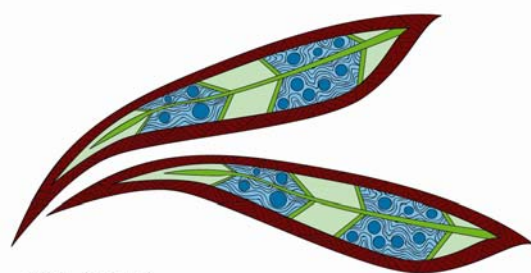


Native Title Newsletter

May/June, No. 3/2009

WHAT'S NEW

CONTENTS



10th Annual
NATIVE TITLE CONFERENCE 2009
SPIRIT OF COUNTRY • LAND • WATER • LIFE
Bunji Aka: Bik, Paen, Mooroop

National Native Title Conference 2009 Spirit of Country: Land, Water, Life	2
Report from the 2 nd National Meeting of Registered Native Title Bodies Corporate	3
New Victorian Alternative Settlements Framework	4
AIATSIS and NNTT Native Title Vision	4
NTRU Project Reports	5
What's New	6
Native Title in the News	10
ILUAs	13
Determinations	14
Items in the AIATSIS Catalogue	14

Selected papers from the National Native Title Conference are now available at <http://ntru.aiatsis.gov.au/conf2009/NativeTitleConferenceWebsite/papers.html>



AIATSIS
Australian Institute of Aboriginal
and Torres Strait Islander Studies

Native Title Research Unit, AIATSIS

National Native Title Conference 2009

Spirit of Country: Land, Water, Life

By Amy Williams, Communications Officer, NTRU

This year the Annual National Native Title Conference attracted a record number of conference delegates, with over 700 conference registrations. The conference was hosted by the Wurundjeri people, and co-convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and Native Title Services Victoria (NTSV).

The Conference was held at the Melbourne Cricket Ground from 3-5 June, 2009. The Melbourne Cricket Ground is a significant location for the Wurundjeri people and it was also a very popular venue with conference delegates.

The Wurundjeri people gave conference delegates a warm welcome to country which included performances from the Jindi Worabak dance group. The cultural program also included performances from the Eip Karem Beizam Dancers, a group of 25 performers from the Torres Strait. The performance of the Torres Strait dancers was applauded by conference delegates who gave them a double standing ovation. One conference delegate said that 'the Torres Strait Indigenous Culture Group traditional song and dance was a real treat'.



As in previous years, the first day of the program was reserved for native title claimants, native title holders and their representatives. Conference sessions addressed several themes including: strengthening communities; respectful engagement; rivers, lakes and sea country; economies, ecologies and ideologies; and connecting throughout diversity.

During the Conference, Indigenous Talking Circles provided an opportunity for Indigenous delegates to discuss how native title has impacted on their communities. There were Indigenous Talking Circles for women and youth.

The 2009 Mabo Lecture was given by Mr Les Malezer, founder and Chair of the Foundation for Aboriginal and Islander Research Action. Throughout the Conference keynote addresses were given by: Tom Calma, Social Justice Commissioner; Mr Graham Atkinson, Chair Victorian Land Justice Group, Victorian Attorney-General the Hon. Robert Hulls MP, and Federal Attorney General, the Hon Robert McClelland MP.

The Conference received generous support from the primary sponsor the Department of Families, Housing, Community Services and Indigenous Affairs, and major sponsors such as Department of Justice Victoria, the Attorney-General's Department and the Department of Education Employment and Workplace Relations, Newmont Asia Pacific and the Department of Sustainability and Environment Victoria. Other sponsors and supporters included the National Native Title Tribunal, Minerals Council of Australia, City of Melbourne, Land & Water Australia, Torres Strait Regional Authority, CSIRO, AFL, Santos and Hilton Hotels.

The Native Title Conference is a very important opportunity for a variety of stakeholders within the native title system to engage in conversations. We are all looking forward to the Annual National Native Title Conference 2010.

Selected Conference papers are available online at:

<http://ntru.aiatsis.gov.au/conf2009/NativeTitleConferenceWebsite/papers.html>

Report from the 2nd National Meeting of Registered Native Title Bodies Corporate

By Sarah Robin, NTRU

The second national meeting of Registered Native Title Bodies Corporate (RNTBCs) was held at the MCG in Melbourne on Tuesday 2 June 2009. Approximately 61 representatives from RNTBCs around Australia attended the gathering which was held prior to the National Native Title Conference.

Participants travelled from all over Australia to take part in the meeting, many from remote communities, including a significant delegation from the Torres Strait where approximately one third of RNTBCs are located.

The purpose of the meeting was for RNTBCs to share experiences and exchange ideas about the representative and advocacy needs of the emerging RNTBC sector in the post native title determination landscape.

Many RNTBC representatives spoke positively about the strength and determination of their groups to progress but were significantly disheartened by the lack of funding for RNTBCs to ensure effective governance, coordination and administration. Many RNTBC members work in a voluntary capacity and receive little support for the important regulatory and legislative functions they are required to perform.

Participants at the meeting expressed their frustration that the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) has no structured funding regime for RNTBCs. There was also some frustration that RNTBCs are required to make

funding applications to FaHCSIA through their Native Title Representative Bodies (NTRBs) and in the Torres Strait to the Torres Strait Regional Authority (TSRA).

As the recognised traditional owners of substantial areas of land and sea in Australia, RNTBCs aspire to negotiate directly with government and stakeholders. RNTBCs recognise that a great deal of potential exists for development in the areas of natural resource and land management, commercial enterprises, property development and local government.



In order to harness this potential, participants at the meeting expressed the need for RNTBCs to develop a strategic framework for progressing their development as well as 'road maps' for individual RNTBCs. There is also a need for RNTBCs to be working in partnership with other

organisations in Indigenous communities, in more integrated approaches particularly through joint planning.

The meeting resolved to establish a national peak body for RNTBCs to provide advocacy and support and to represent their collective interests. The meeting also requested ongoing support from AIATSIS and sought annual or biennial RNTBC meetings where progress in the interim could be evaluated.

'PBCs are the future of land and sea management and decision making about country in Australia,' said Darryl Pearce, CEO of Lhere Artepe RNTBC. 'As the rightful owners of substantial amounts of land and water in Australia, recognised by the courts, PBCs are looking for a change in their relationship with governments and agencies and to be taken seriously.'

New Victorian Alternative Settlements Framework

This information is extracted from a Victorian Government media release.

On Thursday, 04 June 2009 at the Annual Native Title Conference Deputy Premier and Attorney-General Rob Hulls announced its intention to implement a new way of settling native title claims which would save taxpayers money and lead to better outcomes for Indigenous communities.

Under the new Victorian settlements framework, traditional owner groups could choose to negotiate directly with the state to settle their native title claim rather than go through the courts. It is expected that the new framework will result in a quicker resolution of claims, stronger partnerships with Indigenous Victorians and better outcomes including increased economic opportunities.

Traditional owner groups asserting native title rights and interests would still need to demonstrate their connection to their predecessors at the time Victoria was settled, that they were an inclusive group representative of all traditional owners for the area, and that they had sufficient organisational capacity.

The final step in the development and implementation of the framework is securing funding from the Commonwealth Government.

Further information about the framework is available from the Department of Justice, Victoria website: <http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Your+Rights/Indigenous+Victorians/Native+Title/USTICE+-+The+Native+Title+Settlement+Framework>

AIATSIS and NNTT Native TitleVision

Native TitleVision, produced by staff of the geospatial unit of the National Native Title Tribunal (NNTT), gives registered users access to an interactive map of Australia with layers of information relevant to native title, such as ILUAs, mining leases, or determinations.

This June, the NNTT added the 1:250,000 map sheet boundaries to its Native TitleVision program. These boundaries, or grid references, are useful in locating native title claims. MURA, the AIATSIS online catalogue, includes these grid references for most of the items held in the Library and the Audiovisual Archive.

Once a user registers with the NNTT for access to Native TitleVision, it will be possible to get the 1:250,000 grid references for any claim on the NNTT maps. These can then be used to query the AIATSIS catalogue. For example, if a claim in the Northern Territory is within the SF53-06 area, a search on MURA using that exact term will show all of the print and audiovisual materials held at AIATSIS from that grid area. For information on how to register for Native TitleVision, enter the NNTT website at <http://www.nntt.gov.au/Pages/default.aspx>, scroll down to "Quick links" and click on Native TitleVision now available.



NTRU Project Reports

Negotiation Project Update

This project has consisted of a number of now completed and interconnected elements:

- a negotiation workshop including the filming of a negotiation hypothetical;
- publishing by the NTRU of a discussion paper scoping native title negotiation issues for which a number of interviews were conducted with those involved in native title negotiations; and
- presentation of the paper at a negotiation session at the Native Title Conference 2009 in Melbourne.

On 19th March 2009, a one-day negotiation workshop was held in Sydney for Native Title Representative Body (NTRB) staff in association with FaHCSIA's Senior Policy Officer forum. The workshop was facilitated by Shirli Kirschner of Resolve Advisers.

The morning was taken up with the filming of a negotiation hypothetical, the panel consisting of a range of representative stakeholders. The afternoon had two training 'taster' sessions. In the first, the structure of negotiation in terms of 7 interest-based elements and their use was discussed. The second session focused on identifying triggers or 'buttons' that get pushed within or across the teams, strategies for dealing with them and the power of language working in large groups.

The film will be available from the NTRU on request from NTRBs for training purposes and a copy is deposited in the AIATSIS library.

Additionally, a draft paper titled 'Scoping Process Issues in Negotiating Native title Agreements' prepared by Delwyn Everard for the NTRU was distributed to participants in the negotiation workshop and informed the design of the negotiation hypothetical. Following the workshop the paper was revised, peer reviewed and has now been published.

For further information on this project please visit our website:

http://ntru.aiatsis.gov.au/major_projects/compensational_settlements.html

NTRU Publication

[Research Monograph: The Gunditjmarra Land Justice Story, By Dr Jessica K. Weir with DVD-Rom by Amy Williams](#)

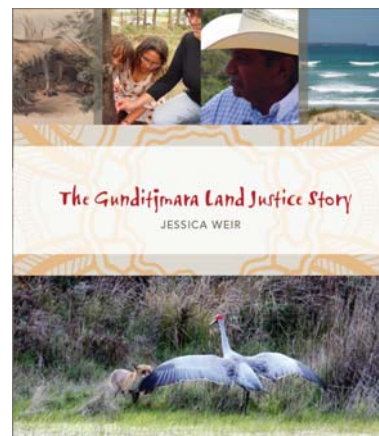
The Gunditjmarra Land Justice Story is a case study of the land justice experiences of the Gunditjmarra people in the 1980s and their present day recognition of native title.

The legal significance of the 1984 High Court *Onus v Alcoa* decision and the language the State of Victoria used in the Preamble to the Lake Condah legislation, are often overlooked in the history of land rights and native title in Australia. These outcomes sit alongside other well known bench marks in our land rights history, including the Gurindji strike in 1966 (also known as the Wave Hill Walk-Off) and the land claim that led to the development of land rights legislation in the Northern Territory.

The Gunditjmarra Land Justice Story also considers the possibilities and limitations of native title within the broader context of land justice.

The project commenced following an invitation by Damein Bell, Chairman of the Gunditj Mirring Traditional Owners Aboriginal Corporation RNTBC. It involved fieldwork conducted on Gunditjmarra country and included interviews with a number of Gunditjmarra people. The Gunditjmarra Land Justice Story interweaves the stories of the Gunditjmarra with those of the broader community as well as political and legal arguments.

A DVD-Rom is available with the book, however, it is not available online.



What's New

Legislative Reforms and Reviews

Native Title Amendment Bill 2009, Report of the Senate Standing Committee on Legal and Constitutional Affairs, May 2009.

The report of the Senate Standing Committee on Legal and Constitutional Affairs on the *Native Title Amendment Bill 2009* was delivered in May 2009. Ultimately, the Committee recommended that the Bill be passed.¹

The Committee began by summarising the key amendments proposed by the Bill. The Bill:

- invests the Federal Court with the authority to decide whether it, the National Native Title Tribunal, or another individual or body should mediate a native title claim;
- further encourages and facilitates negotiated settlement of claims;
- allows the application of amended evidence rules for evidence given by the Aboriginal and Torres Strait Islander people to apply to native title claims in certain circumstances; and
- streamlines provision relating to the role of representative bodies.²

In Chapter 2 the Committee discussed in detail each of the proposed changes.

In Chapter 3 the Committee noted that the:

Tribunal's concerns derive largely from the Bill's proposal to centralise the management of native title cases in the court and hinge on the assertion that the amendments would not necessarily bring about a faster or more efficient claims settling process.³

The Tribunal argued that the amendments in relation to mediation were problematic. The amendments would lead to the possible segmentation of claims, resulting in duplication and wasted time and resources. Mr Neate also argued that the amendments may also create

uncertainty about the respective powers and functions of the Court and the Tribunal. He stated that these are clearly identified within the current system.

The Committee noted the comments of an earlier senate inquiry, 'significant concerns were expressed about the expansion of the NNTT's powers, particularly as most stakeholders do not have confidence in the NNTT's capacity or expertise to conduct effective mediation'.⁴

The Tribunal's contention that the changes will not bring about improvements in the claims process was disputed by the Court which argued that: results could be obtained through a flexible and responsive approach; the Court has a wealth of experience; and the Court in the best position to decide which mechanism was in the best interests of each case.

The reasoning of the Committee is captured in the following paragraph:

While the arguments of the NNTT and others that native title is inherently complex and drawn-out, the committee is impressed by the innovations and flexibilities offered by the Federal Court taking a more central role in case management. The capability of the Court is clear, and the committee considers there is good reason to anticipate a smoother and more expeditious flow of native title case management as a result of the changes being implemented. For these reasons, and in the absence of substantive criticism of other aspects of the Bill, the committee recommends the Bill be passed.⁵

Native Title Amendment Bill 2009 (Amendment to be moved by Mr Oakeshott)

The amendment introduces a provision that reverses the current burden of proof. The text is as follows:

Part 3— Burden of proof for applicants

20 After section 61A

Insert: 61B Burden of proof for applicants

¹ [3.19] p15

² [1.3] p.1.

³ [3.3] p.11.

⁴ [3.7] pp.12-13.

⁵ [3.14] pp.14-15.

(1) This section applies to an application for a native title determination brought under section 61 of the Act where the following circumstances exist:

- (a) the native title claim group defined in the application applies for a determination of native title rights and interests where the rights and interests are found to be possessed under laws acknowledged and customs observed by the native title claim group;
- (b) members of the native title claim group reasonably believe the laws and customs so acknowledged to be traditional;
- (c) the members of the native title claim group, by their laws and customs have a connection with the land or waters the subject of the application;
- (d) the members of the native title claim group reasonably believe that persons from whom one or more of them was descended, acknowledged and observed traditional laws and customs at sovereignty by which those persons had a connection with the land or waters the subject of the application.

(2) Where this section applies to an application it shall be presumed in the absence of proof to the contrary:

- (a) the laws acknowledged and customs observed by the native title claim group are traditional laws and customs acknowledged and observed at sovereignty;
- (b) the native title claim group has a connection with the land or waters by those traditional laws and customs;
- (c) if the native title rights and interests asserted are capable of recognition by the common law then the facts necessary for the recognition of those rights and interests by the common law are established

Recent Cases

Australia

Coyne v State of Western Australia [2009] FCA 533

This case concerned an application under section 66B of the *Native Title Act 1993* (Cth) to replace the current applicant to a native title determination (known as the Southern Noongar claim). The motion was opposed by three parties to the proceeding. The issues were whether the claim group meeting was representative, whether authorisation of replacement applicant was effective, and whether the application was affected by the death of two persons authorised by claim group to comprise the replacement applicant before application was heard. Justice Siopis held that the applicants were/are authorised to make the native title application as the replacement for the current applicant.

Hogan v State of Western Australia [2009] FCA 610

The primary issue in the case was whether the Court could use its discretionary power to dismiss an application on its own motion where the applicant had previously failed the registration test.

On 13 November it was decided that the application did not satisfy a number conditions of the registration test. Following that date the applicants had not applied for reconsideration of the decision or amendment of the application. Further, there was no evidence to suggest it would be amended in a way that would lead to a different outcome. Therefore, under section 190F(6) *Native Title Act 1993* (Cth) the application could be dismissed. However, the judge noted that the applicants could in the future file a 'properly constituted claim'.

Hunter v State of Western Australia [2009] FCA 654

The Nyangumarta People applied to the Federal Court for a determination of native title by consent in relation to an application area in the northwest Pilbara and southwest Kimberley regions. The Court made the order pursuant to sections 87 and 87A of the *Native Title Act*

1993 (Cth) (NTA). The Court also made an order, under section 56 NTA, giving effect to the parties' proposal that the Nyangumarta Warrarn Aboriginal Corporation be the trustee of the native title rights and interests.

Most of the application area is unallocated Crown Land, to which the Nyangumarta People hold an entitlement as against the whole world to the possession, occupation, use and enjoyment of the land and waters to the exclusion of all others. Regarding other parts of the application area which are held under various pastoral leases, the Nyangumarta People hold non-exclusive rights including the right to access, move through, and live on the area. All of these native title rights and entitlements are subject to any inconsistent rights of others.

Martin (deceased) v State of Western Australia (No 2) [2009] FCA 635

The case concerned an application under sections 61(1) and 66B(1)(b) of the *Native Title Act 1993* (Cth) (NTA) to replace the applicant in native title proceedings following the applicant's death. Orders were also sought to amend the claimant application in other ways. The applications were opposed by the Yamatji Marlpa Aboriginal Corporation (YMAC) who argued non-compliance with the NTA. The Court held that the claim group had complied with the requirements of the NTA (i.e. the claim group had appropriately authorised the seven nominated persons to make the application and deal with matters arising in relation to it). Furthermore, the judge rejected YMAC's assertion that the claim group was attempting to vindicate the native title rights of some larger group, of which they are a part, without the larger group's authority. Overall, the Court permitted the replacement of the deceased applicant and the proposed amendments to the claimant application.

Minister Administering the Crown Lands Act v Bathurst Local Aboriginal Land Council [2009] NSWCA 138

The Bathurst Local Aboriginal Land Council (the "BLALC") lodged an Aboriginal Land Claim over the Sir Joseph Banks Nature Park (the "Reserve"). The Reserve had previously been precluded from sale in order to

preserve native flora, but had recently been closed down in July 2001 and made open to the public.

In accordance with s36(1)(b) of the Aboriginal Land Rights Act 1983 (NSW) (the Act), the BLALC would only be entitled to claim the Reserve if the land was not "lawfully used or occupied". The Minister administering the Crown Lands Act 1989 refused the BLALC's claim on the basis that the Reserve did not constitute claimable Crown land under the ALR Act.

The meaning of "used or occupied" was extensively considered, and ultimately the Reserve was transferred to the BLALC because it was not lawfully used or occupied when the claim was lodged. On appeal, it was held that no error of law had been made by the Land and Environment Court in reaching this conclusion, and consequently the appeal was dismissed.

Nambucca Heads Local Aboriginal Land Council v Minister for Lands [2009] FCA 624

An application was made by the Nambucca Heads Local Aboriginal Land Council (the Council) under section 61 *Native Title Act 1993* (Cth) (NTA) for a determination regarding existing native title rights and interests. The application was made in order to facilitate a joint venture by the Council and Indigenous Business Australia to develop two lots of land, owned by the Council, into a shopping centre. Section 40AA of the *Aboriginal Land Rights Act 1983* (NSW) prohibited the Council from disposing of the land without "an approved determination of native title". The Court determined that there were no native title rights and interests in relation to the land.

Walmbaar Aboriginal Corporation v State of Queensland [2009] FCA 579

In this case the Walmbaar Aboriginal Corporation applied under sections 50(2) and 61(1) of the *Native Title Act 1993* (Cth) (NTA) for a determination of the compensation payable in respect of acts that extinguished, significantly impaired or otherwise affected the native title rights and interests of the Dingaal People forming part of the Hopevale determination. Overall, it was found that Walmbaar had commenced the compensation application without authority (Rule 9(1) of

the corporation's rules, section 57(3)(b) NTA, Regulation 7 of the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth)) of the and further, that the compensation claim included lands and waters over which there had been no determination of native title. Thus, the application was dismissed pursuant to s84C NTA.

Western Desert Lands Aboriginal Corporation (Jamukurnu – Yapalikunu)/Western Australia/Holocene Pty Ltd [2009] NNTTA 49

This case concerned an application under section 35 of the *Native Title Act 1993* (Cth) (NTA) for a future act determination under section 38 NTA. The future act was the granting of a mining lease under the *Mining Act 1978* (WA) to Holocene Ltd over land which is the subject of the native title determination of the Western Desert Lands Aboriginal Corporation (Jamukurnu – Yapalikunu) (WDLAC/the Martu People).

The main issue was the effect of the project on Lake Disappointment, a site of particular significance, in the context of the interests, proposals, opinions or wishes of WDLAC in relation to the management, use or control of the land. It was argued by WDLAC that the mining lease should not be granted unless agreement could be reached regarding a satisfactory working relationship, protection of heritage, regulation of activities, appropriate involvement and reasonable benefits and compensation including relevant ownership of the project. Although it was noted that a native title party does not have a veto over development proposals, it was recognised that the Tribunal should give considerable weight to their view about the use of the land.

Deputy President Sumner in his conclusion stated:

'In my view the interests, proposals, opinions and wishes of the native title party [WDLAC] in relation to the use of Lake Disappointment should be given greater weight than the potential economic benefit or public interest in the Project proceeding' [216].

The final determination was that the mining lease must not be granted.

International

Case of the Saramaka People v. Suriname, Inter-American Court of Human Rights, Judgment of November 28, 2007

The application submits to the Court's jurisdiction alleged violations committed by the State against the members of the Saramaka people, an allegedly tribal community living in the Upper Suriname River region. The Commission alleged that the State has not adopted effective measures to recognise their right to the use and enjoyment of the territory they have traditionally occupied and used, that the State has allegedly violated the right to judicial protection to the detriment of such people by not providing them effective access to justice for the protection of their fundamental rights, particularly the right to own property in accordance with their communal traditions, and that the State has allegedly failed to adopt domestic legal provisions in order to ensure and guarantee such rights to the Saramakas.

This finding was supported by the Federal Court, who reasserted that the State did not provide for the resumption of the native customary rights land or the extinguishment of such rights.

New Zealand Fish and Game Council v Attorney-General & Anor CIV-2008-485-2020 12 May 2009-05-14

The issue that arose in this case was whether a pastoral lease granted under the *Land Act 1949* had the effect of granting exclusive possession. Ultimately the judge held exclusive possession was granted. However, the judge noted that he had not considered the relationship of the leases to native or customary title. Therefore he was not commenting on the effect of the leases on native title.

NTRU Publications

Everard, D. 2009. 'Scoping Process Issues in Negotiating Native Title Agreements', Research Discussion Paper No.23, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.

Weir, J.K. 2009. 'The Gunditjmarra Land Justice Story', Native Title Research Monograph 1/2009, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.

Other Publications

Books / Reports

Department of Justice, Report of the Steering Committee for the Development of a Victorian Native Title Settlement Framework, Department of Justice, Victorian Government, Melbourne, December 2008. Available at: <http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/resources/file/ebf9a00adc6c233/FINAL%20SC%20Report%2013May09.pdf>

Papers

Altman, J., and Jordan, K. 2009. 'A Brief Commentary in Response to the Australian Government Discussion Paper "Optimising Benefits from Native Title Agreements" and the Report of the Native Title Payments Working Group' CAEPR Topical Issue 3/2009, Centre for Aboriginal Economic Policy Research, Canberra.

Armstrong, R. 2009. An overview of Indigenous rights in water resource management, Revised: Onshore and offshore water rights discussion booklets, Prepared by the Lingiari Foundation and North Australian Indigenous Land and Sea Management Alliance. Available at: http://www.nailsma.org.au/publications/indigenous_water_rights.html

Morphy, F. and Morphy, H. 2009. 'The Blue Mud Bay case: refractions through saltwater country', *Dialogue*, vol.28, no.1, pp.15-25.

National Native Title Tribunal, Talking Native Title, Issue No 31, June 2009.

Richardson, B., Imai, S., McNeil, K. *Indigenous peoples and the law: comparative and critical perspectives*, Hart, Oxford, 2009.

Wright, L., and Sparkes, S. 2009. 'ILUA discussion paper: Authorisation of an area agreement', National Native Title Tribunal, 28 May 2009.

Native Title in the News

National

02-May-09 **NATIONAL Urging on changes** The Federal Government has been urged to amend native title laws by providing a presumption of continuity to the lands claimed by Indigenous peoples. The presumption could be rebutted if it was proved there has been substantial interpretation in the observance of traditional law and custom by claimants. *Northern Daily Leader*, (Tamworth NSW, 2 May 2009), 3. *Daily Liberal*, (Dubbo NSW, 2 May 2009), 5. *National Indigenous Times*, (14 May 2009), 6.

Northern Territory

13-Jun-09 **NT Alice Springs parks given to Aboriginal peoples** A large section of land has been handed back to Aboriginal people in central Australia, ending a struggle for recognition by traditional land owners. The land is home to many culturally significant sites. The hand back is subject to 99-year leases to the NT government, allowing the land to continue being used as national parks. *Burnie Advocate*, (Burnie TAS, 13 June 2009), 23.

25-Jun-09 **NT Parks and reserves win for Top End traditional owners** A large chunk of land has been handed back to traditional owners in Central Australia, ending a hard fought struggle for recognition by traditional land owners. Nine parks and reserves to the east and south of the desert town of Alice Springs were returned to traditional owners earlier this month, including Trephina Gorge, Chambers Pillar and Ndhala Gorge. *Queensland National Indigenous Times*, (Malua Bay NSW, 25 June 2009), 7.

15-May-09 **QLD Native title deal** Indigenous groups have signed an agreement with WWF-Australia to obtain faster resolution to native title claims and better protection for native title land. WWF signed the Memorandum of Understanding with the Queensland Indigenous Working Group in Brisbane on the 14 May 2009. *Cairns Post*, (Cairns, 15/05/2009), 14. *Advertiser*, (Adelaide 15 May 2009), 27. *Western Cape Bulletin*, (Weipa QLD, 20 May 2009), 2.

21-May-09 **QLD Land rights claim** Traditional land owners are considering legal action against developers of a proposed Queensland Sports Museum. There are

claims of disturbed soil without notification says Peter Bird, an Elder of the Undumbi tribe. Under the Native Title Act and Cultural Heritage Act, the traditional owners are entitled to be part of negotiations. *Redcliffe & Bayside Herald*, (Brisbane QLD, 27 May 2009), 1. *Redcliffe & Bayside Herald*, (Brisbane QLD 27 May 2009), 1.

Queensland

26-Jun-09 QLD **Historic land rights victory** A 14 year battle over ancient land and sea rights in far north Queensland has been won by the traditional owners of the land. The Federal Court of Australia on Cape York, in a historic sitting, recognised the Kuuku Ya'u people's claim for a remote beach and sea at Portland Roads, 850km north Cairns. *Townsville Bulletin*, (Townsville QLD, 26 June 2009), 8. *Sydney Morning Herald*, (Sydney NSW, 26 June 2009), 6. *Courier Mail*, (Brisbane QLD, 26 June 2009), 13. *Australian*, (Australia, 26 June 2009), 7. *Cairns Post*, (Cairns QLD, 26 June 2009), 7. *Newcastle Herald*, (Newcastle NSW, 26 June 2009), 25.

26-Jun-09 QLD **Native title agreement one step closer** A ceremony in Bouia was performed to mark the first step towards a native title agreement in the North West. A Memorandum of Understanding was signed by a representative from the Pitta Pitta People native title claimant group, Boulia Shire Council, Cloncurry Shire Council and Diamantina Shire Council on 24 June 2009. Objectives of future talks were outlined on the Memorandum of Understanding. *North West Star*, (Mount Isa QLD, 26 June 2009), 7.

29-Jun-09 QLD **Agreement on land rights** Continuing talks between five North West Queensland councils and the Kalkadoon people continue to pave the way towards a native title agreement in the North West. A Memorandum of Understanding was endorsed, committing parties to further negotiations to develop an Indigenous land use agreement. *North West Star*, (Mount Isa QLD, 29 June 2009), 9. *North West Star*, (Mount Isa QLD, 19 June 2009), 3.

South Australia

14-May-09 SA **Muduwonga people opposed to Olympic Dam expansion** The Muduwonga people have opposed an expansion to the Olympic Dam, after the release of the project's environmental impact statement. Alongside the Muduwonga people are the Barnarla and Kuyani peoples who have also claimed a native title

interest in the Olympic Dam region. *Roxby Downs Sun*, (Port Augusta SA, 14 May 2009), 4.

Victoria

10-Jun-09 VIC **Framework will speed up native title claims** Damein Bell, Chairman of the Portland region's native title holders group has welcomed Cabinet's support for the new native title agreement process. Gunitjmarra people's have a new found faith in the Victorian Native Title Settlement Framework supporting the new process. Victoria is the first Australian state to allow native title claims to be settled outside the court system. *Portland Observer*, (Portland VIC, 10 June 2009), 5. *Hamilton Spectator*, (Hamilton VIC, 6 June 2009), 4. *National Indigenous Times*, (Malua Bay NSW, 11 June 2009), 5. *Daily Liberal*, (Dubbo NSW, 5 June 2009), 54. *Warrnambool Standard*, (Warrnambool VIC, 4 June 2009), 10.

Western Australia

08-May-09 WA **Naaguja people seal work deal** A native title agreement has been settled between MGM Pipelines and the Naaguja working group. The native title agreement covers over 5581 square kilometres of land in Mid West and Gascoyne. *Geraldton Guardian*, (Geraldton Western Australia, 8 May 2009), 8.

15-May-09 VIC **Coalition worried by native title move** The Federal Coalition will not specify whether it will support changes to the native title system in the upper house, after Liberal senators raised concerns about giving the Federal Court more power. The law has been passed in the lower house, giving the Court a more central role in adjudicating native title claims. *Border Mail*, (Albury-Wodonga VIC, AU 15 May 2009), 18.

21-May-09 WA **Handover of highly valued cattle station** A cattle station purchased by the Indigenous Land Corporation has grown into a \$30 million gem in the Kimberley pastoral industry and is to be handed back to traditional owners. The station has been owned and managed for the past 10 years by the ILC. The ILC was established by the Keating Government to buy land for Aboriginal people through a self-sustaining account, which has grown to \$1.7 billion. *Australian*, (Australia, 19 May 2009), 6.

25-May-09 WA **NNTC backs changes to native title laws** The National Native Title Council has backed the Native Title Bill, moved by Independent MP Robert

Oakeshot. According to NNTC chairman Brian Wyatt, the amendment would shift the burden of proof about connection to country from the native title claimants to respondents to claims, in particular the Government.

Kalgoolie Miner, (Kalgoolie WA, 25 May 2009), 5.

29-May-09 WA **Historic native title win** An Aboriginal Land Corporation has had an historic win in the National Native Title Tribunal by blocking an application for a mining lease. Reward Minerals Ltd subsidiary Holocene Pty Ltd was denied a lease over Lake Disappointment. The National Native Title Tribunal cited interference of cultural rights on behalf of the native title holders, the Martu People. This is the first case where a company has failed to win a mining application on land granted under the Native Title Act. *West Australian*, (Perth, 29 May 2009), 4, *Summaries - Australian Financial Review*, (Australia, 1 June 2009), 7.

31-May-09 WA **Native title concern over Whim Creek mine** The Ngarluma Aboriginal Corporation was angered after Environment Minister Donna Faragher has approved an \$800 million magnetite iron ore mine proposed by Aurox Resources Limited. Representatives of the Ngarluma Aboriginal Corporation have complained that no consultation took place between the Ngarluma people and Aurox. *North West Telegraph*, (South Headland WA, 13 May 2009), 15. *Pilbara News*, (Pilbara Western Australia, 6 May 2009), 4.

06-Jun-09 WA **Bid for native title rights** The Mantjintjarra Ngalia people have applied to the Federal Court of Australia to have their native title rights recognised over two areas of land near Wiluna. The new application area by the Mantjintjarra Ngalia People is at the junction of the Goldfields and Central Desert regions and covers mixed tenures, including vacant Crown land, pastoral leases and mining tenements. *Kalgoorlie Miner*, (Kalgoorlie WA, 6 June 2009), 5.

18-Jun-09 WA **Epic native title fight** Nyangumarta elder Nyapuru Rose celebrated her people's native title win over almost 40,000sqkm of land stretching from 80 mile beach to the Great Sandy Desert. *Broome Advertiser*, (Broome WA, 18 June 2009), 1. *Sydney Morning*, (Sydney NSW, 12 June 2009), 5. *National Indigenous Times*, (Malua Bay NSW, 25 June 2009), 7. *Farm Weekly*, (Western Australia, (18 June 2009), 146.



ILUAs

NAME	TRIBUNAL FILE NO.	TYPE	STATE OR TERRITORY	REGISTRATION DATE	SUBJECT- MATTER
Mt John Valley ILUA	DI2009/002	Area agreement	NT	06/05/2009	Development
KULLA (McIlwraith Range & Mt Croll) ILUA	QI2008/018	Area agreement	QLD	13/05/2009	Co-management
Trekelano Term Lease ILUA	DI2009/002	Area agreement	QLD	14/05/2009	Extinguishment Infrastructure
Urremerne ILUA	DI2008/008	Area agreement	SA	20/05/2009	Access
Koweridda Pastoral ILUA	SI2008/012	Area agreement	SA	26/05/2009	Access
Yarna Pastoral ILUA	SI2008/008	Area agreement	SA	26/05/2009	Access
Siam Pastoral ILUA	SI2008/011	Area agreement	SA	26/05/2009	Access
Lake Everard Pastoral ILUA	SI2008/013	Area agreement	SA	26/05/2009	Access
Marla Township ILUA	SI2006/001	Area agreement	SA	26/05/2009	Access
Lockes Claypan Pastoral ILUA	SI2008/015	Area agreement	SA	26/05/2009	Access
Wilgena Pastoral ILUA (AJ & PA McBride Pty Ltd)	SI2008/016	Area agreement	SA	26/05/2009	Access
Hiltaba Pastoral ILUA	SI2008/017	Area agreement	SA	26/05/2009	Access
Yardea Pastoral ILUA	SI2008/014	Area agreement	SA	26/05/2009	Access
Part Hiltaba Pastoral ILUA	SI2008/009	Area agreement	SA	26/05/2009	Access
Yeltana Pastoral ILUA	SI2008/010	Area agreement	SA	26/05/2009	Access
Thurlga Pastoral ILUA	SI2007/003	Area agreement	SA	26/05/2009	Access
Lot 828 Town of Borroloola ILUA	DI2008/006	Area agreement	NT	27/05/2009	Development
Siam North Pastoral ILUA	SI2008/007	Area agreement	SA	27/05/2009	Access
Gunggari People ILUA	QI2008/024	Area agreement	QLD	29/05/2009	Government

This information has been extracted from the Native Title Research Unit ILUA summary:

http://ntru.aiatsis.gov.au/research/ilua_summary.html, 6 July 2009. For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Determinations

SHORT NAME	CASE NAME	DATE	STATE OR TERRITORY	OUTCOME	LEGAL PROCESS	TYPE
Nyangumarta People (Part A)	Hunter v State of Western Australia [2009] FCA 654	11/06/2009	WA	Native title exists in parts of the determination area	Consent determination	Claimant
Nambucca Heads Local Aboriginal Land Council	Nambucca Heads Local Aboriginal Land Council v Minister for Lands [2009] FCA 624	10/06/2009	NSW	Native title does not exist	Unopposed determination	Non-claimant

This information has been extracted from the Native Title Research Unit Determinations summary:

http://ntru.aiatsis.gov.au/research/determinations_summary.html, 6 July 2009. For further information about native title 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 on MURA do not have a full citation because they are preliminary catalogue records.

The AIATSIS Library now has the following journals and newsletters:

- *On the lands : a newsletter for APY communities-*

http://www.premcab.sa.gov.au/dpc/publications_divisional_aard.html#newsletters

- *South Australian Aboriginal lands bulletin*
- *Bulletin of the Northern Territory* (Melbourne : Dept. of External Affairs, 1912-1936)

The *Australian Indigenous Law Review* has put out a special edition (Vol. 12, 2008) dealing with issues arising from the *Bringing Them Home* report.

Audiovisual material of interest to native title includes:

Audio:

- A short excerpt of a recording made in 1965 of a corroboree recorded at Mt. House, W. Kimberley (BLYTHE_J04).

- Approximately 9 hours of taped interviews with Ossie Cruse (NORMAN_S01).
- Approximately 2 hours of taped interviews of Aboriginal histories of Charters Towers (BABIDGE_S01)
- 5 hours of taped oral histories from Victoria River Downs (DIWURRUWURRU-JARU_10)

Photographic:

- 27 black and white prints of Community portraits and housing in the Armidale area taken from 1956-1993. (FRANKLIN.M1.CD)
- 245 tiff. Files of images from the Norman F. Nelson Collection: Mission scenes from Mornington Island, dating from 1936. (NELSON.N1.CD)
- 4 black and white prints of rock art from the Pilbara from 1973 to the 1980s. (MAYNARD.L1.CD) and 71 black and white

negatives from the Pilbara taken in 1981 (MAYNARD.L1.BW).

- 627 colour slides taken from 1963-1994 at Warburton Mission (GLASS.A1.CS)

Archaeology

Carter, Melissa

'Recent results of excavations on Murray Islands, Eastern Torres Strait and implications for the early links with New Guinea: bridge and barrier revisited.' *Tempus* Vol.7 (2002), p. 1-10.

Gibbs, Martin.

'Ritual engines and the archaeology of territorial ascendancy.' *Tempus* Vol.7 (2002), p. 11-19.

MacIntyre, Ken.

Report on Aboriginal consultations and site investigation of the "Owl stone" at Hanson's Red Hill Quarry, Lot 11, Toodyay Road, City of Swan : prepared for the combined Swan River and Swan coastal plains and Darling Ranges Nyungar Elders, Native title holders and traditional owners on behalf of all Nyungar and Aboriginal people. 2009.

Marwick, Ben.

'Milly's Cave: evidence for the human occupation of the inland Pilbara during the Last Glacial Maximum.' *Tempus* Vol.7 (2002), p. 21-33.

Anthropology

Mulvaney, Ken.

'Patterns of variation and social intercourse: a case of Aboriginal and Macassan contact in the Top End.' *Tempus* Vol.7 (2002), p. 35-43.

Economics

Biddle, Nicholas.

Ranking regions : revisiting an index of relative Indigenous socioeconomic outcomes. Canberra : Centre for Aboriginal Economic Policy Research, 2009.

Godden, Lee.

'Accommodating interests in resource extraction : Indigenous peoples, local communities and the role of law in economic and social sustainability.' *Journal of energy & natural resources law* Vol. 26 no.1 2008 : p. 1-30.

Sercombe, Howard.

'Living in two camps: the strategies Goldfields Aboriginal people use to manage in the customary and

the mainstream economy at the same time.' *Australian Aboriginal Studies* no.2 (2008) p. 16-31.

Government policy

Australia [New South Wales Government].

Framework document : overarching agreement on Aboriginal Affairs between the Commonwealth of Australia and the State of New South Wales 2005-2010. [Sydney] : New South Wales Govt, [2004?].

Australian Institute of Aboriginal Studies. Uranium Impact Project Steering Committee.

'Social impact of uranium mining on the Aborigines of the Northern Territory, period 1 October 1979 to 31 March 1980 : report to the Minister for Aboriginal Affairs'. Canberra : Government Printer, 1981.

Bond, John.

'Australian responses to the removal policies'. *Australian Indigenous Law Review*, Special edition, Vol. 12, (2008), p. 38-43.

Calma, Tom

'Australian Government responses to the 'Bringing Them Home' Report'. *Australian Indigenous Law Review*, Special edition, Vol. 12, (2008), p. 8-12.

Cunneen, Chris.

'Bringing them Home and the contemporary criminalisation of Indigenous young people'. *Australian Indigenous Law Review*, Special edition, Vol. 12, (2008), p. [46]-54.

Queensland. Office of Aboriginal and Torres Strait Islander Affairs.

Alternative Governing Structures Program : a process for planning community decision-making : Program description and funding guidelines. [Brisbane] : Office of Aboriginal and Torres Strait Islander Affairs, 1996.

History – exploration, commentary and accounts

Barratt, Glynn.

Research on European records for the Nuenome people from late 18th century French naval journals. [2008-2009.]

Bezant, Betty.

Our river days : a reflection of childhood memories, 1942-1946 : children from Otford, New South Wales and Croker Island, Northern Territory. Armidale, N.S.W. : Kardoorair Press, 2008.

Broome, Richard.

'There are vegetables every year Mr Green was here': right behaviour and the struggle for autonomy at Coranderrk Aboriginal Reserve.' *History Australia : Journal of the Australian Historical Association* Vol. 3, no. 2 (December 2006), p. 43.1-43.16.

Clark, Ian D.
Place names and land tenure : windows into Aboriginal landscapes : essays in Victorian Aboriginal history. Ballarat, Vic. : Ballarat Heritage Services, c2003.

Davenport, Sue.
Cleared out. First contact : Martu women, Weapons Research establishment and WA Department of Native Welfare, 1964 : Project report. [1999-2000].

Dyer, Colin.
The French explorers and Sydney 1788-1831. St Lucia, Qld. : University of Queensland Press, 2009.

Ianziti, Gary.
'Historiography and its discontents: the Windschuttle gambit'. *History Australia : Journal of the Australian Historical Association* Vol. 2, no. 2 (June 2005), p. 43.1-43.10.

Jebb, Mary Anne, comp.
Mowanjum 50 years : community history. Derby, W.A. : Mowanjum Aboriginal Community and Mowanjum Artists Spirit of the Wandjina Aboriginal Corporation, 2008.

Karskens, Grace.
The colony : a history of early Sydney. Crows Nest, N.S.W. : Allen & Unwin, 2009.

Kennedy, Robert.
'Tricks or treats?: a case for Kulin in Batman's treaty'. *History Australia : Journal of the Australian Historical Association* Vol. 5, no. 2 (August 2008), p. 38.1-38.14.

Kerin, Sitarani.
'Charles Duguid and Aboriginal assimilation in Adelaide, 1950-1960: the nebulous 'assimilation' goal'. *History Australia : Journal of the Australian Historical Association* Vol. 2, no. 3 (December 2005), p. 85.1-85.17.

Martinez, Julia.
Racism in the Northern Territory : the attitudes of administrators, pastoralists and unionists to Aborigines employed in the cattle industry during the Depression, 1929-1934. Thesis (B.A.(Hons.))--University of Wollongong, 1995.

Reed, Liz.
'Mrs Bon's verandah full of Aborigines': race, class, gender and friendship'. *History Australia : Journal of the Australian Historical Association* Vol. 2, no. 2 (June 2005), p. 39.1-39.15.

Russell, Lynette.
'A New Holland half-caste': sealer and whaler Tommy Chaseland'. *History Australia : Journal of the Australian Historical Association* Vol. 5, no. 1 (April 2008), p. 08.1-08.15.

Thomas, Martin.
'Word territory: recording Aboriginal languages with R.H. Mathews'. *History Australia : Journal of the Australian Historical Association* Vol. 5, no. 2 (August 2008), p. 37.1-37.18.

Willis, Elizabeth.
'History, strong stories and new traditions: the case of 'Etched on bark 1854''. *History Australia : Journal of the Australian Historical Association* Vol. 4, no. 1 (June 2007), p. 13.1-13.11.

Indexes, directories and guides:

Australia. Human Rights and Equal Opportunity Commission; Aboriginal and Torres Strait Islander Social Justice Commission.
Social justice and Native title reports : a community guide 2008. Sydney : Human Rights and Equal Opportunity Commission, 2008.

Australian Human Rights Commission.
Climate change, water and Indigenous knowledge : a community guide to the Native Title Report 2008. Sydney : Australian Human Rights Commission, 2008.

Land acquisition and land management

Australian Institute of Aboriginal Studies. Uranium Impact Project Steering Committee.
Social impact of uranium mining on the Aborigines of the Northern Territory, period 1 October 1979 to 31 March 1980 : report to the Minister for Aboriginal Affairs. Canberra : Government Printer, 1981.

Green, Donna Lisa.
Climate change and health : impacts on remote Indigenous communities in northern Australia. Aspendale, Vic. : CSIRO, 2006.

Hayward, Ken.

Natural resource management cross-cultural awareness training framework [electronic resource] : developed by Tracey Whetnall Consultancy and South Coast Regional Initiative Planning Team (SCRIPT) Ken Hayward for and on behalf of the Department of the Environment and Heritage, and the Department of Agriculture, Fisheries and Forestry. Canberra, A.C.T. : Natural Resource Management Programmes Division, Dept. of the Environment and Heritage, 2005.

<http://www.nrm.gov.au/publications/frameworks/pubs/indigenous-ccat.pdf>

Laudine, Catherine.

Aboriginal environmental knowledge : rational reverence. Burlington, VT : Ashgate, c2009.

New South Wales. Dept. of Environment and Climate Change.

Discussion paper : towards an Aboriginal land management framework for NSW : healthy country, healthy communities. Sydney : Dept. of Environment and Climate Change, 2008.

Dhimurru Land Management Aboriginal Corporation. *Yolnuwu Monuk Gapu Wanga Sea Country Plan [electronic resource] : a Yolnu vision and plan for Sea Country Management in North-east Arnhem Land, Northern Territory.* N.T. : Dhimurru Land Management Aboriginal Corporation, 2006.

<http://www.dhimurru.com.au/Downloads/DhimurruSeaCountryPlan.pdf>

Legal issues

French, Robert Shenton.

'Lifting the burden of native title: some modest proposals for improvement'. *Reform*, No. 93 (2009).

<http://www.austlii.edu.au/au/other/alrc/publications/reform/reform93/3.html>

Korosy, Zsafia.

'Native title, sovereignty and the fragmented recognition of Indigenous law and custom'. *Australian Indigenous Law Review*, Vol. 12, (2008), p. 81-95.

Neate, Graeme J.

Native title casenotes, 1971-2007. Chatswood, NSW : LexisNexis, 2009.

Williams, Michael.

[Paper 3]. *Federal Court Judges Native Title Briefing Course held at ANA Hotel, Sydney, 29-30 March 1996.* Proceedings.

Native Title- Self-determination, historical perspectives

Morgan, Monica.

'What has native title done for me lately?'. *On line opinion* [Electronic resource], 20 May 2009.

<http://www.onlineopinion.com.au/view.asp?article=8923&page=0>

Ritter, David.

The native title market. Crawley, W.A. : UWA Press, 2009.

Wyatt, Brian.

'Black and white: the bitter taste of native title'. *National Indigenous Times*, Vol. 7, No. 157.

Young, Simon.

'Cultural timelessness and colonial tethers: Australian native title in historical and comparative perspective'. *Australian Indigenous Law Review*, Vol. 12, (2008), p. 60-68.

Overseas cultural issues:

Ford, Lisa.

'Indigenous policy and its historical occlusions: the North American and global contexts of Australian settlement'. *Australian Indigenous Law Review*, Vol. 12, (2008), p. 69-80.

Kealohapau'ole Hewett, Kerri-Ann.

'A case study of how Hawaiians are able to negotiate their cultural space within their Hawaiian workplace environment'. *Ngoonjook: Journal of Australian Indigenous Issues*, No. 32 (2008), p. [109]-120.

Morse, Bradford, W. (Bradford Wilmot.).

'Government responses to the Indian Residential Schools Settlement in Canada: implications for Australia'. *Australian Indigenous Law Review*, Vol. 12, (2008), p. 41-59.

Procedures and protocols – Archives and Libraries

New South Wales

Aboriginal cultural protocols and practices policy. [Sydney] : Dept. of Premier and Cabinet, [2004].

New South Wales.

Aboriginal participation in construction guidelines : applying to projects commencing 1 January 2007. [Sydney] : New South Wales Government, [2007?].

WANT FASTER ACCESS TO INFORMATION?

The Newsletter is also available in ELECTRONIC format. This will provide a FASTER service for you, and will make possible much greater distribution, is better for the environment and allows you to use the HYPERLINKS contained in each issue. 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.

THE NATIVE TITLE RESEARCH UNIT

AIATSIS acknowledges the funding support of the Indigenous Programs Branch of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

For previous editions of this Newsletter, click on the Native Title Research Unit link at www.aiatsis.gov.au or go to <http://ntru.aiatsis.gov.au/publications/newsletters.html>

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

© Commonwealth of Australia 2009

This work is copyright. Apart from any use as permitted under the Copyright Act 1968, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney-General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>

