/03	DC02/18	Wollogorang North

For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or <www.nntt.gov.au>.

RECENT PUBLICATIONS

Review

Achieving Social Justice: Indigenous Rights and Australia's Future, The Federation press, Sydney, 2003. By Larissa Behrendt

Reviewer: Stuart Bradfield (Visiting Research Fellow, NTRU)

Professor Larissa Behrendt is one of Australia's most prominent Indigenous thinkers. This, her second book, is based on the Ph.D. she completed at Harvard University. It follows *Aboriginal Dispute Resolution*, published in 1995.

In this concise, readable work, Behrendt outlines her vision for the recognition of distinct Indigenous rights in Australia. She at once describes and demystifies Indigenous political aspirations. While demands for recognition of sovereignty and self-determination inevitably look beyond the imposed constraints of 'practical reconciliation', Behrendt shows how they may be incorporated within the Australian State, rather than fracturing our political community. The biggest barrier to recognising these aspirations may not be structural or institutional, but rather the 'psychological terra nullius' Behrendt sees as continuing to pervade contemporary Australia.

Behrendt begins by addressing the limitations of the current government's policy of 'practical reconciliation'. While not denying the need to improve the appalling socio-economic circumstances of many Indigenous people, she argues this must take place 'in conjunction with, not in the absence of, a broader framework for institutional change.' Her objectives, she states, are to explain why, and show how this can be achieved.

Chapter 2 then reveals 'the myth of law's neutrality'. Here Behrendt puts paid to the notion that treating people the same means treating them equally. She describes the way mandatory sentencing laws, which apply to all impact disproportionately on the Indigenous community, and questions the ability of the Constitution to provide protection from racial discrimination. The chapter looks in detail at differing conceptions of property, and the failure of native title to reflect Indigenous aspirations. Behrendt argues that formal equality (treating all individuals the same) fails Indigenous Australians because it assumes the institutions that reflect and carry out the law are neutral, ignoring profound and pervasive values and ideologies.

Chapter 3 continues this theme by investigating 'why "Western" institutions don't

work for everyone'. In analysing notions of nationalism and identity, Behrendt shows the deep nature of Aboriginal exclusion, both historically, and in its contemporary manifestations. If Australia is really concerned about the rights of (all) citizens, she argues, it needs to embrace principles of substantive equality and effective participation, and question the canonical status of its institutions. Behrendt's suggestion that 'outsiders' such as Indigenous Australians can offer the gift of an alternative view on these institutions relies on non-Indigenous people moving beyond the 'psychological terra nullius' she raises throughout the book.

The following two chapters (4 & 5) deal with the articulation and the implementation of Indigenous aspirations. Initially Behrendt looks at the political and legal goals of the Indigenous community. She sees a consistency between a number of documents and statements, including recognition of 'self-determination' and 'sovereignty' as the starting point for recognition of rights and inclusion in democratic processes. Chapter 5 then looks at a framework for institutional change that could be employed to achieve improved rights projections. Where some find discord, Behrendt reveals common ground between the 'urgent issues' of health, housing, education etc., and the rights framework. She argues that for change to be meaningful and ongoing, it requires institutional reform underpinned by principles of substantive equality, effective participation, and legal pluralism.

Chapter 6 provides suggestions towards improved rights protection. Which is aimed at broader transformation of Australian society itself – beyond short-term institutional reforms. Critical among these is fostering a new national self-image by overturning the psychological terra nullius. The other longer term goals, Behrendt suggests, require strategies for constitutional change (including a Bill of Rights), and the perhaps more immediately attainable ambition of regional autonomy, which she discusses in the context of some concrete examples.

In the conclusion to *Achieving Social Justice*, we are left in no doubt that for Indigenous aspirations to be realised, Behrendt sees the need for profound change to Australian society. 'Without targeting the ideologies inherent in the institutions of Australian society', she writes, 'no attempts at reform or reconciliation will be truly effective'. While Behrendt clearly and confidently articulates an Indigenous vision, it is a vision that finds a place for all Australians in a society with stronger rights protection. This book represents a profound and timely contribution to the all too limited canon of Australian Indigenous rights literature. As Professor Henry Reynolds put it, 'This is a very good book. It should be read by everyone.'

Information and Training Brochures from ORAC

The Office of the Registrar of Aboriginal Corporations, as part of providing a comprehensive information and training program aimed at helping Corporations better manage their affairs, provides education material about the Registrar's role, functions and responsibilities in relation to the administration of the Aboriginal Councils and Associations Act.

Among the many titles and subjects available are brochures on:

- Setting up an Aboriginal or Torres Strait Islander Corporation
- The Rules of the Corporation
- The Rights and Obligations of Members
- Conflicts of Interest
- Preparing and Using Budgets for Management
- Looking after the Corporation's Finances
- It's the end of the Year: What do we do?

Copies of the brochures are currently available via the ORAC web-site, www.orac.gov.au <www.orac.gov.au>

Also from ORAC

A further resource available from the Registrar's office is the "Managing Two Worlds" information document which is designed to assist Boards of Management of ATSIC to identify competencies they already have, and to identify the knowledge and skills needed to effectively lead their organisation.

Online learning resource

A new online learning resource will be made available to help explain the Native Title process. "Learning about Native Title" is a flexible learning 'toolbox' initiated by the Australian Flexible Learning Framework and funded by the Australian National Training Authority (ANTA). Although aimed at Indigenous communities, it can be used by any

person or organisation. Participants can play the part of an Indigenous group, a Native Title Representative Body or Local Council Officer. The idea for the website came from the National Local Government Training Board, which focuses on the training needs of the local Government and water sector. ANTA provided more than \$100,000 towards the project, and was assisted in the project by Fraynework, a Melbourne not for profit graphic design group. Fraynework's Anne Walsh said the project had given her a real insight into the complexities of land claims, and that she had developed a profound respect for the members of the Indigenous community who have to grasp the process. The teaching resource is available through ANTA on CD with accompanying work-books. See <www.nativetitle.edu.au> *Canberra Times*, 26 May 2003.

RECENT ADDITIONS TO THE AIATSIS LIBRARY

The call numbers you will see in this listing describe microfilms (MF), rare books (RB or RBF), books and reports on the open shelves of the Library (for example, B A927.36/M7), pamphlets and offprints (for example, p AUS or Rp QUE), reference works (REF), journals and serials (for example, S 34.1/5), or manuscripts (MS).

Early personal journals, correspondence and diaries:

MF 345

Bates, Daisy, 1859-1951.

Correspondence, 1910-1942 [microform].
1910-1942.

MF 336

Bates, Daisy, 1859-1951.

Letters to William H. Gill, 1922-1934
[microform] / Daisy Bates.

MF 338

Bradshaw, Joseph.

Journal, 1891 31 Jan.-6 June [microform]

MF 344

Campbell, W. D. (William Dugald).

Aboriginal carvings, Port Jackson and Broken Bay, 1893-6

[microform] / William Dugald Campbell.

RBF F562.82/L1

A Looking-glass for Tasmania: letters petitions and other manuscripts relating to Van Diemen's Land 1808-1845 / transcribed by Eustace Fitzsymonds.

Adelaide: Sullivan's Cove, 1980.

MF 352

King, Philip Gidley, 1817-1904.

Notebook, 1836-1838 [microform].
1836-1838.

MF 343

Lawrance, Herbert Ardlaw.

Notebooks, arranged alphabetically, with numbered lists of authorities consulted and numbered lists of place names, 1926-1927, and,

Correspondence with Pastors H. A. Heinrich and E. E. Kramer in Central Australia,

26 Aug. 1926-21 Nov. 1927 re word lists,
and miscellaneous newscuttings.
[microform] / Herbert Ardlaw Lawrance.
[Sydney]

MF 350

Love, Stuart.

Journal of an expedition in Arnhem Land,
Northern Territory, Australia [microform]:
being some account of travels and explora-
tions in that country between 23rd June and
23rd October 1910 on behalf of William
Orr, Esq. of Melbourne 1911 /
Stuart Love. 1910.

MF 341

McRae, Tommy, ca. 1836-1901.

Pen and ink drawings depicting Aboriginal
life, c1865 [microform] / King Billy.
Tommy McRae, an Aboriginal of the
Wahgunyah tribe on the River Murray.

MF 339

Mitchell Library (N.S.W.)

Guide to the papers of George Augustus
Robinson [microform] / arranged by
N.J.B. Plomley 1961-1962.

Government reports and Native Title cases: Australia and States

B A943.32/A2

Australia. Parliament. Joint Select Commit-
tee on Aboriginal Land Rights in the North-
ern Territory. Aboriginal land rights in the
Northern Territory: report of the Joint Se-
lect Committee.
Canberra: Commonwealth Govt. Printer,
1978.

B A927.36/L5

Australia. Office of the Aboriginal Land
Commissioner.

Lorella Region Land Claim (Claim No. 199)
and part of Maria Island Region land claim
(Claim No. 198) : report and recommenda-
tions of the Aboriginal Land Commissioner,
Mr Justice Olney, to the Minister for Abo-
riginal and Torres Strait Islander Affairs and
to the Administrator of the Northern Ter-
ritory.

Canberra: Australian Government Publish-
ing Service, 2002.

B A927.36/M7

Australia. Office of the Aboriginal Land
Commissioner.

Maria Island and Limmen Bight River land
claim (Claim No. 71) and part of Maria Is-
land River land claim (Claim No. 198): re-
port and recommendations of the
Aboriginal Land Commissioner, Mr Justice
Olney, to the Minister for Aboriginal and
Torres Strait Islander Affairs and to the
Administrator of the Northern Territory.
Canberra: Australian Government Publish-
ing Service, 2002.

B A927.36/M8

Australia. Office of the Aboriginal Land
Commissioner.

McArthur River Region Land Claim (Claim
No. 184) and part of Manangoora Region
land claim

(Claim No. 185) : report and recommenda-
tions of the Aboriginal Land Commissioner,
Mr Justice Olney, to the Minister for Abo-
riginal and Torres Strait Islander Affairs and
to the Administrator of the Northern Ter-
ritory. Canberra: Australian Government
Publishing Service, 2002.

p WES

Conservation reserves for Western Austra-
lia: as recommended by the
Environmental Protection Authority 1980:
system 7.

Perth: The Authority, 1980.

p AUS

Australia. High Court.

Risk v. Northern Territory of Australia
[2002] HCA 23 (30 May 2002) 2002.

B A943.32/N18

Australia. Parliament. Joint Committee on
Native Title and the Aboriginal and Torres
Strait Islander Land Fund.

Undertakings freely given: Australia's inter-
national obligations to protect Indigenous
rights: CERD and the Native Title Amend-
ment 1998 /report of the non-government
members, Parliamentary Joint Committee
on Native Title and the Aboriginal and Tor-
res Strait Islander Land Fund.

Canberra: Parliament of the Commonwealth of Australia, 2000.

RBF V646.32/V1

Victoria. Report of the Board Appointed to Watch over the Interests of the Aborigines in the Colony of Victoria.

Melbourne: John Ferres, Govt. Printer, 1864-1896.

Government reports: Overseas

p CAN
Canada.

Agreement between The First Nations Summit (The Summit) and Her Majesty The Queen in Right of Canada (Canada) as represented by the Prime Minister of Canada and the Minister of Indian Affairs and Northern Development and Her Majesty the Queen in Right of the Province of British Columbia (British Columbia) as represented by the Premier of British Columbia and the Minister of Aboriginal Affairs British Columbia Treaty Commission Agreement.

Ottawa: Indian and Northern Affairs Canada, 1992.

p CAN
Canada.

Memorandum of understanding between Canada and British Columbia respecting the sharing of pre-treaty costs, settlement costs, implementation costs and the costs of self-government.

Ottawa: Govt. of Canada, 1993.

p BAI

Baines, Stephen Grant.

Government indigenist policy and the Waimiri-Atroari Indians: indigenist administrations, tin mining and the construction of directed Indian "self-determination" in Brazilian Amazonia / Stephen Grant Baines.

Brasilia: Universidade de Brasilia, Departamento de Antropologia, 1993.

Indexes, directories and guides:

p NAT

Bringing Them Home name index.

Canberra: National Archives of Australia, [200-?].

REF 920.09429 NOR

Northern Territory Archives Service.

A list of records holdings relating to Aboriginal people in the Northern Territory / Northern Territory Archives Service.

Darwin: Northern Territory Archives Service, 2002.

p NAT

Native title.

Sydney: LexisNexis Butterworths, 2002.

p BAI

Baird, Warwick R.

Guide to the Aboriginal ownership and joint management of lands in New South Wales / written by Warwick R. Baird.

Sydney: Office of the Registrar, Aboriginal Land Rights Act 1983 (NSW).

S 34.1/5

Wensing, Edward George.

Learning about native title: an online CD Rom learning resource / Ed Wensing 2003. Indigenous law bulletin. Vol. 5, no.23 (March 2003), p.5.

p WES

Western Australia.

The development of protocols and guidelines for consultation and engagement with Indigenous Western Australians.

Perth: Government of Western Australia, 2002.

Land rights: case studies

Watson, Virginia, 1960-.

Governing 'interests': miners and indigenous people in Arnhem Land and the Alligator Rivers region, 1911-1977 / Virginia Watson. 2001.

p KEL

Landrights: Aurukun: a case study / developed by the Victorian SEMP Race and Ethnic Relations team: Howard Kelly, John McArthur and Barbara Putt. Melbourne: Heinemann Educational, 1978.

p LIT

Litchfield, John.

Mabo and Yorta Yorta: two approaches to history and some implications for the mediation of native title issues / John Litchfield.

Perth: National Native Title Tribunal, c2001.

Native Title - Coexistence

p DUF Duffy, Dorli M.

A preliminary assessment of shared decision-making in land use and natural resource planning / Dorli M. Duffy, Mark Roseland, and Thomas I. Gunton. 1996

Native Title – right to negotiate

BF N277.64/N1

Negotiating country: 1-3 August 2001, Brisbane.

Brisbane: National Native Title Tribunal, 2001.

Negotiators draft agreement, June 1981 / Pancontinental Mining Limited, Getty Oil Development Company Ltd and Northern Land Council. [Darwin: Pancontinental Mining], 1981.

Place names and site reports:

Rp QUE Queensland Forest Service.

Aboriginal names: Lamington National Park.

Brisbane, Qld: Queensland Government Printer, 19-- .

p SMI

Smith, Dan.

Aboriginal sites / Dan Smith. [1993].

MS 4153

Gunn, R. G. (Robert George).

Kweyernpe: an Arrernte rock-art and dreaming site in Central Australia: a report for the traditional owners to the Aboriginal Areas Protection Authority, Alice Springs and the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Canberra / by R. G. Gunn 1999.

and,

Gunn, R. G. (Robert George).

The rock art of Akewelppe and other Eastern-Arrernte rock art complexes: a report to the Site Custodians, the Aboriginal Areas Protection Authority / R.G. Gunn 2001.

NATIVE TITLE RESEARCH UNIT PUBLICATIONS

Land, Rights, Laws: Issues of Native Title

The Native Title Research Unit Issues Papers are available through the native title link at <www.aiatsis.gov.au>; or are available, at no cost, from the NTRU. Receive copies through our electronic service, email ntru@aiatsis.gov.au, or phone 02 6246 1161 to join our mailing list.

Volume 2

- No. 23 *'Indigenous Pueblo Culture and Tradition in the Justice System: Maintaining Indigenous Language, Thought and Law in Judicial review'*
Christine Zuni Cruz
- No. 22 *'Abandonment' or Maintenance of Country? A Critical Examination of Mobility Patterns and Implications for Native Title*
Peter Veth
- No. 21 *Members of the Yorta Yorta Aboriginal Community v Victoria [2002] HCA 58 (12 December) – Comment*
Lisa Strelein
- No. 20 *Negotiating Comprehensive Settlement of Native Title Issues: Building a New Scale of Justice*
Parry Agius, Jocelyn Davies, Richie Howitt and Lesley Johns

- No. 19 *'Winning' Native Title: The Experience of the Nharnuwungga, Wajarri and Ngarla People*
Michelle Riley
Pastoral Access Protocols: The Corrosion of Native Title by Contract
Frances Flanagan
- No. 18 *Diaspora, Materialism, Tradition: Anthropological Issues in the Recent High Court Appeal of the Yorta Yorta*
James F Weiner
- No. 17 *Western Australia v Ward on behalf of Miriuwung Gajerrong, High Court of Australia, 8 August 2002: Summary of Judgment*
Lisa Strelein
- No. 16 *The International Concept of Equality of Interest in the Sea as it Affects the Conservation of the Environment and Indigenous Interests*
Sir Anthony Mason
- No. 15 *Preserving Culture in Federal Court Proceedings: Gender Restrictions and Anthropological Experts*
Greg McIntyre and Geoffrey Bagshaw
- No. 14 *"Like Something Out of Kafka": The Relationship between the roles of the National Native Title Tribunal and the Federal Court in the development of Native Title Practice*
Susan Phillips
- No. 13 *Recent Developments in Native Title Law and Practice: Issues for the High Court*
John Basten
- No. 12 *The Beginning of Certainty: Consent Determinations of Native Title*
Paul Sheiner
- No. 11 *Expert Witness or Advocate? The Principle of Ignorance in Expert Witnessing*
Bruce Shaw
- No. 10 *Review of Conference: Emerging Issues and Future Directions*
Graeme Neate
- No. 9 *Anthropology and Connection Reports in Native Title Claim Applications*
Julie Finlayson
- No. 8 *Economic Issues in Valuation of and Compensation for Loss of Native Title Rights*
David Campbell
- No. 7 *The Content of Native Title: Questions for the Miriuwung Gajerrong Appeal*
Gary D Meyers
- No. 6 *'Local' and 'Diaspora' Connections to Country and Kin in Central Cape York Peninsula*
Benjamin Smith
- No. 5 *Limitations to the Recognition and Protection of Native Title Offshore: The Current 'Accident of History'*
Katie Glaskin
- No. 4 *Bargaining on More than Good Will: Recognising a Fiduciary Obligation in Native Title*
Larissa Behrendt
- No. 3 *Historical Narrative and Proof of Native Title*
Christine Choo and Margaret O'Connell
- No. 2 *Claimant Group Descriptions: Beyond the Strictures of the Registration Test*
Jocelyn Grace
- No. 1 *The Contractual Status of Indigenous Land Use Agreements*
Lee Godden and Shaunnagh Dorsett

Monographs

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

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

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

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

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

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

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

Web Resources

The NTRU has developed a number of on-line resource pages which provide relevant and up to date information regarding specific native title cases and concerns. These pages can be accessed from: http://www.aiatsis.gov.au/rsrch/ntru/news_and_notes/.

As noted in the NTRU news section, we will be refurbishing this web site over the coming months.

Papers from the AIATSIS seminar series Limits and Possibilities of a Treaty Process in Australia are also available on-line. This series explores issues surrounding the proposal for a national treaty, such as current proposals, past obstacles, Indigenous representation, political and philosophical questions, national identity, reconciliation, belonging, public law implications, and comparisons with other countries. The papers are at: <http://www.aiatsis.gov.au/rsrch/seminars.htm>.

ABOUT THE NATIVE TITLE RESEARCH UNIT

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

For previous editions of this Newsletter click on the native title research unit link at <www.aiatsis.gov.au>

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 1046
ntru@aiatsis.gov.au