

Native Title Newsletter

May/June, No. 3/2008

WHAT'S NEW

Papers from the National Native Title Conference are now available online:
<http://ntru.aiatsis.gov.au/conf2008/papers.html>

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Compulsory Acquisition powers: *Griffiths v Minister for Lands Planning and Environment* [2008] HCA (15 May 2008)

By Dr Lisa Strelein, Director,
AIATSIS

On 15 May 2008, the High Court of Australia handed down a decision in its first native title case for some years with little fanfare or media coverage. The case concerned a compulsory acquisition of native title by the Northern Territory government in the Timber Creek township. The case required the High Court to consider some fundamental questions of the reach of executive power to divest private citizens of their property. The case therefore has broader reach than the acquisition of native title. Indeed, while there are many issues that could have been considered in the jurisprudence of native title, the majority of the Court dealt with the case as one concerning any ordinary title.

The case was precipitated in 1997 by a request from the holder of a grazing licence to purchase the land under which the licence was held and other blocks in the Timber Creek area for development as commercial enterprises. In 2000 the Northern Territory government issued three notices to acquire all native title rights and interests in particular parcels of land. The traditional owners of the area had lodged objections to the acquisition and lodged an application for a determination of native title over the area in response to the notices and were successful: *Griffiths v Northern Territory* (2007) 243 ALR 72.

The notices clearly stated that the purpose of the acquisition was to grant a lease, which could be exchanged for freehold upon completion of the development. This raises a central question of the power of the Crown to acquire the private rights of one citizen (or group of citizens) for the immediate benefit of another private citizen.

Section 43 of the *Northern Territory Lands Acquisition Act* (LAA) had previously provided the Minister with a power to compulsorily acquire land for 'public purposes' and later more simply to 'acquire land'. In 1998 the Act was amended to allow the Minister to acquire land for 'any purpose whatsoever' so long as the 'pre-acquisition procedures' were complied with.

The 1998 amendments to the LAA took into account the amendments to the *Native Title Act 1993* (Cth) (NTA). Indeed, the provision was amended to refer to 'any purpose whatsoever' so as to ensure that the processes for acquisition of land in the Northern Territory complied with the NTA. The legislature may also have had in mind the decision of the High Court in *Clunies Ross v The Commonwealth* [1984] HCA 65; (1984) 155 CLR 193. In that case, the High Court determined that the power to acquire land for a public purpose, under the federal legislation, required that there be a proposed use or application for the land that advances a public purpose. The legislature had clearly intended to remove any fetters on the executive power to acquire land.

The majority of the High Court in *Griffith* (Gummow, Hayne and Heydon JJ, with Gleeson CJ and Crennan J agreeing) agreed that, whether there were any ultimate limits on the broad phrasing of s.43, they at least include acquisition 'for the purpose of enabling the exercise of powers conferred on the executive by another statute of the territory'; in this case, the Crown Lands Act, s.9, which provides that the Minister may grant estates in fee simple or lease Crown land: [30]. The majority disregarded cases involving local government and statutory authorities that establish a clear line of authority against local governments interfering with the private title of A for the private benefit of B: eg *Werribee Council v Kerr* [1928] HCA 41; (1928) 42 CLR 1 at 33.

Justice Kiefel disagreed with the majority on this issue. For Kiefel J, the question turned on whether there was a relevant 'purpose'. Her Honour was of the view that there was no proposed use or purpose for the acquisition within any wider plan by the NT government for the use of the land. Rather, the acquisition was simply to support the proposal of a developer for their private benefit. Kiefel J invoked the line of authority in relation to local governments and the established principle of statutory interpretation stated in *Clissold v Perry* in 1904, that statutes 'are not to be construed as interfering with

vested interests unless that intention is manifest': [1904] HCA 12; (1904) 1 CLR 363 at 373. On her construction, the power to acquire land for a purpose requires a need for the land, and the need must be that of the acquiring agency or authority, not the needs of another private individual; that is, there must be a 'governmental' purpose at the heart of the need to acquire the land: [173]. Kiefel J considered the processes that were required before an acquisition was approved, including the hearing by a tribunal, and the right to object and additional considerations to be taken into account in relation to native title in particular. However, Kiefel J argued that they were limited in their effectiveness as safeguards: [178-9].

Justice Kirby, who also disagreed with the majority, engaged in a more detailed analysis of the jurisprudence around 'clear and plain intention' generally, and in relation to native title in particular [107]. Like Justice Kiefel, Kirby J pointed to the strong tradition in common law that protects the basic rights of individuals from arbitrary deprivation by the state and compulsory acquisition of property has always been at the heart of this tradition. Kirby J agreed with Kiefel J that s.43 does not provide for a power to acquire land completely 'independently of purpose'. He argued that 'specificity and high particularity' in the legislation are required to permit the executive to acquire native title interests for the private benefit of another.

Kirby J emphasised the unique nature of native title, and indeed the special connection to the land it seeks to protect, as requiring additional rigours. His Honour expressed his view to this effect: ...against the background of the history of previous non-recognition; the subsequent respect accorded to native title by this Court and by the Federal Parliament; and the incontestable importance of native title to the cultural and economic advancement of indigenous people in Australia, it is not unreasonable or legally unusual to expect that any deprivations and extinguishment of native title, so hard won, will not occur under legislation of any Australian legislature in the absence of provisions that are unambiguously clear and such as to demonstrate plainly that the law in question has been enacted by the lawmakers who have turned their particular attention to the type of deprivation and extinguishment that is propounded. [107]

As a result, in his view, extinguishment must be contained within 'very specific and clear legislation that unmistakably has this effect': [109]. Kirby J pointed to comparative treatment of Indigenous titles in Canada and New Zealand where the significance of the land to the group has an impact on the legal principles to be applied: [107-8]. He argued against the approach of the Court, which is encouraged by the 'freehold equivalence' tests in the NTA, in dealing with this issue as simply a matter of two indistinguishable competing interest in the land. Section 24MD (6A) gives native title holders 'the same' procedural rights as a holder of any ordinary title.

Kirby J noted that no one had presented the argument in this appeal about the interaction between ss.122 and 51(xxxi) of the Constitution, which he argues should constrain the powers delegated to the Territory.

The Northern Territory Government must still comply with the provisions of the NTA. The applicants sought an alternative basis for rejecting the acquisition in the terms of the NTA. Section 24 MD(2) provides for the extinguishment of native title on just terms compensation under a Commonwealth state or Territory law by compulsory acquisition of 'all non-native title rights and interests ... is also acquired', and native title holders suffer no greater disadvantage that is caused to non-native title holders. The appellants argued that the word 'all' meant that the provision could only be satisfied if there was a non-native title interest in existence; that is, if as in this case there were no other extant interests in the land, the land could not be acquired consistently with the NTA. All of the judges agreed that 'all' should be understood as 'any and all'. Any other reading, they suggest, would have an arbitrary result. Gleeson CJ pointed out that the key purpose of the provision of the NTA is to avoid racial discrimination and the extinguishment of native title rights in order to relieve other interest from any co-existing native title rights. Gummow, Hayne and Hayden JJ pointed out that if the NTA allowed such acquisition it would fall foul of the *Racial Discrimination Act 1976* (Cth). However, the result in this case is to achieve that very effect. The rights of the native title holders have been removed to make way for the rights of the licence holder to be increased to a lease and then to freehold without seeking to reach agreement with the native title holders.

National Native Title Conference 2008 – *Koorah, Yira, Boordah*

By Tran Tran, Research Officer, AIATSIS

The annual National Native Title Conference is the largest Indigenous policy conference in Australia. This year it attracted over 600 delegates the majority of whom are native title holders and their representatives from across Australia. The conference was hosted by the Noongar people and co-convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the South West Aboriginal Land and Sea Council (SWALSC) at the Perth Convention Centre, 3-5 June 2008.

The Noongar people set this year's theme of *Koorah, Yira, Boordah* (past, present, future) coinciding with the Federal government's proposed review of the native title system. There were conference sessions dedicated to native title agreement making, negotiations and compensation, recent reforms to the NTA, Indigenous leadership and women's roles, the relationship between native title and industry, health and country, the role and scope of PBCs, wealth and economic development and land management.

Pre conference workshops were attended by traditional owners and Native Title Representative Bodies allowing them to engage in free and open dialogue and share knowledge on current issues in native title. During the conference, Indigenous Talking Circles provided an opportunity for Indigenous delegates to discuss how native title has impacted upon their communities. The conference was also preceded by a Youth Form involving

300 young Noongar people from schools discussing how younger generations are a part of passing on knowledge and looking after country.

A number of sessions addressed the possibility of alternative native title processes and agreement making. Some conference delegates felt that there should be a substantial increase in resourcing agreements from pre

agreement to post native title determination and implementation. Other delegates emphasised that agreements are valued not only for their monetary worth but also the effective and appropriate

processes that support good outcomes. For example, there was discussion of joint Indigenous and non-Indigenous implementation committees, where parties are held to account with review mechanisms and independent monitoring.

Chief Judge of the Maori Land Tribunal

Judge Joe Williams delivered the annual Mabo lecture. Judge Williams highlighted how Australia is still in a state of transitional justice and discussion of process alone would not lead to the philosophical change that will recognise Indigenous rights. Dr Lisa Strelein and Professor Mick Dodson highlighted the discriminatory nature of the current legislation which requires native title claimants to establish continuity in a manner that ignores the history of dispossession in Australia. Dr Strelein argued that the inherent racism of the legislation has been built upon, rather than broken down, through concessions made in the NTA to non-Indigenous interest in order to 'smooth' the implications of the *Mabo* decision. Some delegates confirmed that the language of the NTA has become about confirming survival with little scope in the legislation to understand the forced removal and dispossession of many Indigenous people in Australia.

Some delegates felt that state connection requirements continue to be higher than those required by the *Native*



Title Act 1993 (Cth) and case law, which reduces incentive for parties to settle a claim. One suggestion arose for a clear, consistent but flexible national connection framework that would ensure a fairer process and recommended further research into how this framework would work. It was suggested that the content and meaning of native title should be revisited within the context of social justice for all Indigenous people. Some conference delegates wanted to see a national review of best practice settlement to promote national equity in settlement processes and outcomes.

The conference provided an invaluable opportunity to continue all these debates. The conference received extensive support from both industry and government including the Department of Families, Housing, Community Services and Indigenous Affairs, the Office of Native Title, Western Australia, Newmont, the Attorney General's Department, the Department of Employment Education and Workplace Relations, Indigenous Business Australia, the Department of Indigenous Affairs Western Australia and the Minerals Council of Australia. Next year the conference will be returning to Melbourne for its 10th year and will be hosted by the Wurundjeri people and co convened by Native Title Services Victoria.

Selected conference papers are available online:
<http://ntru.aiatsis.gov.au/conf2008/papers.html>

What's New

Reviews and Reforms

[Indigenous participation in Western Australia's resources sector](#)

Chamber of Minerals and Energy of Western Australia

Legislation

[Aboriginal and Torres Strait Islander Land Amendment Bill 2008 \(Qld\)](#)

The Bill amends the *Aboriginal Land Act 1991* (ALA), the *Land Act 1994*, the *Land Court Act 2000*, the *Local Government (Aboriginal Lands) Act 1978*, the *Native Title (Queensland) Act 1993* and the *Torres Strait Islander Land Act 1991* (TSILA). The objectives of the Bill are aimed at improving the lives of Indigenous Queenslanders, through Indigenous land tenure reform that will:

- enabling home ownership and provide leases for social housing;
- provide greater certainty over the governance of townships and
- assist the transfer process for Deed of Grant in Trust (DOGIT)
- lands;
- facilitate the establishment of public infrastructure; and
- encourage economic development in Indigenous communities.

[Click here](#) for the explanatory notes.

Recent Cases

Australia

Wiri People v Native Title Registrar [2008] FCA 574

Application for a review of a decision of a delegate of the Native Title Registrar to not accept the Wiri People #2 Application for registration under s 190A of the *Native Title Act 1993* (Cth). The application had originally covered a larger area which was later reduced. The application was amended which reinstated the larger claim, amended the description of the claim group and authorised a new applicant.

The amended claim means that the Wiri #2 Application now overlapped with another application, the Wiri Core Country Claim and was contrary to the certification provided by the CQLC. However the Wiri#2 applicants claimed that it was not for the CQLC to impose a description of their group of society but for the Wiri people to define how they are to be described. They argued that the delegate had misconstrued the principles of *Risk* and adjudicated between differing descriptions of

the native title claim group and that she had taken extraneous material into account. The Registrar argued that their role 'goes beyond merely accepting the correctness of an applicant's assertion' [12].

However Justice Collier noted that a native title group is not recognised merely by asserting themselves. It is also 'incumbent on the delegate to be satisfied that the claimants truly constitute such a group and the applicant should be seen to be authorised by all persons who relevantly hold the common or group rights'. [8]. His Honour also noted that the Registrar was entitled to consider information that as obtained as a result of searches conducted by the Registrar under s 190A(3)(b).

His Honour also confirmed that a decision of the Registrar is a purely administrative function and that the delegate 'was not satisfied that the applicant was authorised to make the application and deal with matters arising in relation to it by all the other persons in the native title claim group' based on the available material: [21]. That is, s 190C (4)(b) does not confine the Registrar or their delegate to the statements made in affidavit or the information provided in the application (cf authority in *Doepel* where the Registrar is not required to look beyond the terms of the application for the purposes of s 190C(2)). This also includes the consideration of an overlapping claim which had also been certified by the relevant representative body in the area. The overriding rationale of s 190C(4) is that the Registrar must be satisfied as to the identity of the claimed native title holders including the applicant.

The State of Western Australia v Sebastian [\[2008\] FCAFC 65](#)

This decision involves two competing claims to native title over land and waters around Broome in Western Australia. The primary judge Merkel J had held that the Yawuru claimants possessed native title rights and interests over the whole of the claim area. On appeal the State argued that the northern portion of the Yawuru claim area was traditionally held by the Djungan people who were distinct from the Yawuru people. The state also argued that because they have a cognitive descent system, they no longer had an interest in the claim area under traditional law and custom.

The full Federal Court considered the reasoning of Merkel J in his decision and upheld the original judgment of Merkel J. In reaching their decision, the full Federal Court made extensive comment on how the requirements *Yorta Yorta* are met. They also considered whether s 47 B could be applied to the area of Broome and found that s 47B was capable of applying to areas within the proclaimed township.

[Click here](#) for a summary of the judgement.

Birri-Gubba (Cape Upstart) People v State of Queensland [\[2008\] FCA 659](#)

Consideration of an application by the State Government for costs order against applicants who wanted proceed with early preservation evidence but had failed to make adequate preparations for trial. The State had incurred significant costs in seeking to comply with the court's orders even though the applicants eventually sought to amend their claim. The court considered whether the applicant group had caused State to incur costs by any 'unreasonable act or omission' under s 85A(2), *Native Title Act 1993* (Cth) or s 43, *Federal Court of Australia Act 1976* (Cth). It was held that the applicant had acted unreasonably and that it was unjust for the State to bear the costs. The applicants were order to pay 50 per cent of the State's costs.

Lapthorne v Indigenous Land Corporation [\[2008\] FCA 682](#)

Application to review authorisation of a native title claim. It was found that the applicant had not satisfied the elements of s 61(1) of the Native Title Act:

Mr Lapthorne has not satisfied the requirements of [s 61\(1\)](#) of the [Native Title Act 1993](#) (Cth) (the Act) by producing evidence required by that section read with s 251B, to show that he has been authorised by the Thudgari people to make this claim. Nor has he produced the necessary evidence to show that he is entitled under s 66B of the Act to replace the persons named as the applicant in the native title claim WAD 6212 of 1998 which has been brought by the Thudgari people in respect of the same land.

Griffiths v Minister for Lands, Planning and Environment [\[2008\] HCA 20](#)

[Click here](#) to download a detailed case note.

Illawarra Local Aboriginal Land Council v Minister Administering the Crown Lands Act [\[2008\] NSWLEC 188](#)

Aboriginal land claim where the Land and Environment Court considered whether the land was 'needed', or 'likely to be needed', for the essential public purpose of nature conservation; whether the land was 'used' or 'occupied'.

Bropho v State of Western Australia [\[2008\] FCAFC 100](#)

An appeal to the Full Court from a judgment of a single judge of the Federal Court: *Bropho v State of Western Australia* [2007] FCA 519. On 13 April 2007, where the primary judge dismissed the applications in each of two proceedings raising the same issues. The principal issues are whether the *Reserves (Reserves 43131) Act 2003* (WA) ("Reserves Act") and action taken under that Act contravene or are inconsistent with the *Racial Discrimination Act 1977* (Cth) (RDA). The reserves were used for the benefit of Aboriginal inhabitants however, following concerns for the safety of women and children on the reserves control was removed and eventually vested in the Aboriginal Affairs Planning Authority. In reaching their decision, the Court noted:

...any interference with the enjoyment of [the property] right, provided that such interference is effected in accordance with the legitimate public interest (in this case to protect the safety and welfare of inhabitants at Reserve 43131), will not be inconsistent with s 10 of the RD Act. Indeed, although the authorities on s 10 of the RD Act recognise that there is no basis for distinguishing between different species of ownership of property, no property right, regardless of its source or genesis, is absolute in nature, and no invalid diminution of property rights occurs where the State acts in order to achieve a legitimate and non-discriminatory public goal.

Bell on behalf of the Barunggam People v State of Queensland [\[2008\] FCA 840](#)

Dismissal of an application to amend a native title application. It was found that the native title claim was fundamentally flawed.

Mineralogy Pty Ltd v Kuruma Marthudunera Native Title Claimants [\[2008\] WAMW 3](#)

Objection to grant of tenement. The objectors are the Kuruma Marthudunera Native Title Claimants who claim that they are 'registered native title applicants over the land on which the Applicant seeks to have the proposed tenement granted. The objectors believe that activities that might be allowed under the proposed tenement could have an adverse impact upon the exercise of native title rights, cultural heritage (including sites of significance) and lifestyles of the objectors. Work and activity allowed under the licence could also affect the environment and flora and fauna in the area, which would impact on the objectors, and the granting of the tenement would be contrary to the public interest.' Final recommendation that grant be refused.

Ronald Crowe & Ors (Gnulli)/Charlie Laphorne & Ors (Thudgari People)/Western Australia/Zhukov Pervan, [\[2008\] NNTTA 71](#)

Consideration of proposed grant of exploration licence where it was found that the expedited procedure does not apply. Decision considered the following:

- gender restricted evidence
- whether act likely to interfere directly with the carrying on of community or social activities
- whether act likely to interfere with sites of particular significance

Billy Patch and Others on behalf of the Birriburu People v State of Western Australia [\[2008\] FCA 944](#)

Consideration of the formal and substantive requirements of s 87A and whether the proposed consent determination was within the power of the court given the difference in description of native title holder group

in determination and native title claim group in application. It was found that it was still appropriate to make the order and an alteration would not constitute an amendment to the application.

International

Shilubana and Others v Nwamitwa [2007] ZACC 14

This is an application for leave to appeal against a decision of the Supreme Court of Appeal, substantially confirming a decision of the Pretoria High Court. It raises issues about a traditional community's authority to develop their customs and traditions so as to promote gender equality in the succession of traditional leadership, in accordance with the Constitution.

[Mining Information Kit for Aboriginal Communities](#)

A new educational tool, The Mining Information Kit for Aboriginal Communities, will inform Aboriginal communities across Canada about all the stages of the mining cycle from early exploration to mine closure. This information kit will help Aboriginal peoples better understand mining activities and identify the many opportunities that mining can bring to communities. This tool is conveniently designed in four modules corresponding to the main stages of the mining cycle. It provides examples of community experiences, positive relationships, and partnerships with mining companies. It also outlines the regulatory process to ensure Aboriginal peoples are well informed of the economic, social and environmental effects, benefits and opportunities in making decisions. The kit is the product of a partnership between Natural Resources Canada, Indian and Northern Affairs Canada, the Prospectors and Developers Association of Canada, The Mining Association of Canada, and the Canadian Aboriginal Minerals Association (CAMA).

Reports

[Report of the Stolen Generations Assessor: Stolen Generations of Aboriginal Children Act 2006](#)

Ray Groom / Department of Premier and Cabinet, State Government of Tasmania

The Stolen Generations of Aboriginal Children Act 2006 was passed unanimously by both Houses of Parliament in Tasmania in November 2006. The act made provision for a \$5 million fund to provide payments to eligible members of the stolen generations of Aborigines and their children.

The legislation provided for the appointment of an independent assessor, with responsibility to assess the eligibility of applicants. The Hon. Ray Groom accepted the appointment as Stolen Generations Assessor in December 2006. The Act became operational on 15 January 2007. The office of the Stolen Generations Assessor also became operational on that day. This report provides background to the issue of the stolen generations in Tasmania and outlines the process for assessing applications and related matters.

[Children on Anangu, Pitjantjatjara, Yankunytjatjara Lands Commission of Inquiry: a report into sexual abuse](#)

Children in State Care Commission of Inquiry

This is the report of an inquiry to examine the incidence of sexual abuse of children on the Lands, the nature and extent of that abuse, and to report as to measures which should be implemented to prevent sexual abuse of the children and to address the consequences for the communities.

Publications

Strelein, L, 2008, [Taxation of Native Title Benefits](#), Research Monograph 1/2008, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra

McAvoy T and Cooms V, 2008 'Even as the Crow Flies, it is Still a Long Way: Implementation of the Queensland South Native title Services Ltd Legal Services Strategic Plan' *Research Monograph 2/2008*, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Native Title in the News

National

02-May-08 NATIONAL **Step refugee appeals racket, says former judge.** Former Federal Court judge Rodney Madgwick has said that 'native title does not work well and requires a total rethink'. *Financial Review* (National, 2 May 2008), 57.

09-May-08 NATIONAL **UN holds NY forum on Indigenous rights.** Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner and Race Commissioner of the Human Rights and Equal Opportunity Commission represented Australia at the New York forum. Mr Calma has also recently tabled two reports relating to Indigenous rights including the Native Title Report. *Lawyers Weekly* (National, 9 May 2008), 6.

12-May-08 NATIONAL **Mining body seeks curb on third-party access.** The Minerals Council of Australia has said that the government needs to stop third parties from having access to infrastructure facilities. According to the MCA, the 'solution to many of [the problems] lies in better federal-state co-operation, the elimination of duplicative and contradictory regulatory processes, institutions and intellectual capacity building the increased efficiency and operability of the native title system and more appropriate competition policy settings'. *Australian* (National, 12 May 2008), 31.

17-May-08 NATIONAL **Tribunal at centre of storm over fair deals.** Ciaran O'Faircheallaigh from Griffith University has 'argued that the lot of Aboriginal people has not improved during the mining boom, in part because the National Native Title Tribunal is 'biased' in favour of companies'. Traditional owners and mining

companies usually reach agreements for dealings over the lands through the future act process. However, the six month limit on negotiations means that the Tribunal can arbitrate once the negotiation period has passed. Mr O'Faircheallaigh argues that 'this situation places mining companies in a position of undue power because they have little to fear from delaying negotiations...a situation which inherently disadvantages claimants'. *Age* (Melbourne, 17 May 2008), 4.

22-May-08 NATIONAL **Mining money must close gap.** Minister for Indigenous Affairs Jenny Macklin has said that 'Native title is critical to economic development'. Ms Macklin argues that 'while economic development for Aborigines and Torres Strait Islanders is complex and challenging, there is no doubt that properly structured property rights to land are a key component in expanding economic and commercial opportunities'. *Australian* (National, 22 May 2008), 14; 'Macklin's message: use hard won rights' *Australian* (National, 22 May 2008), 6; 'Indigenous poverty unmoved by mining boom' *Australian* (National, 8 May 2009), 8; 'Miners told to deal better hand from resources boom' *Sydney Morning Herald* (Sydney, 28 May 2008), 6.

22-May-08 NATIONAL **Labor to overhaul native title.** Indigenous Affairs Minister Jenny Macklin has said that 'native title legislation was too complex and had failed to deliver money to remote Aboriginal communities despite lucrative agreements with mining companies'. Ms Macklin said that changes to native title should be used as a part of the Federal Government's close the gap campaign and wanted 'direct payments to individuals minimised in favour of payments that create benefits for the whole community'. *Australian* (National, 22 May 2008), 1; 'Native Title Changes Focus on Economics' *Age* (Melbourne, 22 May 2008), 10; 'Time for a hard look at native title' *Northern Territory News* (Darwin, 22 May 2008), 3; 'An economic vision: native title reform offers communities a fresh start' *Australian* (National, 23 May 2008), 15.

28-May-08 NATIONAL **Tribunal overrun.** According to recent Senate estimates the National Native Title Tribunal expects to have work for the next 30 years. Acting tribunal registrar Franklin Gaffney said '135 applications had been determined in 15 years.' The estimate 'was based on the time it was expected to clear the backlog as well as consider new claims, now arriving at the rate of 20 to 40 a year.' *Townsville Bulletin*

(Townsville, 28 May 2008), ; 'Tribunal workload' *Launceston Examiner* (28 May 2008), 10.

02-Jun-08 NATIONAL **Native title deals should be split.**

A former Rio Tinto senior executive has advised the Rudd government that 'Indigenous people who win native title agreements should be asked to share the benefits with poor Aboriginal neighbours in the same region'. The Government has also 'revealed it will overhaul the native title laws and processes to allow compensation payments to be used for future generations'. Marcia Langton has also been appointed as an advisor. These reforms have been supported by the Kimberley Land Council. *Australian* (National, 2 June 2008), 7; 'Native title reform backed' *Broome Advertiser* (Broome, 5 June 2008), 6.

04-Jun-08 NATIONAL **Native title chief urges easing of land link proof.**

National Native Title Tribunal president Graeme Neate has argued that 'substantial changes need to be made to end the 30 year native title claim back log'. Speaking at the National Native Title Conference, Mr Neate argued that Indigenous people 'should not have to comprehensively prove they have a connection to land before negotiating native title claims'. *Australian* (National, 4 June 2008), 5.

05-Jun-08 NATIONAL **Native title on the web.**

The National Native Title Tribunal has launched a new website: www.nntt.gov.au *Farm Weekly* (Western Australia, 5 June 2008), 110.

11-Jun-08 NATIONAL **Indigenous people must transcend the past for a better future: Mabo lecture.**

Indigenous people 'must lead and convince the 'settlers' to follow if Indigenous disadvantage is to be overcome, Chair of the Waitangi Tribunal and Maori Land Court Chief Judge Joe Williams told the Mabo Lecture at the Native Title Conference in Perth' 3-5 June 2008. *Torres News* (Thursday Island, 11 June 2008), 11.

12-Jun-08 NATIONAL **Miners place focus on Indigenous schemes.**

The Mineral's Council of Australia has welcomed moves to 'fast track training for Indigenous Australians'. According to Chief Executive Mitchell Hooke, the 'Government had the backing of the Australian minerals industry in its plan to provide Indigenous Australians with new job seeker trainee places as a complement to existing initiatives of minerals companies'. With 'sixty per cent of mining operations in Australia [being] carried out alongside indigenous communities' the 'Australian minerals industry is

committed to providing employment opportunities for indigenous Australians'. *Kalgoorlie Miner* (Kalgoorlie, 12 June 2008), 14; 'Indigenous workers on track' *Goldfield Express* (Kalgoorlie, 13 June 2008), 25.

13-Jun-08 NATIONAL **Apology begins healing.** The Canadian Government has apologised for the 'nation's policy of forcing 150 000 indigenous children to attend government funded Christian boarding schools aimed at assimilation'. *Daily Telegraph* (Sydney, 13 June 2008), 38; 'Finding their voice' *Economist* (National, 14 June 2008), 54.

27-Jun-08 NATIONAL **Complex and essential role to fill.**

Gilbert + Tolbin have appointed a full time pro bono lawyer, Michelle Hannon. The firm has acted for the Cape York Land Council and Kimberley Land Council. *Australian Financial Review* (National, 27 June 2008), 61.

ACT

06-May-08 ACT **ACT 'wrong' on native title law.**

Native Title Barrister George Villafore said that the 'ACT government is acting outside the law in releasing greenfields land for new developments'. However, the government says that the claim of the Dean Bell group was never formally registered and that the Applicants did not have the right to negotiate under the Native Title Act. *Canberra Times* (Canberra, 6 May 2008), 3.

New South Wales

01-Jun-08 NSW **Barrick Gold Censors Indigenous Groups**

Indigenous leaders from the Wiradjuri people have said at the Barrick AGM that the company 'has absolutely no respect for our cultural heritage' and that Barrick allowed 'five unauthorised Wiradjuri to sign off on their cultural heritage agreement that was kept secret'. *Ethical Investor* (National, June 2008), 7.

03-Jun-08 NSW **ILUA registered.**

The Native Title Tribunal has 'just registered the second part of the Byrin Mundjalung People's Indigenous Land Use Agreement'. Their claim was lodged in 1994 and has taken 14 years to 'get to this point'. *Byron Shire Echo* (Byron Bay, 3 June 2008), 11.

17-Jun-08 NSW **Land rights anniversary.** This year marks the 25th anniversary of the *Aboriginal Land Rights Act*. NSW is the 'only state in Australia with a democratically elected structure to represent the interests of the land councils'. *Narrandera Argus* (Narrandera, 17 June 2008), 9.

Northern Territory

06-May-08 NT **ALP adviser to head Northern Land Council.** Kim Hill is expected to be confirmed as the chief executive of the Northern Land Council. Mr Hill was appointed by the NLC executive to fill the role after Norma Fry resigned after the Federal Election. According to Mr Hill, 'the NLC must evolve from representing traditional owners in land claims and native title to the improvement of Aboriginal lives'. *Australian* (National, 6 May 2008), 7.

10-May-08 NT **Gas plant location squabble.** The Larrakia Development Corporation has 'authority over Aboriginal land at Middle Arm' and has backed the 'development of a \$12 billion Inpex gas plant at the Darwin Harbour site'. However the Larrakia Nation has said that it 'opposed the industrialisation of Middle Arm'. *Northern Territory News* (Darwin, 10 May 2008), 5; 'Land bid has Inpex 'nervous'' *Northern Territory News* (29 May 2008), 6.

14-May-08 NT **Decision on Alice mine expected late July.** The Central Land Council has said that it will 'support whatever decision traditional owners make about a potential uranium mine'. The uranium deposits are on the Owen Springs pastoral lease and is a native title issue. According to Central Land Council Director David Ross, 'native title holders have no right to refuse an exploration license under the Native Title Act which they would under the Aboriginal Land Rights Act'. However, they can lodge an objection application. *Northern Territory News* (Darwin, 14 May 2008), 26.

16-May-08 NT **NT has the power to buy native title land.** In a 5-2 decision of the High Court, it was held that the Northern Territory Government has the power to acquire land even where it is found that native title rights and interests exist. The High Court held that the 'potential limitations on the Territory's statutory power to acquire land had not been removed by the legislation. The majority said that 'the Lands Acquisition Act provided that "all non native title rights and interests" could be extinguished once conditions designed to avoid

racial discrimination were met. Also the words "for any purpose" had replaced "for a public purpose" meaning that freehold land could be granted without having to be for the benefit of a particular community or public purpose. The Northern Territory Supreme Court had found that the original acquisition was invalid and the decision was later reversed on appeal. The claim was later brought to the High Court by Alan Griffith and William Gulwin on behalf of the Ngaliwurru and Nungali peoples. *Australian* (National, 16 May 2008), 6; 'High Court gives land acquisition green light' *Northern Territory News* (Darwin, 16 May 2008), 2; 'Native Title ruling' *Northern Daily Leader* (Tamworth, 16 May 2008), 9.

21-May-08 NT **Island towns first to sign long-term lease.** Groote Eylandt Communities are the first to sign regional partnership agreements that will see the 'federal and Northern Territory governments...provide \$25 million' to the community as a 'part of the regional agreement to go towards new houses, housing maintenance, policing, health, indigenous employment and economic development'. *Australian* (National, 21 May 2008), 6; *Age* (Melbourne, 21 May 2008), 11; 'Aboriginal leases' *Cairns Post* (Cairns, 21 May 2008), 16.

22-May-08 NT **Royalties threat to lift Tiwi Schooling.** Traditional owners at Melville and Bathurst Islands could 'lose their royalty payments' for failing to send their children to school under a new scheme by the local land council. *Australian* (National, 22 May 2008), 6.

24-May-08 NT **Elder places faith and future in court.** Tibby Quall, a Danggalaba man is 'fighting the full might of the Government to be recognised as the native title holder of a vast area of Darwin'. Mr Quall said: 'the Government can compulsorily acquire any land they want, so I couldn't stop their developments even if I wanted to. My case is about fighting for Aboriginal identity'. *Sydney Morning Herald* (Sydney, 24 May 2008), 13; 'Native title claim over harbour' *Northern Territory News* (Darwin, 28 May 2008), 6.

24-May-08 NT **NLC apology to wronged lawyer.** Wali Waunungmurra, Chairman of the Northern Land Council has apologised to lawyer Ron Levy after the council had reviewed allegations of bullying alleged by a female anthropologist. *Weekend Australian* (National, 24 May 2008), 6.

05-Jun-08 NT **Native title holders have no worries with uranium mine.** A senior executive from the Canadian company Cameco says that he 'found no opposition to [a

proposed uranium mine] from Aboriginal people who may have native title interests on the site'. The proposed uranium mine is 25 kms south of Alice Springs. *Alice Springs News* (Alice Springs, 5 June 2008), 5.

12-Jun-08 NT **Traditional owners offer up their land for nuclear dump.** Northern Land Council Chairman Wali Wunungmurra has said that the 'Ngapa traditional owners overwhelmingly support the nomination of their country at the Muckaty station for the commonwealth radio active waste facility'. *Australian* (National, 12 June 2008), 4; 'Science the key to decision' *Australian* (National, 16 June 2008), 6; 'Why the 'desert rain people' want a nuclear waste dump: The abject poverty of the Ngapa group is only part of the explanation' *Australian* (16 June 2008), 6.

12-Jun-08 NT **New NLC head says he will be tough.** The Northern Land Council's new chief executive Kim Hill has said: 'I'll be making some changes to the way we serve our traditional owners'. He said that he 'wanted to bring transparency to the organisation in regards to getting information out into communities'. *Northern Territory News* (Darwin, 12 June 2008), 4.

12-Jun-08 NT **NT intervention review board named: Macklin.** Minister for Indigenous Affairs Jenny Macklin has reviewed the board that will review the Northern Territory Emergency response intervention. The board will include: Peter Yu, Donna Ah Chee, Deputy Director of the Central Australian Aboriginal Congress (health care service), Alice Springs; Michael Berto, CEO of Roper Gulf Shire Council and Chair of the Northern Territory Indigenous Housing Advisory Board, Katherine; Vicki Gillick, Coordinator of the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, Alice Springs; Ronald Lami Lami, Chairperson of the West Arnhem Shire Transition Committee and resident of Waruwu; Mavis Malbunka, Vice President of the Ntaria Council (Hermannsburg) and a finalist in the Northern Territory Australian of the Year 2006; David Ross, Director of the Central Land Council, Alice Springs; Dr John Taylor (ACT) Deputy Director and Senior Fellow at the Centre for Aboriginal Economic Policy Research, Australian National University, Canberra; Dr Mark Wenitong (QLD), Senior Medical Officer at Apunipima Cape York Health Council and past president and founding member of the Australian Indigenous Doctors Association; Neil Westbury, Associate at the Centre for Aboriginal Economic Policy Research, Australian National University (ANU) and a member of the Indigenous

Community Governance Project Advisory Committee (ANU); Ann Rebgetz, Co-Principal of Our Lady of the Sacred Heart School, Wadeye. *National Indigenous Times* (National, 12 June 2008), 4.

12-Jun-08 NT **Inpex 'nervous' about title claim.** Inpex, Japanes oil and gas company said that it was 'nervous' about a native title claim affecting the 'planned site of a \$12 billion gas plant on Darwin Harbour' according to the Northern Territory Government during hearings over the native title claim of Tibby Quall in the Federal Court. *National Indigenous Times* (National, 12 June 2008), 11.

20-Jun-08 NT **Mining company bars Aborigines.** Legal action is being considered after Indigenous groups were stopped by Xstrata from entering their land in order to hold a ceremony over their sacred sites. Northern Land Council executive Kim Hill said that the sites will 'no longer be there for much longer' with the approval of the diversion of the McArthur river. *Barrier Daily Truth* (Broken Hill, 20 June 2008), 6.

20-Jun-08 NT **\$10m lure for Aboriginal education.** The Australian government will offer up to \$10 million if Indigenous communities 'agree to a Rudd Government plan to put mining royalty payments in a special education trust fund'. This follows the approval of a lease agreement between traditional land owners over the Bonaparte Gas Pipeline. Indigenous Affairs Minister Jenny Macklin has said that 'if the landowners allocated at least 90 per cent of the projected benefits from the pipeline payments into the trust fund, the Government would match them dollar for dollar'. *Australian* (National, 20 June 2008), 6; 'Gas deal set aside \$28m for education' *Sydney Morning Herald* (Sydney, 20 June 2008), 5; 'NLC backs proposed education trust fund' *Northern Territory News* (Darwin, 23 June 2008), 4.

Queensland

03-May-08 QLD **MP hits out at Bligh.** Member for Gympie, David Gibson has said that 'it is sad and ironic that in the year of the historic Federal Government's apology to Aboriginal people, the Biigh State Labor government is..taking legal actions to strike out the Gubbi Gubbi people's Native Title Claim'. *Gympie Times* (Gympie, 3 May 2008), 5.

07-May-08 QLD **Hot development in geothermal energy.** KUTh Energy is 'negotiating native title rights for

geothermal exploration at two Far Northern sites' at Jackin Creek and Eveleigh. Queensland Mines and Energy Minister Geoff Wilson said that 'there had been an amount of uncertainty with some explorers in the application of the Commonwealth Native Title Act'. *Cairns Post* (Cairns, 7 May 2008), 33.

07-May-08 QLD **Titles test delay on bridge.** A native title assessment will need to be finalised before a bridge providing access to Nerang can be completed. *Gold Coast Sun* (Gold Coast, 7 May 2008), 23.

10-May-08 QLD **University honours Mabo.** The James Cook University has named a library after Eddie Koiki Mabo who began a 'legal battle which eventually overturned a legal view that underpinned the crown's claim to Australian land.' The *Mabo* decision led to the enactment of the *Native Title Act 1996* (Cth). *West Australian* (Perth, 10 May 2008), 54; 'JCU honour for Mabo' *Townsville Bulletin* (Townsville, 10 May 2008), 38; 'Library naming honour for Mabo' *Ballarat Courier* (Ballarat, 10 May 2008), 22; 'Mabo to be honoured' *Border Mail* (Albury Wodonga, 10 May 2008), 26; 'From little things big things grow' *Australian* (National, 21 May 2008), 1; 'A fitting tribute' *Australian* (National, 22 May 2008), 15.

13-May-08 QLD **Cold comfort over native title and hot rock energy.** The Federal Government is 'unwilling to declare a time frame for a controversial decision on whether exploring for hot rock alternative energy supplies is exempt from native title laws'. Some industry groups argue that the 'right to negotiate' process in federal native title laws does not apply to geothermal energy'. *Courier Mail* (Brisbane, 13 May 2008), 66.

14-May-08 QLD **State legislates to use Far North Land.** The Queensland Parliament has passed new laws to build essential infrastructure such as schools, hospitals and police stations. The new laws will affect about 32 Indigenous communities. The reforms to the 'Land Act 1994 and Aboriginal and Torres Strait Islander Land Act' have been called 'historic' by the Minister for Natural Resources and Water Craig Wallace. Mr Wallace said that the reforms to land tenure will fix issues with infrastructure and housing on the communities. Noel Pearson has argued that this will leave indigenous people in 'poverty shadows'. *Gympie Times* (Gympie, 14 May 2008), 6; *Northern Star* (Lismore, 14 May 2008), 25; *Queensland Times* (Ipswich, 14 May 2008), 17; 'Indigenous rights leaders heal rift' *Australian* (National, 14 May

2008), 19; *Morning Bulletin* (Rockhampton, 14 May 2008), 18; *Daily Mercury* (Mackay, 14 May 2008), 12; *Chronicle* (Toowoomba, 14 May 2008), 16; 'Indigenous land boost' *Cairns Post* (Cairns, 17 May 2008), 26; 'Late changes to indigenous land laws' *Cooktown Local News* (Cooktown, 21 May 2008), 5.

14-May-08 QLD **Leaders attack Irwin's crusade to block mine.** Leaders from the Cape York have attacked Terri Irwin's move to 'stop a mine going ahead' on a former cattle station that was acquired from the Irwin's. The mining company Cape Alumina has been negotiating with Aboriginal land councils and traditional owners about mining adjacent properties. However according to the traditional owners, 'the way the Irwin's acquired the property has locked them out of their traditional lands. Traditional owners say handing over the land to the Irwins robbed them of control over mining rights, cattle and conservation'. *Australian* (National, 14 May 2008), 19; Terri aims to be warrior woman' *Courier Mail* (Brisbane, 17 May 2008), 18.

15-May-08 QLD **East meets west during agreement.** Representatives from the Western Cape Communities Trust from Queensland made a four-day-vist to the East Kimberley Gelganyem Trust. The trust was established as a part of an Indigenous Land Use Agreement between Argyle Diamond Mines and the local Indigenous population. The Western Cape Communities Trust was established as a part of an ILUA between Comalco and communities in the Cape York area. *Kimberley Echo* (Kununarra, 15 May 2008), 9.

19-May-08 QLD **Native Title Tribal Split.** Jim Hagan, has been told that he is no longer Kullili by the legal body set up under the Native Title Act. Mr Hagan had chaired the Kullili Traditional Owners Committee and has represented the group internationally. However, he was recently told by Queensland South Native Title Services that he was not a part of the group and 'was refused entry into a meeting last week ratified by Kullili claimants'. *Courier Mail* (Brisbane, 19 May 2008), 14; 'Hagans are ready to fight claim' *Chronicle* (Toowoomba, 20 May 2008), 10.

19-May-08 QLD **Mine money increased.** New changes to the Aboriginal Land Act will 'give traditional owners direct access' with 'trustees of land transferred under the Aboriginal Land Act...receiv[ing] more realties from mining companies'. Minister for Natural Resources and Water Craig Wallace said that the 'first \$100 000 of any

royalty payments received by the state would go totally to indigenous trustees of the affected land' rather than the Department of Natural Resources and Water. *Cairns Post* (Cairns, 19 May 2008), 4.

22-May-08 QLD **Leader won land battle.** Wujal Wujal Elder Eileen Walker has passed away. She was a part of the 15 year battle of the Eastern Kuku Yalanji people to achieve recognition. *Courier Mail* (Brisbane, 22 May 2008), 76.

23-May-08 QLD **Cardwell land title.** A native title claim over Cardwell will be settled with the Federal Court delivering a consent determination in the town 200km south of Cairns. The determination will decide whether the Girramay people 'are granted ownership of 12 parcels of unallocated state land and reserve land in the Murray Upper'. *Cairns Post* (Cairns, 23 May 2008), 8; 'Indigenous claim in doubt' *Townsville Bulletin* (Townsville, 29 May 2008), 13.

27-May-08 QLD **Native title delay.** 'A FEDERAL Court ruling in the coastal town of Cardwell, 200km south of Cairns, on native title rights over state and federal land has been deferred.' *Cairns Post* (Cairns, 27 May 2008), 7.

28-May-2008 QLD **Nerang van park bridge could open in months.** A bridge providing access to Nerang park will be built after a native title assessment. *Gold Coast Sun* (Gold Coast 28 May 2008), 10.

29-May-2008 QLD **Dump progress.** Gympie Mayo Ron Dyne said that he expected 'a reasonable outcome as far as the cost of a Native Title agreement is concerned' in relation to a landfill facility at Toolar. *Gympie Times* (Gympie, 29 May 2008), 4.

04-Jun-08 QLD **Title claim may be 'a first'.** A native title claim on Mount Lindesay 'could be the first of its kind'. The claim is a part of the Githabul people's larger claim which has been recognised in NSW. *Jimboomba Times* (Jimboomba, 4 June 2008), 45.

11-Jun-08 QLD **Aurukun leaders on mission to China.** Indigenous delegates representing the Aurukun community will head off to China 'as guests of the Chinese government owned mining giant Chalco which last year won the right to mine bauxite' in the region. The leaders will be inspecting the company's operations. *Australian* (National, 11 June 2008), 6; 'Aurukun leaders visit China' *Courier Mail* (Brisbane, 11 June 2008), 34; 'Mutual learning curve' *Weekend Australian* (National, 21 June 2008), 24; 'Mining goodwill' *Courier Mail* (Brisbane,

21 June 2008), 75; 'Aurukun delegation tours China' *Western Cape Bulletin* (Weipia, 18 June 2008), 11.

11-Jun-08 QLD **Red letter day for Kannju clan.** The first Indigenous protected area on the Cape York Peninsula has been 'declared at a ceremony at Chuulangun'. The Kannju Ngaachi Wenlock and Pascos Rivers Indigenous Protected area covers 197 500 hectares. *Western Cape Bulletin* (Weipia, 11 June 2008), 2; 'Land guardian deal' *Cooktown Local News* (Cooktown, 11 June 2008), 5.

13-Jun-08 QLD **MacDonnells law bolsters indigenous law team.** Macdonnells has expanded its indigenous law team to include Ted Besley who has practiced in areas including native title and land rights. He was also responsible for 'leading a pilot project on behalf of the Queensland Government in Palm Island to resolve land tenure issues and improve land management practices'. *Lawyers Weekly* (National, 13 June 2008), 17.

14-Jun-08 QLD **Indigenous home manual.** A 'homeowners manual will be handed out to Indigenous people living in communities like Palm island'. The manual is a part of 'the State Government's push for 99 year residential and commercial leases on indigenous land'. *Townsville Bulletin* (Townsville, 14 June 2008), 22.

26-Jun-08 QLD **Dam will suck up life of Mary' - Butchulla voice opposition.** The Butchulla people are 'insulted the State Government did not consult them about the proposed dam at Traveston Crossing'. The group is yet to make a native title claim in the area but the 'consequences will significantly affect the Butchulla people's cultural heritage'. *Fraser Coast Chronicle* (Hervey Bay, 26 June 2008), 5.

South Australia

06-May-08 SA **Whyalla harbour interest sought.** Premier Mike Rann has said that native title and environmental issues will be considered in the assessment process before developing a new export harbour near Whyalla. *Advertiser* (Adelaide, 6 May 2008), 33.

10-May-08 SA **Ancient document gives land rights, Aborigines say.** The Kokatha Mula people are planning to 'take 172 year old document to the British Parliament as part of a bid to have their rights recognised'. A letter of patent from 1836 outlines the 'rights of natives' and their

descendents to enjoy their lands'. *Launceston Examiner* (Launceston, 10 May 2008), 19.

15-May-08 SA **Record land agreements.** There have been 24 Indigenous Land Use Agreements signed in the Gawler Ranges by claimants from the Barnjarla and Kokotha peoples, pastoralists and the Attorney General's departments. Each ILUA 'lays out arrangements for access to pastoral leases, protection of Aboriginal culture, protection and use of pastoral infrastructure, a mutual understanding of rights and interests and a consultation process to deal with any future issues'. *West Coast Sentinel* (Ceduna, 15 May 2008), 3; 'Claims resolved' *Stock Journal (SA)* (Rural, 15 May 2008), 3.

29-May-2008 SA **NRM in focus at women's forum.** An 'Aboriginal Women's Healthy Country & Sustainable Enterprise Conference was held on April 29-30 in Port Augusta with great success. More than 70 women attended the forum for Aboriginal women to highlight their achievements, share experiences and identify strategies to progress their leadership in NRM and sustainable enterprises.' *Stock Journal(SA)* (Adelaide, 29 May 2008), 18.

09-Jun-08 SA **Minister snubbed by land council.** Indigenous Affairs Minister Jenny Macklin has cancelled a planned visit to the Anangu Pitjantjatjara Yankunytjatjara community after the 'local land council refused to meet her'. The community is divided on Ms Macklin's proposed housing plans. *Age* (Melbourne, 9 June 2008), 2.

13-Jun-08 SA **Minister to axe APY chief.** Aboriginal Affairs and Reconciliation Minister Jay Weatherill has 'set in train the legal process to sack Anangu Pitjantjatjara Yankunytjatjara lands head Bernanrd Singer' following calls to stand aside after his 'prosecution on aggravated assault and breaching an alcohol prohibition'. *Australian* (National, 13 June 2008), 7.

Victoria

07-May-08 VIC **Restoration to breath life into wetlands.** The restoration of Lake Condah, which is in the 'heart of Gunditjmara country' is expected to be completed by the end of 2008. *Warrnambool Standard* (Warrnambool, 7 May 2008), 8.

15-May-08 VIC **New lakeside trail follows tradition.** A trail to honour Lakeside's traditional landowners has been launched. The Winjeel Trail will recognise the Bunurong people as a part of the Lakeside project. *Pakenham News* (Melbourne, 15 May 2008), 3; 'Estate gets historic trail' *Pakenham Journal* (Melbourne, 19 May 2008), 3.

28-May-08 VIC **Dodson says ties to land can be proven out of court.** Indigenous academic Mick Dodson 'told a Minerals Council conference in Canberra yesterday that the 'connection requirements' to land that must be proved in the Federal Court under native title legislation could be 'considerably less onerous' under the 'an alternative native title settlement framework being negotiated with the State Government.' *Age* (Melbourne, 28 May 2008), 6.

11-Jun-08 VIC **Forum calls for voices.** The Barengi Gagjin Land Council hosted a forum, 'Yana Together: Navigating Towards More Effective natural resource management partnerships' to 'encourage more Indigenous involvement in natural resource management'. The forum was held at the Horsham Sports and Community Club from June 19 to 20 and 'aimed to develop more effective agreements and partnerships'. *Wimmera Mail Times* (Horsham, 11 June 2008), 15.

Western Australia

01-May-08 WA **Aborigines to talk on Browse.** Kimberley Land Council (KLC) Chief executive Wayne Bergman has said that 'resource companies had not yet come to terms with the role of traditional indigenous owners when it came to developing the area'. The Western Australian Government has 'given the KLC an undisclosed grant to assist the consultation process with traditional owners regarding the proposal for a liquefied natural gas processing hub in Browse Basin'. Mr Bergman said that 'in our discussions with resource companies, our focus is building economic partnerships that give us greater control and responsibility'. *Financial Review* (National, 1 May 2008), 12; *Age* (Melbourne, 1 May 2008), 5.

01-May-08 WA **Noongar outcome shows native title gridlock: Calma.** Aboriginal and Torres Strait Human Rights Commissioner Tom Calma has said that the

Noongar decision shows that 'the native title system is in gridlock'. The 'matter is still unresolved because the court did not go so far as to rule native title no longer existed over Perth. Instead it referred the question back to a Federal Court Judge for another hearing'. Mr Calma said 'I am concerned that the courts are denying how societies and cultures evolve and instead choosing to stick to narrow, unnecessarily legalistic interpretations'. *National Indigenous Times* (National, 1 May 2008), 4; 'Neither a loss or a win: Kelly' *National Indigenous Times* (1 May 2008), 4; 'State's appeal insulting: Hart' *National Indigenous Times* (National, 1 May 2008, 5); 'No benefit for WA govt over title appeals, academic says' *National Indigenous Times* (National, 1 May 2008), 5; 'Native title claim 'back to square one' *Lawyers Weekly* (National, 2 May 2008), 1.

02-May-08 WA **Cultural rock trip**. More than 20 staff from the Yamatji Land and Sea Council travelled from Geraldton to Perth to Mt Augustus to learn about Indigenous diversity in a workshop 'designed to enhance the knowledge and skills of staff'. *Geraldton Guardian* (Geraldton, 2 May 2008), 16.

02-May-08 WA **Dig helps understanding of local anthropology**. A search of archaeological remains including Indigenous groups and environmentalists has contributed to a 'cultural assessment to provide a better understanding of where the Noongar people lived and how they used the land and water'. The study was welcomed by Noongar project director Wayne Webb. *Albany Weekend Extra* (Albany, 2 May 2008), 12.

15-May-08 WA **Inpex looks east**. Browse Basin gas developer Inpex has been considering Darwin as a potential site. A spokesperson for the company said that it had not abandoned the Maret Islands proposal. Local governments and business groups had backed the proposal. The 'Kimberley Land Council [had given] conditional support as it believes the development could have benefits for the region's Aboriginal population'. *Kimberley Echo* (Kununarra, 15 May 2008), 1.

17-May-08 WA **Argyle closing Aboriginal Gap**. The Human Rights and Equal Opportunity Commission has said that the agreement between Argyle and Traditional owners is a 'tangible embodiment of practical reconciliation'. There have been two trusts established under the agreement one to 'fund community development education, training, customary law, governance and a capital base for future generations and

the second administers annual payments to families and helps them develop annual expenditure plans'. *Age* (Melbourne, 17 May 2008), 4.

21-May-08 WA **Doris Takes Over**. Njama traditional owners Doris Eaton is the new chairperson of Pilbara Native Title Service. Mrs Eaton is the first woman to chair the executive committee. *Pilbara News* (Pilbara, 21 May 2008), 9.

22-May-08 WA **Native Title Hurdle**. The native title status of Broome has been 'called into question with Walman Yawuru lodging a notice of motion that could halt further development until key native title determinations are made'. The notice comes after the recent Federal Court decision reaffirming that the Yawuru people hold native title rights and interests over Broome. *Broome Advertiser* (Broome, 22 May 2008), 4.

04-Jun-08 WA **Central desert native title decision hailed**. The Ngaanyatjarra people of 'Western Australia's Central desert have become the largest native title holders in Australia following the Federal Court's recognition of the remainder of their traditional lands'. The Ngaanyatjarra people are 'now native title holders of 169 184 sq km of land and waters, the largest area in Australia where native title is found to exist'. *Kalgoorlie Miner* (Kalgoorlie, 4 June 2008), 3; 'Goldfields indigenous leader sees hope in native title decision' *Kalgoorlie Miner* (Kalgoorlie, 5 June 2008), 5.

11-Jun-08 WA **Owners want say on mines compo**. The Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation has 'warned against Government regulation of compensation to Aboriginal people affected by mining activity'. Chief Executive Simon Hawkins said that the 'Indigenous Affairs minister Jenny Macklin should have included Aboriginal people in recently announced informal talks about native title claims involving the Minerals Council and academics'. *Geraldton Guardian* (Geraldton, 11 June 2008), 4.

12-Jun-08 WA **Students to survey stock route**. Curtin University Students and members from local Indigenous communities will 'traverse the [Canning stock route] to evaluate historical survey marks and native title claims'. *Countryman* (National, 12 June 2008), 12.

12-Jun-08 WA **WA govt may 'strike out Noongar claim: Kelly'**. At the National Native Title Conference in Perth, the South West Aboriginal Land and Sea Council has said

that the "West Australian Government may 'strike out' the landmark Noongar claim if negotiations are not settled'. Chief executive Glen Kelly said that the state needed to assist with mediation and 'agree on how its going to happen'. *National Indigenous Times* (National, 12 June 2008), 6; 'Decision spreads the biggest title' *Farm Weekly* (Western Australia, 12 June 2008), 146.

19-Jun-08 WA **Newmont royalties pay for education.** Newmont Asia-pacific has negotiated a 'royalty deal with traditional owners from the Warlpiri communities of Yuendumu, Lajamanu, Nyirripi and Wilowra'. The royalties are to be delivered over three years and will go 'directly into an education and training trust'. *Australian* (National, 19 June 2008), 21.

23-Jun-08 WA **Positive step forward for Birriliburu people.** Ten years after their application was lodged, 'the Birriliburu people have been recognised as the exclusive native title holders of a large tract of land in Western Australia's central desert'. Justice Robert French presided over the hearing. *Kalgoorlie Miner* (Kalgoorlie, 23 June 2008), 5; 'Birriliburu people granted land title' *Mid-West Times* (Geraldton, 26 June 2008), 2.

26-Jun-08 WA **Native title motion dismissed in court.** The Federal Court has dismissed 'a Walman Yawuru motion challenging native title rulings in Broome'. *Broome Advertiser* (Broome, 26 June 2008), 14.

26-Jun-08 WA **Council in \$50m deal for camps.** The Tangentyere Council has accepted a housing agreement with Indigenous Affairs Minister Jenny Macklin. Executive director William Tilmouth said that the 'council had unanimously agreed to negotiate improvements to housing stocks in Alice Springs town camps'. *Australian* (National, 26 June 2008), 7; 'Alice Springs Camps to get \$50m upgrade' *Age* (Melbourne, 26 June 2008), 11.



Native Title Determination Applications

DATE FILED	APPLICATION NAME	APPLICATION TYPE	STATUS	STATE/ TERR.	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.
27/05/2008	NSW Minister for Lands #13	Non-claimant application	Active	NSW	NN08/3	NSD760/08
26/05/2008	Birriliburu #2	Claimant application	Active	WA	WC08/1	WAD108/08

This information has been extracted from the [National Native Title Tribunal website: http://www.nntt.gov.au/Applications-And-Determinations/Search-Applications/Pages/Search.aspx](http://www.nntt.gov.au/Applications-And-Determinations/Search-Applications/Pages/Search.aspx) accessed 3 July 2008. For further information about native title applications in notification contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.
Registration Test Decisions

Registration Test Decisions

APPLICATION NAME	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.	DECISION	DECISION DATE	APPLICATION DATE
Bunurong People	VC06/2-2	VID667/06	Not Accepted	10/06/2008	15/06/2006
Town of Batchelor No 3	DC06/4-2	NTD18/06	Not Accepted	05/06/2008	20/10/2006
Githabul People #2	QC08/4-1	QUD66/08	Accepted	02/05/2008	02/04/2008

This information has been extracted from the [National Native Title Tribunal website: http://www.nntt.gov.au/Applications-And-Determinations/Registration-Test/Pages/search.aspx](http://www.nntt.gov.au/Applications-And-Determinations/Registration-Test/Pages/search.aspx) accessed 3 July 2008. For further information about Registration Test Decisions contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

ILUAs

NAME (NNTT HYPERLINK)	TRIBUNAL FILE NO.	TYPE	STATE /TERR.	REGISTRATION DATE	SUBJECT MATTER
Gunai/Kurnai - Morning Star Regional Exploration and	VI2007/005	Area agreement	VIC	27/06/2008	Exploration Mining

<u>Mining ILUA</u>					
<u>Pilbara Iron - Eastern Guruma Body Corporate ILUA</u>	WI2007/001	Body corporate agreement	WA	23/06/2008	Mining
<u>Kalkadoon Gliderport ILUA</u>	QI2007/015	Area agreement	QLD	13/06/2008	Development Extinguishment
<u>Kalkadoon Industrial Estate ILUA</u>	QI2007/019	Area agreement	QLD	13/06/2008	Development Extinguishment
<u>Central Petroleum and others and Central Land Council ILUA re Exploration Permits 82, 112, 118 and 125</u>	DI2007/007	Area agreement	NT	13/06/2008	Access Exploration Petroleum/Gas
<u>State & Ngadjon-Jii ILUA</u>	QI2005/024	Area agreement	QLD	28/05/2008	Access Co-management
<u>Mamu CanopyWalk Agreement</u>	QI2007/009	Area agreement	QLD	15/05/2008	Development Infrastructure
<u>PNG Gas Pipeline ILUA - Cape York Region</u>	QI2006/043	Area agreement	QLD	15/05/2008	Access Consultation protocol Development Petroleum/Gas Pipeline
<u>Chum Street Car Park Project</u>	VI2007/002	Area agreement	VIC	14/05/2008	Development
<u>Wyaralong Dam Project - Munanjali ILUA</u>	QI2007/024	Area agreement	QLD	14/05/2008	Infrastructure

This information has been extracted from the [National Native Title Tribunal website: http://www.nntt.gov.au/Indigenous-Land-Use-Agreements/Search-Registered-ILUAs/Pages/Search.aspx](http://www.nntt.gov.au/Indigenous-Land-Use-Agreements/Search-Registered-ILUAs/Pages/Search.aspx) 3 July 2008 For further information about Indigenous Land Use Agreements contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Determinations

SHORT NAME	CASE NAME	DATE OF DETERMINATION	STATE/TERR.	OUTCOME	LEGAL PROCESS
Birriliburu People - Part A	Billy Patch & Others on behalf of the Birriliburu People v State of Western Australia and Others [2008] FCA 944	20/06/2008	WA	Native title exists in the entire determination area	Consent determination
Ngaanyatjarra Lands (Part B)	Stanley Mervyn, Adrian Young, and Livingston West and Ors, on behalf of the Peoples of the Ngaanyatjarra Lands v The State of Western Australia and Ors (unreported, FCA, 3 June 2008, French J)	03/06/2008	WA	Native title exists in the entire determination area	Consent determination
Ngadjon-Jii People	Ngadjon-Jii People v State of Queensland [2007] FCA 1937	28/05/2008	QLD	Native title exists in the entire determination area	Consent determination

This information has been extracted from the [National Native Title Tribunal website: http://www.nntt.gov.au/Applications-And-Determinations/Search-Determinations/Pages/Search.aspx](http://www.nntt.gov.au/Applications-And-Determinations/Search-Determinations/Pages/Search.aspx) accessed 3 July 2008. For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Future Act Consent Determinations

DETERMINATION DATE	TRIBUNAL FILE NO.	DECISION	PARTIES
17/06/2008	VF08/2	Consent determination: future act can be done	Dja Dja Wurrung People (VC99/9 & VC00/1) (Applicant/native title party) - and - The State of Victoria (Government party) - and - Douglass Cahill and Robert Palmer (grantee party)
17/06/2008	WF08/20	Consent determination: future act can be	The State of Western Australia (Government party/Applicant) - and -

		done	Naaguja Peoples (WC97/73) (Naaguja native title party) - and - Amangu People (WC04/2) (Amangu native title party) - and - Mullewa Wadjari Community (WC96/93) (Mullewa Wadjari native title party) - and - Westralian Gas and Power Pty Ltd (grantee party)
9/06/2008	WF08/21	Consent determination: future act can be done	Bunuba People (WC99/19) (Applicant/native title party) - and - Gooniyandi Combined # 2 (WC00/10) (Applicant/native title party) - and - The State of Western Australia (Government party) - and - Bernfried Gunter Franz Wasse Paul Winston Askins James Ian Stewart (grantee party)
30/05/2008	WF08/18 and WF08/19	Consent determination: future act can be done	Western Desert Lands Aboriginal Corporation (Jamukurnu-Yapalikunu) on behalf of the Martu People (WC96/78) (First Applicant (WF08/19) Martu native title party) -and- Jeffrey James and Others on behalf of the Martu People (WC96/78)(Applicant (WF08/18) and Second Applicant (WF08/19) Martu native title party) -and- The State of Western Australia (Government party)
29/05/2008	VF08/1	Consent determination: future act can be done	Dja Dja Wurrung People (VC99/9 & VC00/1) (Applicant/native title party) - and - The State of Victoria (Government party) - and - Highlake Resources Pty Ltd (grantee party)
7/05/2008	WF08/15	Consent determination: future act can be done	Alan Ashwin and Others on behalf of the Wiluna Native Title Claimants (WC99/24) (Applicant/native title party) - and - The State of Western Australia (Government party) - and - Giralia Resources NL (Grantee party)
6/05/2008	WF08/8	Consent determination: future act can be done	Ollan Dimer and Others on behalf of Ngadju (WC99/2)(Applicant/native title party) - and - The State of Western Australia (Government party)

		done	- and - Lake Johnston Ltd (grantee party)
1/05/2008	WF08/14	Consent determination: future act can be done	Billy Atkins and Others on behalf of the Gingirana Native Title Claimants (WC06/2) (Applicant/native title party) - and - The State of Western Australia (Government party) - and - Audax Resources Ltd (grantee party)

This information has been extracted from the [National Native Title Tribunal website: http://oldsite.nntt.gov.au/futureact/Determinations.html](http://oldsite.nntt.gov.au/futureact/Determinations.html) accessed 3 July 2008. For further information about future act determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Other Future Act Determinations

DATE	TRIBUNAL FILE NO.	DECISION	PARTIES
24/06/2008	WO07/851	Objection - Dismissed	Albert Little and Others on behalf of Badimia – (WC96/98) (native title party) - and - The State of Western Australia (Government party) - and - Aurora Resources Pty Ltd (grantee party)
20/06/2008	OO07/141 ; OO08/1 OO08/2 OO08/10 OO08/11 OO08/12 OO08/13 OO08/14 OO08/15 & OO08/17	Objection - Dismissed	SEE ATTACHED SCHEDULE
19/06/2008	OO08/32	Objection - Dismissed	Colin McLennan James Gaston Thomas Brown Tyrone Tiers Dorothy Hustler and Marie McLennan on behalf of the Jangga People (native title party) - and - The State of Queensland (government party) - and - Sexton Developments Pty Ltd (grantee party)
10/06/2008	WO07/806 and WO07/813	Objection - Expedited Procedure Does Not Apply	Ronald Crowe Sydney Dale Laurence Gooyou Gwen Gooyou

			<p>Mary Franklin Ruby McIntosh and Sharon Crowe on behalf of Gnulli (native title party) -and- Charlie Laphorne Warren Stanley Ryan Maureen Dodd Alice Moncrieff Ben Roberts Peter Windie Stewart Peck Wayne Laphorne and Bella Randall on behalf of the Thudgari People (native title party) - and - The State of Western Australia(Government party) - and - Zhukov Pervan (grantee party)</p>
3/06/2008	WO07/1047 WO07/1071	Objection - Dismissed	<p>Leonne Velickovic & Others on behalf of the Widji People – WC98/27 (native title party) -and- The State of Western Australia (Government party) -and- South Kal Mines Pty Ltd (WO07/1047) Frederick Charles Saunders (WO07/1071) (grantee parties)</p>
1/06/2008	WO07/186 WO07/870 WO07/1015 WO07/1016 WO07/1048 WO07/1442 WO08/350 WO08/421	Objection - Dismissed	<p>SCHEDULE ATTACHED WO07/186 Karajarri Traditional Lands Association (Aboriginal Corporation) on behalf of its Members (native title party) -and- The State of Western Australia (Government party) -and- ASJ Resources Pty Ltd (grantee party) WO07/870 Wintawari Guruma Aboriginal Corporation (native title party) -and- The State of Western Australia (Government party) -and- Cazalay Iron Pty Ltd (grantee party) WO07/1015 & WO07/1016 Tjurabalan Native Title Land Aboriginal Corporation (native title party) -and- The State of Western Australia (Government party) -and- Resource Search Pty Ltd (grantee party) WO07/1048 Leonne Velickovic & Others on behalf of the Widji People (native title party) -and- The State of Western Australia (Government party) -and- Lightwave Investments Pty Ltd Athena Resources Ltd(grantee parties) WO07/1442 Mark Lockyer & Others on behalf of Kuruma Marthudunera</p>

			(native title party) -and- The State of Western Australia (Government party) -and- Cazaly Iron Pty Ltd(grantee party) WO08/350 David Smirke & Others on behalf of Jurruru People (native title party) -and- The State of Western Australia (Government party) -and- GTI Resources Ltd(grantee party) WO08/421 Limpet Giggles & Others on behalf of Gobawarra Minduarra Yinhawanga (native title party) -and- The State of Western Australia (Government party) -and- GTI Resources Ltd(grantee party)
29/05/2008	WO07/928	Objection - Dismissed	Robert Flanagan on behalf of the Mullewa Wadjari Community (WC96/93) (native title party) -and- The State of Western Australia (Government party) -and- Carlinga Mining Pty Ltd (grantee party)
19/05/2008	WO07/1067 WO07/1068	Objection - Expedited Procedure Applies	Leonne Velickovic & Others on behalf of the Widji People – WC98/27 (native title party) -and- The State of Western Australia (Government party) -and- New Hampton Goldfields Ltd (WO07/1067) Platx Ltd (WO07/1068) (grantee parties)
13/05/2008	WO07/1467	Objection - Dismissed	Adam Standard & Others on behalf of Ngarlawangga People (WC05/3) (native title party) - and - The State of Western Australia (Government party) - and - Montrose Resources Ltd (grantee party)
12/05/2008	WO07/1348	Objection - Dismissed	Leonne Velickovic & Others on behalf of the Widji People – WC98/27 (native title party) -and- The State of Western Australia (Government party) -and- Andrew Donald Kay (grantee party)
8/05/2008	WO06/755 WO07/1279 WO08/45 WO08/80 WO08/81 WO08/125 WO08/126 WO08/171 WO08/265 WO08/266	Objection - Dismissed	SCHEDULE ATTACHED WO06/755 Banjo Wurrumurra & Others on behalf of the Bunuba Native Title Claimants WC99/19 (native title party) -and- The State of Western Australia (Government party) -and- Caldera Resources Pty Ltd (grantee party) WO07/1279 Mullewa Wadjari Community WC96/93 (native title party) -and-

The State of Western Australia (Government party)
 -and-
 Athena Resources Ltd Lightwave Investments Pty Ltd (grantee parties)
 WO08/45
 Ike Simpson & Others on behalf of Wajarri Yamatji WC04/10 (native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 Athena Resources Ltd Lightwave Investments Pty Ltd (grantee parties)
 WO08/80 & WO08/81
 Leonne Velickovic on behalf of the Widji People WC98/27 (native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 Maincoast Pty Ltd (grantee party)
 WO08/125
 Johnson Taylor and others on behalf of Njamal WC99/8 (native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 John Cedric Callegari (grantee party)
 WO08/126
 Elsa Dershow and Ors on behalf of Palyku WC99/16 (native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 John Cedric Callegari (grantee party)
 WO08/171
 Johnson Taylor & others on behalf of Njamal WC99/8(native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 Mark James Thompson & Image Resources NL (grantee party)
 WO08/265 & WO08/266
 Wilma Freddie and Others on behalf of the Wiluna Native Title Claimants WC99/24 (native title party)
 -and-
 The State of Western Australia (Government party)
 -and-
 Falcon Minerals Ltd (grantee party)

6/05/2008

[OO08/24](#)
[OO08/25](#)
[& OO08/26](#)

Objection - Dismissed

Colin McLennan
 James Gaston
 Thomas Brown
 Tyrone Tiers
 Dorothy Hustler and Marie McLennan on behalf of the Jangga People (native title party)
 - and -
 The State of Queensland (government party)

6/05/2008	WO07/1310 WO07/1311 WO07/1312 WO07/1313 WO07/1314 WO07/1351 WO07/1352 WO07/1353 WO07/1354 WO07/1355 WO07/1356 WO07/1357 & WO07/1358	Objection - Dismissed	- and - Sexton Developments Pty Limited (grantee party) SEE ATTACHED SCHEDULE Leonne Velickovic & Others on behalf of the Widji People – WC98/27 (native title party) -and- The State of Western Australia (Government party) -and- St Barbara Ltd & Malanti Pty Ltd
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This information has been extracted from the [National Native Title Tribunal website: http://oldsite.nntt.gov.au/futureact/Determinations.html](http://oldsite.nntt.gov.au/futureact/Determinations.html) accessed 3 July 2008. For further information about future act determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Items in the AIATSIS Catalogue

The following list contains either new or recently amended catalogue records relevant to Native Title issues. Please check MURA, the AIATSIS on-line catalogue, for more information on each entry. You will notice some items do not have a full citation because they are preliminary catalogue records.

Audiovisual items

Copies of videos with native title content have recently been lodged by Rehome, a custom news agency that has now merged with Media Monitors. Topics include native title legislation, co-existence with pastoral leases, and claims in the Perth region. Most of the videos concern activities in WA and range from 1997-2002.

Photographs

A collection of black and white prints made by Mervyn Meggitt of Warlpiri drawings (1953-1954) has recently been catalogued.

Wumpurrarni life through the lens : photographs of Aboriginal people in the Barkly region 1948-1988. Community report researched and compiled by Patricia Frank Narrurlu, Michael Jampin Jones and Alison Alder. [2006-2008].

Audio

Audio recordings collected by Joyce Payne in 1991 containing information on the Aboriginal history of Central Western NSW are listed on MURA as PAYNE_J01.

Print material

The National Native Title Tribunal has published guides to Australian government funding sources (2006 and 2007) as well as a guide to sources of assistance and funding for prescribed bodies corporate (2007). AIATSIS holds copies of these.

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Native Title Research Unit

Australian Institute of Aboriginal and Torres Strait Islander Studies

GPO Box 553

Canberra ACT 2601

Telephone 02 6246 1161

Facsimile 02 6249 7714

Email: ntru@aiatsis.gov.au

