



# Native Title Newsletter

AIATSIS Native Title Research Unit

September/October 2004

No. 5/2004

## Contents

<b>News from the Native Title Research Unit</b>	2
<b>What's New</b>	3
<b>Upcoming Events</b>	5
<b>Features</b>	
From the Fringes to Economic Advancement	6
The Kimberley Land Council Native Title Update	8
<b>Regular items</b>	
Native Title in the News	11
Applications Lodged with the NNTT	17
Registration Test Decisions	17
Notifications	18
Recent additions to the AIATSIS Library	18
Native Title Research Unit Publications	21

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

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

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

### Staff Movements

Lisa Strelein will be in Canada from mid-October to late November on a Visiting Fellowship with the University of Victoria, British Columbia. The University of Victoria is well regarded for its Indigenous governance program.

Lara Wiseman has been appointed the Project Officer within the Unit. She will be continuing her work on the Native Title Resource Guide, with additional projects. Katherine Szabo has commenced work with the IFaMP as a part-time research assistant.

### Research Activities Sept-Oct

A one day conference on Indigenous Health and the Treaty Debate: Rights, Governance and Responsibility was held at the University of New South Wales on 11 September 2004 as part of the ARC Treaty Project. AIATSIS contributed to the organisation of the conference, along with the Gilbert and Tobin Centre of Public Law, the Jumbunna Indigenous House of Learning, HREOC, ANTAR and Reconciliation Australia.

Lisa Strelein presented a paper as part of the ANU Law Faculty series, her paper was on Native Title and Indigenous Politics: Authorisation and the Construction of 'Indigenous Societies' in the Native Title Process.

Stuart Bradfield met with members of SWALSC to discuss work assisting in progressing settlement of the Single Noongar native title claim.

Lara Wiseman attended the Australian Anthropological Society (AAS) Annual Conference which was held at the University of Melbourne from 28 September to 1 October 2004. The Conference theme was 'Moving Anthropology: Motion, Emotion and Knowledge'. On the opening day of the Conference Ghassan Hage, Marcia Langton and David

Trigger participated in a roundtable debate on the topic, 'Is Historical Residence the Fundamental Basis of Rights in Place?'. David Trigger also convened a session on the topic 'Challenges for anthropology in native title practice' during which David Martin presented the findings of his report for the National Native Title Tribunal, 'Capacity of anthropologists in native title practice'. Discussants for this session were: Ari Schipf and Sarah Bell (Ngaanyatjara Council), David Mearns (Northern Land Council) and John Morton (Latrobe University). For further program details refer to the Conference website [http://www.anthropology.unimelb.edu.au/AA\\_S/index.html](http://www.anthropology.unimelb.edu.au/AA_S/index.html)

Grace Koch was invited to participate in a working group on ethics in media archives following from the IASA Conference. Grace also presented a talk on the work of the NTRU to the Australian Society of Archivists during their visit to AIATSIS on 16 September.

Lara Wiseman is co-convening a session at the AIATSIS Conference 2004 with Peter Veth and Dave Johnston on National and World Heritage Nominations and the impact of Native Title and Agreement Making.

Stuart Bradfield is co-convening a session at the AIATSIS Conference 2004 with Colin Tatz on Sharing Land and the Politics of Property.

Lara Wiseman participated with Lynley Wallis and Dave Johnston in the preparation of *The 'cultural heritage industry' and Indigenous communities: A working paper*. The paper was presented as part of the Semester 2 Seminar Series 'Profiling AIATSIS Research: Current themes of AIATSIS staff, grantees and members'.

The Indigenous Facilitation and Mediation Project's (IFaMP) Reference Group met on the 6 September 2004 at AIATSIS in Canberra. The Group discussed the IFaMP's research agenda for the next 12 months. IFaMP is calling for expressions of interest in commis-

sioned research on identified themes, and for papers for the IFaMP Seminar Series to be held in the first semester 2005. For more information see the 'Opportunities' section of this Newsletter.

IFaMP held a workshop at AIATSIS on 18 October 2004, involving a range of evaluation specialists, to identify best practice approaches in evaluating pilot training for NTRB staff in a range of training modules in native title media-

tion and facilitation. These modules were identified through the recent NTRB workshops.

IFaMP is concerned to support a culture of evaluation in the native title context. Indigenous people have often had training 'thrown' at them without appropriate evaluation of its use in the workplace or of its flow-on effect to 'end-users' such as native title applicants.

## WHATS NEW

---

### Publications

Issues Paper No. 29 is now available. Katie Glaskin's paper, 'An Anthropological Perspective on Writing for the Courts' was originally presented at the Native Title Conference 2004. It is available through the NTRU website [www.aiatsis.gov.au/rsrch/ntru/ntru\\_issuespprs.htm](http://www.aiatsis.gov.au/rsrch/ntru/ntru_issuespprs.htm)

Transcripts from the Semester 1 2004 Seminar Series *Regionalism, Indigenous Governance and Decision Making* are available on the AIATSIS website [www.aiatsis.gov.au/rsrch/smnrs/smnr\\_regionalism.htm](http://www.aiatsis.gov.au/rsrch/smnrs/smnr_regionalism.htm)

AIATSIS Research Discussion Paper No 15 by Chris Cunneen and Julia Grix, 'The Limitations of Litigation in Stolen Generation Cases' is available through the AIATSIS website [www.aiatsis.gov.au/rsrch/rsrch\\_dp/DP15.pdf](http://www.aiatsis.gov.au/rsrch/rsrch_dp/DP15.pdf)

The National Native Title Tribunal has published a guide to help applicants complete the application form for a determination of native title. *Preparing your Application for the Registration Test* is available from [www.nntt.gov.au/whatsnew/publications.html](http://www.nntt.gov.au/whatsnew/publications.html)

The Aboriginal Land Act 1991 (Qld) and the Torres Strait Islander Act 1991 (Qld) are being reviewed to make them consistent with State Indigenous policies and the Native Title Act 1993 (Cth). As part of this review, an Issues Paper has been released for discussion and submissions are invited concerning the Land Acts. Submissions should be in by 30

November 2004. The Issues Paper, and more information on the review, is available from [www.nrm.qld.gov.au/nativetitle/land/ilar.html](http://www.nrm.qld.gov.au/nativetitle/land/ilar.html)

Ausanthropos has released its report on the Pilot Mentoring Program for Junior Anthropologists. The report, written for the NNTT, is available from [www.anthropos.com.au/Publications.htm](http://www.anthropos.com.au/Publications.htm).

'Our Tracks' are online stories available through Aboriginal Studies Press, the publishing arm of AIATSIS. The short stories are excerpts from full length works and each of the writers are from different ages and backgrounds. The stories, powerful and moving, and are a good read. Visit 'Our Tracks' through [www.aiatsis.gov.au/asp/onlinestories/content.htm](http://www.aiatsis.gov.au/asp/onlinestories/content.htm)

### Determinations of Native Title

Wik Peoples v State of Queensland [2004] FCA 1306 (13 October 2004). More information is available from [http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2004/1306.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/1306.html)

Nangkiriny v State of Western Australia [2004] FCA 1156 (8 September 2004) More information is available from [http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2004/1156.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/1156.html)

Neowarra v State of Western Australia [2004] FCA 1092 (27 August 2004) More information is available from [http://www.austlii.edu.au/au/cases/cth/federal\\_ct/2004/1092.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/1092.html)

### Opportunities

#### Native Title Experts

The Department of Justice, Victoria, is compiling a 'List of Experts' in the field of native title to be involved in upcoming research projects. Projects are aimed at improving the understanding of connection issues in a native title context. Research projects fall broadly into four groups – compilation of archival material and relevant publications, interpretation of archival material and relevant publications, oral history research with claimant groups, and, assessment of connection material submitted by claimant groups.

For further information, contact Dr Elizabeth Dalglish, Research Officer, Native Title Unit, Department of Justice [elizabeth.Dalglish@justice.vic.gov.au](mailto:elizabeth.Dalglish@justice.vic.gov.au) or by phone on (03) 9651 0881. The closing date is 30 November 2004.

#### OIPC Native Title Officers

The Office of Indigenous Policy Coordination (OIPC) is looking for native title officers to work in their Land Rights Services Branch at an EL1 Level. The position involves providing professional services to native title claimants and improving and reviewing the service delivery being provided by Native Title Representative Bodies.

For more information contact Maryanne Martin on 02 6121 4902 or [Maryanne.Martin@oipc.gov.au](mailto:Maryanne.Martin@oipc.gov.au). Or Rosalind Webb on 02 6121 4630 or [Rosalind.Webb@oipc.gov.au](mailto:Rosalind.Webb@oipc.gov.au).

#### IFaMP/AIATSIS Seminar Series 2005

AIATSIS holds a regular Seminar Series usually on Mondays, 12:30pm to 2:00pm, in the Mabo Room, AIATSIS Building, Canberra,

ACT. The Indigenous Facilitation and Mediation Project (IFaMP) in the Native Title Research Unit plans to convene the AIATSIS seminar series during Semester 1 of 2005, commencing 28 February.

Expressions of interest in giving papers addressing a wide range of issues relating to Indigenous decision-making and conflict-management are sought. Papers may explore theoretical, ethnographic and linguistic concerns as well as 'best practice' issues in the native title arena and policy development. It is proposed that select papers will form the content of an edited volume for publication. Indigenous researchers in particular are encouraged to contribute.

A draft program will be made available on the IFaMP website in early 2005 ([www.aiatsis.gov.au/ifamp](http://www.aiatsis.gov.au/ifamp)).

For further information about this Seminar Series please contact Toni Bauman at [ifamp@aiatsis.gov.au](mailto:ifamp@aiatsis.gov.au) or phone (02) 6246 1195.

#### The University of Western Australia Native Title Courses

The Discipline Group of Anthropology and Sociology at UWA is offering two new online courses in 2005 relevant to native title.

The Graduate Certificate and Graduate Diploma in Applied Anthropology (Native Title & Cultural Heritage) will be taught online and are available to people living throughout Australia. You don't have to live in Perth to study these courses.

The courses aim to equip graduates with theoretical, analytical and practical skills in applied native title and cultural heritage anthropology. Applications should be lodged by 16<sup>th</sup> December 2004 (or later by arrangement).

More information on the courses is available at [http://www.anthropology.arts.uwa.edu.au/home/applied\\_anthropology](http://www.anthropology.arts.uwa.edu.au/home/applied_anthropology)

## UPCOMING EVENTS

---

### 2004 AIATSIS Conference

The AIATSIS Conference 2004 is being held at the Australian National University in Canberra from Monday 22 to Thursday 25 November 2004. The theme of the conference is *Indigenous Studies - Sharing the Cultural and Theoretical Space* and its aim is to encourage and provide for discussion of intercultural approaches to research and related matters.

At present, proposed sessions include: Indigenous tourism in Australia, sharing land and the politics of property, Indigenist research, making space for Indigenous cultural expressions of well-being in Aboriginal health research and practice, mapping the shared terrain: Indigenous and non-Indigenous concepts of landscape, developing a mutual relationship between theory and practice in a framework for dealing with culture and conflict, sharing language: making dictionaries for Indigenous languages.

There are three registration types – full, AIATSIS Members, and full time students or unemployed concession. Costs vary from between \$100-\$260 for a three day registration and from between \$50-\$125 for one day registration.

For more information on the AIATSIS Conference, or to register, visit the Conference website at [www.aiatsis.gov.au](http://www.aiatsis.gov.au) and click on the 'AIATSIS Conference 2004' link.

### Indigenous Research Forum

The 6<sup>th</sup> Indigenous Research Forum is hosted by the U Mulliko Indigenous Higher Education Research Centre at the University of Newcastle. This year's theme is 'Centering Indigenous Voices in Research' and will take place from 29 November - 1 December 2004.

The forum is intended for Indigenous researchers and academic to present their research or works in progress, to provide an opportunity and a space for Indigenous researchers to get together, to allow Indigenous post-graduate students to meet and discuss

issues relevant to them, and to explore culturally appropriate expressions of research outcomes.

For more information call (02) 4921 6863 or go to: [www.newcastle.edu.au/centre/umulliko/irf2004/](http://www.newcastle.edu.au/centre/umulliko/irf2004/)

### The Body Politic

The Australian Studies Centre at the University of Queensland is holding a conference on racialised political cultures in Australia from 24 – 26 November. The Body Politic conference is focused on multiculturalism and race politics in Australia. One of the keynote speakers is Dr Aileen Moreton-Robinson who is presenting a paper on Indigenous Sovereignty and the Politics of Race: A Possessive Investment in Patriarchal White Sovereignty. More information is available from <http://asc.uq.edu.au/main/index.php?apply=&webpage=default&cID=51&menuID=151>

### Indigenous Sovereignty Symposium

The Australian Studies Centre at the University of Queensland is organising a one day symposium to showcase and share Indigenous Studies research across the Faculty of Arts and the University. The symposium is designed to begin a different dialogue about Indigenous politics and sovereignty across a variety of contexts. Indigenous scholars will present their work on Indigenous sovereignties across a variety of contexts.

A brochure for the conference can be downloaded from the AIATSIS website – <http://www.aiatsis.gov.au/rsrch/conferences/conferences.htm>. Or more information can be obtained by contacting Dr Aileen Moreton-Robinson on (07) 3365 3142 or [a.moretonrobinson@uq.edu.au](mailto:a.moretonrobinson@uq.edu.au) or Marilyn Barton on (07) 3365 1369 or [m.barton@uq.edu.au](mailto:m.barton@uq.edu.au).

### ASAA/NZ Conference

The Association of Social Anthropologists of Aotearoa/New Zealand (ASAA/NZ) is holding a conference on "Translations, Treaties and

Testimonies: The Cultural Politics of Interpretations' in Auckland on 3 – 4 December 2004. More information is available from [www.arts.auckland.ac.nz/ant/ASAAConference](http://www.arts.auckland.ac.nz/ant/ASAAConference).

### Sea Country Talk

The Native Title Studies Centre at James Cook University is hosting a presentation by Profes-

sor Helene Marsh on Sea Country Management: The Challenge of Reconciling Legal, Cultural and Ecological Scales on Fri 19 November from 2pm-4pm. All are welcome to attend this free public seminar, visitors from outside JCU are welcome to RSVP by emailing [Katie.Kiss@jcu.edu.au](mailto:Katie.Kiss@jcu.edu.au) or by phoning 4042 1198.

## FEATURES

---

### **From the Fringes to Economic Advancement**

By Brian Wyatt - Churchill Fellow 2004, Executive Director, Goldfields Land and Sea Council

A constant companion during my recent Churchill Fellowship study tour of South Africa, Canada and the USA was the memory of mad-cap professor Julius Sumner Miller. For those of you too young to remember, Miller enthralled us all in the seventies with a down-to-earth science program on television. He would confront us with issues as complex as the Theory of Relativity, before explaining them with experiments that we could all perform at the kitchen sink.

As I travelled, my Theory of Relativity was the difference I perceived in progress toward economic independence between Indigenous Australians and our brethren in North America and South Africa. As I inspected the Maricopa Pima Tribe's multi-million dollar casino in Arizona, and the big game hunting tourist development in Pilanesburg National Park, whose profits are shared by the surrounding tribal communities, I could hear the good professor asking: "Why is it so?"

By the time I returned to Australia I had the answer: Indigenous people in North America and South Africa have a secure political framework within which they are working to haul themselves from the fringes of society into the economic mainstream. They enjoy widespread community acceptance of the need for this to happen and the political system is geared to making it happen, quickly!

### North America

In North America, there are numerous examples of Indigenous people and communities owning and controlling huge, sustainable businesses (casinos, agriculture, forestry, tourism etc), enterprises whose profits are being used to liberate them from the cycle of welfare dependence. Putting it another way: they have their own 'cash cows', while Aboriginal Australians do not. Our cash cow is still government and there is no change on the horizon.

Not only are Indigenous communities in North America well advanced toward participating in mainstream economic life, thereby stopping the rot of their cultural identity, but they also enjoy considerable power for deciding social priorities for their people.

Their economic clout has delivered effective political and social alliances with powerful non-Indigenous groups and individuals, including academia. For example, partnerships have been forged with the likes of Harvard University, through judicious sponsoring of Indigenous studies in the university's curriculum.

So what is this 'political framework' that has put Native North Americans into such a desirable position? At its heart is the treaties that were struck a long time ago between them and their respective governments. Specifically, the treaties have:

- Put to bed arguments over prior ownership and dispossession, allowing all parties to focus instead on the task of integrating In-

Indigenous people in participating in mainstream economic life. There is almost universal acceptance of the fact that Indigenous people were disadvantaged by dispossession and erosion of their rights;

- Provided authority and a legal framework for government to move on from debate about whether or not they should support Indigenous social and economic development, to the point where they now concentrate on implementing programs for actually achieving it; and
- Provided a platform of legality and legitimacy for the aspirations of Indigenous people, including their land aspirations. From the treaties flowed confidence and self esteem for individuals and communities, as well as strong political, social and economic alliances that have hastened progress toward free-standing Indigenous communities.

### South Africa

In post-apartheid South Africa, while the process has been different to that of North America, the broad outcomes are the same – there is universal acceptance that change is required. And a secure political framework has been created that is ensuring the change is a positive experience, not just for Indigenous people but for all South Africans, including white people.

Through its Land Restitution Program the new government has clearly outlined to the country's agriculture industry, which consists predominantly of white farmers, that 33% of prime agricultural land will be returned to black people within ten years.

Indigenous South Africans are receiving freehold or 'real' title for land, which is attractive and tradeable for commercial investment and other economic development activities. It has allowed many individuals and communities to become involved in major investment and partnership opportunities and wealth sharing projects such as game parks, farming, ecotourism, mining and housing programs. These

are the future 'cash cows' of black South Africans.

Interestingly, the hand back of traditional lands is happening with minimum rancour or dissent from the white land owners. The non-black farming industry group AgriSA, for example, publicly supports the process. It does this to protect their own remaining lands, while at the same time ensuring fair and equitable compensation is available where land is resumed.

Another reason for their support is that land claims and freehold title are only granted where economic benefit to the nation is clearly evident. This caveat reflects the urgency in South Africa for ensuring black people contribute to the national economy. New black land owners are left in no doubt by their black, post-apartheid government that they will be made accountable for any post-transfer deterioration in farm production.

Impressed as I was with the benefits of the treaties of North America, I am not optimistic that a federal government in Australia will be putting a treaty on the table in my lifetime. But that shouldn't stop us from moving in the same broad direction at the State level.

Accordingly, I have proposed that our State governments set about leapfrogging their jurisdictions to the North American post-treaty position, where the mindset of the public service, industry and wider community is more focussed on the future than the past. The main thrust of my proposal is:

- Removal from the hands of the State public service the role of formulating policy affecting Indigenous people. This responsibility should be in the joint hands of the Executive arm of government (Cabinet and Ministers) and Aboriginal people.

Let Aboriginal people and the Executive get together to decide what policies, facilities and services Aboriginal people/communities require, after which the

public service's role would be to implement the decisions.

Currently, it is often the case that the public service decides the shape of facilities and services, and then has these decisions/policies rubber stamped by the Executive. The result is not just a failure of services to match community needs, but tension and animosity between Aboriginal people, public service and the Executive. We need a less adversarial system and one that is more responsive to the wishes of Aboriginal people and thus less wasteful.

All opportunities for providing meaningful land tenure for Indigenous communities must also be pursued, in order to hasten economic independence. Aboriginal land held in trust by governments must be handed back, with the capacity for occupiers or traditional owners of these lands to enter into joint venture business arrangements (tourism, industry etc). Government must also pursue more vigorously the incorporation of Aboriginal people in public and private regional development projects (tourism ventures, mining and exploration, national parks, etc) to provide more training opportunities and skills development, jobs, royalties, financial equity, etc.

- If necessary, legislation should be enacted to spell out the mindset of government on Aboriginal issues and provide clear goals and guidelines for all stakeholders (public service, developers, Indigenous people, etc). In Western Australia a fitting title would be the 'WA Aboriginal People Economic Participation Act 2004'. The legislation would not labour past injustices but would enable society to draw the line on history, while at the same time acknowledging the need for non-combative, community-wide action.

It is urgent that we catch up with North America and South Africa and get to the point where the endless debates about the morality of past injustices are behind us. We must instead devote our collective energy to ensuring the fulsome participation of Indigenous peo-

ple to access the benefits enjoyed in mainstream social and economic life. Certainly, this is what Aboriginal people want.

## **The Kimberley Land Council Native Title Update**

By the Kimberley Land Council

For the past year, the KLC has been engaged in a range of native title litigation and comprehensive negotiations. A theme running through the litigation is the impact of technical and practical matters, generally out of the KLC's control, on substantive issues. The negotiations have consistently sought to use native title rights to forge outcomes from Government and the private sector which deal both with past injustices and establish building blocks for a future where Traditional Owners have a meaningful economic, social and political stake in their country.

### Litigation

Wanjina Wungurr Wilinggin

Sundberg J handed down his decision in *Neowarra & Ors v The State of Western Australia & Ors* on 8 December 2003. Final orders were made on 27 August 2004. Whilst the judgment was largely favourable, the KLC would have hoped for a different outcome in relation to certain aspects. In particular, the KLC considered that his Honour erred in restricting the right to hunt and gather on pastoral leases to areas that are unenclosed and/or unimproved on the ground that this was not consistent with the High Court's reasoning in *Ben Ward & Ors*.

In December 2003, the judge handed down a draft determination reflecting his decision and sought submissions. The KLC submitted that as final orders had not been made, the judge had the power to re-look at the unenclosed/unimproved issue, but this was wholly rejected by Sundberg J.

When instructions were taken on whether to lodge an appeal, the Wanjina claimants were very clear that, notwithstanding the limitations of the judgment, they did not want to appeal. The claimants considered that they had been



involved in a lengthy, adversarial process which they did not want to protract. The claimants expressed the view that at the end of the day they and the local pastoralists (who had been robust respondents) had to live together on the land. The claimants considered that now they had recognition as the native title holders, more could probably be achieved by sitting down with the pastoralists to work out how their co-existent rights could be exercised harmoniously.

The KLC does not currently have the resources available to assist the Wanjinna Wungurr Wilinggin native title holders to enter into discussions with the pastoralists over a co-existence agreement.

### Bardi and Jawi

After 2 and a half years, the court completed the hearing of the Bardi and Jawi claim in February 2004.

Late in the proceedings, it became apparent that, due to a technical error in the coordinates of the claim boundary, a tiny part (0.7 km) of a remote but culturally significant reef was in a neighbouring claim. As the original claim had included a hand drawn claim map, which pictorially included Brue Reef and the claim area was an irregular shape specifically to include the reef, the Applicants sought to argue that the whole of Brue Reef was included in the original claim, regardless of the co-ordinate error. The respondents refused to accept this argument on the ground that section 64(1) of the *Native Title Act 1993* precludes amendments to claims that result in the inclusion of any area of land or waters not covered by the original application.

To avoid litigating this point, the KLC arranged for a new Bardi and Jawi claim to be lodged which covered the relevant part of Brue Reef (which consequentially required amending the neighbouring claim). The Court ordered that the main Bardi and Jawi claim and the new claim be determined at the same time. Due to a significant delay in applying the registration test to, and notifying, the new claim, an unforeseen result of these Court orders is that the Bardi and Jawi are unlikely to

receive a judgment until 12 months after the conclusion of their already protracted hearing. This is regrettable in a matter where almost half of the Bardi and Jawi named applicants have passed away.

### Karajarri

The first Karajarri consent determination occurred in 2001 and covered a large area of vacant crown land and an Aboriginal owned pastoral lease. A determination over the remaining areas, mainly pastoral leases and reserves, was made by consent on 8 September 2004. The determination recognised non-exclusive native title rights and interests over those areas where native title rights and interests had not been completely extinguished.

Prior to making the determination, Justice North asked the parties for submissions on whether the lack of provision in the minute of consent determination for funding of the PBC was a matter that ought to concern the Court. While the applicants made submissions on the practical impact of the lack of funding on the ability of the native title holders to manage their native title, no party went so far as to submit that the determination should not be made because no provision was made for funding the PBC. In making the determination, North J commented that the absence of any provision for resourcing of the PBC may be a factor for consideration by the Court when deciding whether it is appropriate to make the determination order under s 87 *Native Title Act 1993*.

### Rubibi combined

The hearing of the Rubibi Combined claim concluded on 7 October 2004. Two notable technical matters arose during the hearing.

Firstly, the Rubibi Combined claim is a consolidation of several claims made between 1994 and 1998. There have been many changes to the tenure since the time the applications were originally filed. Some tenures have come within the scope of the beneficial provisions while others have moved out. Prior to the hearing of the extinguishment case the applicants asked the court to determine the

correct interpretation of the phrase, “when the application is made” as it is used in ss 47, 47A and 47B of the *Native Title Act* 1993. Depending on the interpretation, it may have been unnecessary to file a new application over parts of the land and waters covered by the existing claim to take advantage of these beneficial provisions.

Merkel J found, against the applicant’s submissions, that the relevant time at which the sections apply is the date the application was originally filed. If the original application was filed in the NNTT the transitional provision of the *Native Title Act* 1993 deem the application to have been filed in the Federal Court.

Secondly, during the hearing of the Rubibi Combined claim, Merkel J granted the applicants leave to make several amendments including changes to the named applicants. At the insistence of the State of Western Australia the applicants consolidated the amendments into an amended application. The State of Western Australia then argued that the applicants had not provided evidence of authorisation of the replacement of the applicant in accordance with s 66B NTA and that the applicant can only be replaced in accordance with the provisions of s 66B even where the replacement is consensual and there is no dispute amongst the claimant group. The applicants argued that their application to replace the applicant was not made under s 66B but rather s 64(5) and that evidence of authorisation had been supplied in accordance with that section.

Merkel J found it unnecessary to determine this argument because he had previously granted the applicants leave to amend the applicant which was unopposed by the State.

### Negotiations

#### Miriuwung Gajerrong

Early in 2004 the State of Western Australia issued compulsory acquisition notices over an area of approximately 65,000ha around Kununurra for the extension of the Ord Project (Ord Stage II). The State has funded the KLC and the Miriwung Gajerrong people to

engage in negotiations over a period of 12 months. It is hoped that the final agreement will provide some form of reparations for past activities in this area (the damming of Lake Argyle, the creation of Ord Stage I irrigated farms and the Kununurra townsite) as well as deliver significant ongoing economic benefits to the Miriwung Gajerrong, including financial support for Miriwung Gajerrong corporate entities.

The KLC sought settlement of the outstanding Miriwung Gajerrong native title claim over pastoral leases (MG#2) as part of the negotiations on the grounds that it would be unfortunate if after 10 years of litigation and 18 months of negotiations the Miriwung Gajerrong were required to go through yet another process in order to have their outstanding claim finalised. Whilst initially resisting this argument, the State is now considering ways to expedite settlement of MG#2

#### Yawuru

In Broome the Yawuru people have been involved in negotiations over the compulsory acquisition of land for a residential subdivision release and the establishment of an aged care facility. The agreements that have been concluded will allow both of these processes to go ahead while delivering economic and land outcomes to the Yawuru. Under the agreements the Yawuru will be granted freehold over areas of land that are highly culturally significant and other areas that hold significant commercial potential.

#### Argyle Diamond Mine

After extensive negotiations, Argyle Diamond Mine and Traditional Owners have finalised an agreement that provides compensation for past and future mining activity to Traditional Owners. The terms of the agreement are confidential. Ancillary to this agreement was the filing of a new native title determination application over a grazing lease held by Argyle Diamond Mine (ADM). The applicants and ADM hope to negotiate a consent determination that would recognise exclusive possession

native title rights and interests held by the ap-

plicants.

## NATIVE TITLE IN THE NEWS

---

### National

As part of their Indigenous affairs policy, the Labor party has promised to reduce legal aid for pastoralists, miners and other third parties in native-title cases and re-direct the funding to native-title representative bodies (NTRBs). Labor has pledged to review the operation of the Native Title Act to 'ensure its workability' and deliver a social justice package to Indigenous people. It has also promised to keep the office of Aboriginal and Torres Strait Island Social Justice Commissioner if elected. Indigenous affairs spokesman Kerry O'Brien has said the reduction of legal funding to third parties, around \$10 million over four years, would assist more negotiated native title agreements by discouraging litigation. *Australian Financial Review*, pg 11. 16-Sep-04.

---

Greens candidate for Murray, Monica Morgan, has vowed to make an impact in the up and coming election campaign. Monica, a Yorta Yorta leader who has been heavily involved in the group's eight year land claim, said the Australian Green's policies sat well with Indigenous issues. Monica is aware that in order to have a voice, Indigenous people need to get into government and into large corporations. *Shepparton News*, pg 20. 16-Sep-04.

---

Australian Deputy Prime Minister John Anderson and Attorney-General Philip Ruddock, have said Labor's plan to reduce legal assistance to farmers and the mining industry and increase uncertainty in the native title system is a major blow to regional Australia. The non-native title parties include pastoralists, local government, the fishing industry and miners. Mr Anderson further stated that Labor's policy would be detrimental to farmers and those industries which drive the economy of regional communities throughout Australia. *Northern Miner*, pg 4. 21-Sep-04.

### New South Wales

The NSW Government has recently proposed suspending native title claims for the life of an ILUA as a way of dealing with the backlog of native title claims. The Euahlay-i families who, have three native title claims stretching from Big Warrambool east of Collarenebri to the Bokharra River in the west, met recently to discuss ways an agreement could be reached. Details of the government's proposal have not been released. *Black Opal Advocate*, pg 1. 01-Sep-04. Euahlay-I families.

---

Aboriginal elders of the local Dharawal nation, are apposed to BHP Billiton mining under the Nepean River. Mr Simpson, a traditional elder said that the plan to mine under the river was a disgrace and would effect numerous Aboriginal sites in the caves along the river. Another elder Mr Carriage, believes that the area should be left untouched and eco-tourism developed with walking tracks and Aboriginal guides. A media adviser from the office of the Minister for Mineral Resources said an environmental impact statement would have to be submitted by the company before any proposal could go ahead. *Campbelltown-Macarthur Advertiser*, pg 11. 29-Sep-04. Dharawal people.

---

NSW Environment Minister Bob Debus has invited the local community to comment on a plan of management for the Arakwal National Park. The plan which was created jointly due to a previous ILUA recognises the rights and interests of traditional owners. Mr Debus also said that the Arakwal National Park was proving to be one of the most successful examples of joint management in Australia. He further said that it demonstrates that government and traditional owners can work together to protect and promote special places. *Byron Shire Echo*, pg 5. 5-Oct-04. Arakwal people.

---

A long running native title claim by Don Bell on behalf of the Ngunnawal People has been discontinued. The claim was for the recognition of traditional rights and interests over land in southern NSW including Cootamundra, Yass and Goulburn. It is believed Mr Bell made the request to the Federal Court in Canberra and asked for the claim to be dropped primarily because he lacked the financial resources to continue. *Cootamundra Herald*, pg 3. 11-Oct-04. Don Bell on behalf of Ngunnawal People.

### **Northern Territory**

An expansion of the Alcan alumina refinery in Arnhem land was welcomed by Top End Aboriginal groups. Alcan, a Canadian aluminium company, invested \$1.85 billion into the project. The expansion is expected to generate more than 1700 jobs before the refinery becomes fully operational in 2007. The expansion would also create work for local Aboriginal companies and workers across the territory. This project will have a considerable affect on the small town of Nhulunbuy, in northeast Arnhem Land with a population of about 4000. *Weekend Australian*, pg 2. 11-Sep-04.

---

The Wagiman group native title claim is currently in notification. The area under claim is 1,045sq km south-west of Pine Creek in the Northern Territory. National Native Title Tribunal Northern Territory State Manager Tony Shelley has said that parties with an interest in the area can register with the Federal Court to become a party to the application. Any person with an interest in the claim has until 05 January 2005 to apply. *Katherine Times*, pg 7. 29-Sep-04. *Cootamundra Herald*, pg 3. 11-Oct-04. Wagiman group.

### **Queensland**

Four native title applications over separate areas are currently in notification in Queensland, around Weipa on the western side of Queensland's Cape York Peninsula. The

claims are: the Mapoon People, whose application covers about 172 sq km near Cullen Point; the Angkamuthi People, whose claim is near Vrilya Point and covers an area of 69 sq km; The Weipa Peninsula People, whose application covers an area of about 480 sq km near Weipa; and the Thanakwithi People, whose claim is also near Weipa and covers an area of about 641.5 sq km. Anyone who has an interest that may be affected has until 29 September 2004 to apply to the Federal Court. *Murri Views*, pg 12. N.D-Sep-04. Mapoon People, Angkamuthi People, Weipa Peninsula People & Thanakwithi People.

---

Traditional owners of Sudley pastoral lease near Weipa recently celebrated gaining access to their land and the protection of their sacred sites. The seven family groups represented by the Ilkutj Trust chose to sell the lease to Sudley Station and gain access rights through an ILUA. In 2000 the Comalco mining company announced the 130,000 ha property would be handed to the traditional owners of the area on the condition that a sustainable business plan could be developed for the property. *Cairns Post*, pg 20. 02-Sep-04. Western Cape families.

---

Wik and Wik-way traditional owners are set to visit China for meetings in relation to bauxite deposits at Aurukun Aboriginal community land on western Cape York. It is understood the Chinese Government is keen to form a consortium of alumina producers to bid for the former Pechiney lease. The project is estimated to be worth up to \$23 billion, with at least 500 million tonnes of bauxite available to be extracted for the manufacture of alumina. Lawyer Noel Pearson, who is an advisor to the Aurukun people, said the development had the potential to provide long-term stability for local Indigenous people as well as real job opportunities. *Weekend Australian*, pg 2. 18-Sep-04.

---

The Queensland Opal Miners Association (QOMA) has recently signed an ILUA with Budjiti-Mardigan native title claimants. The

agreement, which will allow opal to be mined in western Queensland and the processing of outstanding mining leases to take place, began 12 months ago. The area in question covers 270,000sq km in the Cunnamulla-Echo district. *Murri Views*, pg 19. N.D-Oct-04. Budjiti-Mardigan group.

---

The Queensland Small Miners Council (QSMC) met in Winto on the 4th September 2004. The QSMC is the peak body and representative of many mining associations in Queensland. Issues discussed at the meeting included the removal of barriers caused by the introduction of the Native Title Act. *Western Sun*, pg 1. 6-Oct-04.

---

A Memorandum of Understanding has recently been signed between the Waluwarra/Georgina River People and the Australian Agricultural Company. This agreement will allow the traditional custodians to exercise their rights as traditional owners of the land, and provide protection of culturally significant sites. Representatives of both groups met at Marmanya Waterhole near Urandangi, 320km south-west of Mount Isa for the signing. *North West Star*, pg 4. 11-Oct-04. Waluwarra/Georgina River People.

---

The Wik and Wik Way people have signed a landmark agreement at Aurukun which will allow for co-existence with cattle families of western Cape York. The agreement will be the final chapter resulting from the historic Wik High Court decision in 1996. The final determination covers a further 12,530sq km and includes pastoral leases, deeds of grant in trust, Aboriginal land lease, unallocated state land and special leases. The land stretches from the Embley River south to Edward River and west of the Peninsula Development Road. *Cairns Post*, pg 8. 12-Oct-04. Wik and Wik Way People.

---

Queensland Energy Resources Limited (QERL) have completed negotiations to establish an ILUA with the Gureng and

Gooreng Gooreng peoples in relation to the Stuart Shale Oil Plant. Senior traditional owner Tony Blackman said the agreement was a positive outcome, whilst QERL Chairman Ross Dunning stated the ILUA resulted from a great deal of hard work and a desire from all involved to achieve beneficial outcomes. *Gladstone Observer*, pg 3. 13-Oct-04. Gureng people and Gooreng Gooreng people.

---

An ILUA has been signed between the Tagalaka people and the Croydon Shire Council. This agreement is significant because it includes native title consent for any roads the Council may wish to open in the future. The Council will also receive the security of a long lease for the Belmore Dam catchment, which is the towns water supply. In return, the Tagalaka people will receive dedicated dam-side camping facilities and right of access to the Croydon Airport to exercise traditional laws and customs. *North West Star*, pg 4. 20-Oct-04. Tagalaka people.

---

The Queensland State Government has announced its intention to finalise five native title claims in the Torres Strait. The islands are Badu, Boigu, Yam, Erub and Ugar. These claims were set for Federal Court determination in September 2002 but disagreement over the impact of native title on public works halted the finalisation. The Federal Court is going to hold special sittings on each island in December to make final determinations. Don Banu from the Torres Strait Regional Authority stated the decision was a welcome step forward for the disappointment and frustration of the events two years ago. *Courier Mail*, pg 2. 25-Oct-04. Badu Island, Boigu Island, Yam Island, Erub Island & Ugar Island.

### **South Australia**

Aboriginal groups from the Far West coast have met to discuss the future of their native title claims and have agreed to form a united body. The groups which have amalgamated are Maralinga Tjarutja, Yalata, Mr Ted Rob-

erts, Mirning, Wirangu, Kokotha Munta and the Kokotha People. Executive Officer of ALRM, Native Title Unit, Mr Parry Agius said the amalgamation of the claims was a positive step forward and would benefit the people who live in the far west coast region. The amalgamated group is expected to be called the Far West Coast Native Title Group. *West Coast Sentinel*, pg 2. 02-Sep-04. Maralinga Tjarutja people, Yalata people, Mr Ted Roberts, Mirning people, Wirangu group, Kokotha Munta people and the Kokotha People.

---

The Antakirinja, Kokotha Munta and the Ted Roberts family group met in Coober Pedy for the Antakirinja Land Management Aboriginal Corporation (ALMAC) annual general meeting. During the meeting an agreement was reached to absorb some of the overlapping groups into the larger Antakirinja native title claim. If this occurs, the current agreement between the Antakirinja People and the SA Chamber of Mines and Energy may be extended to incorporate the additional groups. *Coober Pedy Times*, pg 3. 09-Sep-04. Antakirinja native title claim.

---

Two councillors from Kingston District Council have disagreed over seeking closer links with the Kungari Association. The council has decided to pursue a Memorandum of Understanding with the local Aboriginal group on heritage and other matters. This matter also relates closely to a current development in Rosetown, which is close to an Aboriginal burial ground. The decision to seek a Memorandum of Understanding follows the discovery of some bones on a road reserve at Rosetown more than a year ago. The remains were re-buried but prompted a review of the council's responsibilities under the Aboriginal Heritage Act. *South East Coastal Leader*, pg 2. 15-Sep-04. Kungari People.

---

The Kurna People have lodged a native title claim over parts of St Kilda. This claim has stalled lease negotiations between Salisbury

Council and the boat club. The club has said it can not develop the site until the claim is resolved. Kurna-Yerta Heritage Board chair Lynette Crocker said progress was being made on the ILUA through on-going talks with the Council. *News Review Messenger*, pg 10. 27-Oct-04. Kurna people.

## Tasmania

A court case involving native title fishing rights was suspended until legal funding was finalised. The case involves Tasmanian Aboriginal and Torres Strait Islander Commissioner Rodney Dillion who is charged with unlawfully taking abalone and taking more than 10 abalone in a day. Mr Dillion plans to argue he has native title rights over the fish, which was taken from D'Entrecasteaux Channel, in southern Tasmania. *Herald Sun*, p 25. 28-Sep-04.

## Victoria

The Gunditjmara native title claim and parties continue to reach agreement. The claim involves 20,000 sq km of Crown land and waters across the south-west, including the shires of Glenelg, Moyne, Northern Grampians, Southern Grampians and west Wimmera., and covers an area stretching from Horsham to Yambuk and across to the South Australian border. *Warrnambool*, pg 9. 11-Sep-04. Gunditjmara claim.

---

Museum Victoria has threatened legal action against the Dja Dja Wurrung Indigenous group after they refused to withdraw an 'emergency declaration' preventing three Aboriginal artefacts from being returned to British collections. The items include a ceremonial headdress and two bark etchings. These items were originally on loan from the British Museum and Royal Botanic Gardens in Kew, and were due to be returned after the *Etched on Bark* exhibition at Melbourne Museum in June. However, the Dja Dja Wurrung group who claim to be the traditional owners of the items, have prevented their return to Britain by obtaining an 'emergency declaration' under federal Aboriginal heritage

laws. *The Age*, pg 4. 22-Sep-04. Dja Dja Wur-rung group.

---

Parties involved in claims in the north-west region of Victoria came together at Swan Hill to discuss a regional approach to solve native title issues. Indigenous groups included the Wadi Wadi people, Wamba Wamba people and the Barapa Barapa people. Attorney General Rob Hulls has also been informed of the proposal. It is hoped that an agreement can be made by March 2006. Solicitor Paul Simmons said the next phase would be for the State Government, developers and claimants to resolve issues preferably from a regional perspective. *Swan Hill Guardian*, pg 2. 11-Oct-04. Wadi Wadi people, Wamba Wamba people & Barapa Barapa people.

---

The Miriuwung Gajerrong #4 native title claim is currently in notification. It covers an area that stretches from near Wyndham to the Northern Territory border and is approximately 6700 sq km. The claim does not overlap with any existing claims, but does have the same external boundary as the former Miriuwung Gajerrong #2 application which was discontinued in the Federal Court on July 16 this year. *Kimberley Echo*, pg 2. 16-Sep-04. Miriuwung Gajerrong #4.

### **Western Australia**

The Bardi and Jawi People Brue Reef claim is currently being notified by the National Native Title Tribunal (NNTT). The group is seeking legal recognition of their native title rights and interests. The area is over 0.74 sq km of Brue Reef, located approximately 50 km north of Cape Leveque. Any person who thinks they may have an interest in the claim has until the 21 December 2004 to apply to the Federal Court. *National Indigenous Times*, pg 14. 15-Sep-04. Bardi & Jawi & Brue Reef claim.

---

The Karajarri Peoples have had their native title rights and interests recognised by the Federal Court. The group located south of

Broome was awarded rights over 5647 sq km of land, in an area of more than 30,000km. The claim stretches 140km to the south from Cape Latouche Treville, which is 50km south of Broome, to Anna Plains Station, and goes inland to the Great Sandy Desert. The area consists of various reserves, Shamrock Station, Nita Downs Station, a portion of Anna Plains Station and the land and water between the highest and lowest tides on the coast. *Broome Advertiser*, pg 1. 16-Sep-04. Karajarri native title claim.

---

The Nanda people have recently signed an agreement with Gunson Resources. The agreement is in relation to a mineral sands mining operation. William Mallard of the Nanda people said that this is an outcome that makes sense of native title negotiations. He also stated that the financial, cultural and heritage agreement would benefit the whole of community and future generations. The Nanda people and Gunson Resources are also aiming to develop a cross-cultural education program to strengthen good relations. Gunson Resources managing director David Harley, said that his company were genuine about maintaining a solid and functioning relationship with the Nanda people. *Geraldton Guardian*, pg 39. 24-Sep-04. Nanda people.

---

The Rubibi native title claim has been resumed in the Federal Court. Evidence is being presented by the Rubibi applicants advocating their continued occupation of reserves, unallocated and allocated Crown land and areas within the township of Broome. The next stage of the hearing will see the Rubibi applicant's lawyers and legal team representing respondent parties delving into areas of extinguishment. *Koori Mail*, pg 6. 6-Oct-04. Rubibi group, WC99/23, WG6006/98

---

Kariyarra traditional owners recently signed a native title agreement with Range River Gold Pty Ltd and Bullion Minerals. This agreement will allow gold to be mined near Whim Creek. The Pilbara Native Title Service repre-

sented the Kariyarra People in negotiating the agreement which will include a commitment by the joint venture to train and employ Indigenous staff. The Kariyarra People are also expected to receive financial compensation. *North West Telegraph*, pg 6. 6-Oct-04. Kariyarra group

---

More native title claims in Western Australia are expected to be resolved in the next few months as a result of the restructuring of the Western Australian Office of Native Title. Newly appointed executive director of the Western Australian Office of Native Title, Gary Hamley said it is 'full steam ahead' for native title in the west and the restructuring and creation of new positions should improve operational efficiency. Mr Hamley believes 2005 will be a productive year with many native title claims being settled through negotiation rather than litigation. *Koori Mail*, pg 55. 6-Oct-04.

---

Construction of the Loopline Tourist Railway will begin by the end of October, with the service expected to be running by late January. Native title outcomes have been reached with the Widji People and the Loopline Railway Society has received a licence from the Environment Department granting permission to clear land needed for the track. *Kalgoorlie Miner*, pg 3. 14-Oct-04. Widji People.

---

Nyoongar native title claimants have moved to combine 18 separate claims into one massive claim covering the entire south-west of Western Australia, including Perth. Claim group representatives met recently and decided to combine as one claim, which will be 194,000sq km in size. The claim covers land from north of Jurien Bay, through to Merredin in the east and south to Hopetoun. Native title cannot be granted over most of the claim, but possibly over some unallocated crown land, Aboriginal reserves, pastoral and agricultural leases. *West Australian*, pg 71. 16-Oct-04. Nyoongar people.

---

Key amendments to the Western Australian Mining Act are expected to pass through State Parliament in the near future. The prime objective to this change in legislation is to process the backlog of approximately 5,000 mineral tenement applications. According to the Western Australian State Government, it is the most significant overhaul of laws governing mining in Western Australia for over 25 years. The amendments were developed in consultation with mining lobby groups and native title claimant representatives. *Business News*, pg 4. 28-Oct-04.

---

The final court hearings for the Rubibi native title claim were held in Broome between the 27 September and 08 October. Justice Merkel heard evidence regarding the occupational and final submissions on extinguishment at the hearings, and will receive further written submissions before considering his decision. The claim covers the Thangoo and Roebuck Plains pastoral stations, and the Broome townsite over areas where native title is not already extinguished. The Rubibi case was first heard on the 12 May 2003. With the hearings now complete, the claim may obtain a resolution in the next year. *Broome Advertiser*, pg 8. 28-Oct-04. Rubibi native title claim.

---

The Goldfields Land and Sea Council (GLSC) will be one of many groups to participate at the National Reconciliation Forum to be held in the Goldfields. As the official native title representative body for Western Australia's Goldfields region, the Council's role is to help advance the place of Indigenous people in the local community. Council executive director Brian Wyatt said that it was important to ensure Aboriginal people had faith in the organisations and services that were working with and for them. *Kalgoorlie Miner*, pg 15. 21-Sep-04.

---

Perth based mining company Teck Cominco has lodged an application in anticipation to register an ILUA which may involve both the Kalkadoon and Mitakoodi People. The area of land is about 164.5sq km in size and is lo-



cated 57km north of Cloncurry. Teck Cominco exploration manager Australia, Ian Sandl said they have four tenements in the area, three of which have permits, and this

ILUA is over the fourth tenement. *North West Star*, pg 5. 22-Oct-04. Kalkadoon people and Mitakoodi people.

## APPLICATIONS LODGED

The National Native Title Tribunal posts summaries of applications that are lodged with them, on their website, <[www.nntt.gov.au](http://www.nntt.gov.au)>. The following lodgements are listed for September/October 2004.

### Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
29/09/04	Rubibi #17	WA	WC04/6	G223/04
14/10/04	Tableland Yidinji People #3	QLD	WC04/10	Q208/04
28/10/04	Wiluna #2	WA	WC04/7	W241/04

### Non-Claimant Applications

Date Filed	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.
20/09/04	Huskisson Bowling Club Ltd	NSW	NN04/9	N1367/04
20/09/04	James and Anomie Day	NSW	NN04/8	N1364/04

## REGISTRATION TEST DECISIONS

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

Decision Date	Application Name	State/ Territory	Tribunal File No.	Federal Court File No.	Decision
02/09/04	Budjiti People	QLD	QC04/7	Q112/04	Accepted
23/09/04	Wulgurukaba #1	QLD	QC98/30	QG6221/98	Accepted
23/09/04	Wulgurukaba #2	QLD	QC98/30	QG6252/98	Accepted
27/09/04	Tjupan 2	WA	WC03/1	W6001/03	Not accepted
29/10/04	Rubibi #17	WA	WC04/6	W223/04	Not accepted

## APPLICATIONS CURRENTLY IN NOTIFICATION

Closing Date	Application Number	Application Name
10/11/04	WN04/2	Wongatha Non-claimant
24/11/04	QC04/3	Jirrbal People #2
24/11/04	QC04/4	Jirrbal People #3
24/11/04	NN04/4	Cabonne Council
07/12/04	NN04/5	Anthony Bernard Kelly MLC Minister for Lands for the State of New South Wales as the State Minister under the Native Title Act 1993 (Cth).
21/12/04	WC04/1	Bardi & Jawi People – Brue Reef
21/12/04	WC04/4	Miriuwung Gajerrong #4
05/01/05	NN04/6	Cabonne Council #2
05/01/05	DC04/2	Jindare
19/01/05	NN04/7	Darkinjung Local Aboriginal Land Council
19/01/05	NC02/8	Mooka & Kalara United Families Claim (Mooka #3)
19/01/05	NC02/4	Mooka & Kalara United Family Claim (Mooka #2)

For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or <[www.nntt.gov.au](http://www.nntt.gov.au)>.

## RECENT ADDITIONS TO THE AIATSIS COLLECTION CATALOGUES

The following selected audiovisual items relating to Native Title have just become available on Mura, the AIATSIS on-line catalogue. Items with a (\*) indicate that there are some restrictions on the material. The Native Title Research and Access Officer can give you more information on the nature of the restrictions. Please check Mura for more information on each entry, including full annotations.

### NT-Central Australia

*Frankfurt.Museum.1.CS* (\*)

Title: The Carl Strehlow Collection

Description: Photographs (133) taken in 1991 of Aranda artefacts collected by Carl Strehlow in the early 1900s. Original artefacts held in the Frankfurt Museum of Anthropology, Germany.

*LV1462*

Title: Phillip Creek Mission - field trip  
Description: Video of old Phillip Creek Aboriginal Mission, described by Topsy Nelson Napurrula; filmed by Patricia Frank Narrurlu in 1990.

*LV3894* (\*)

Title: Dingari ceremonies at Papunya  
Description: Film taken in June 1972, by Lew Parlette.

*V6899* (\*)

Title: Warlpiri Women's Business, Lajamanu Settlement 1979  
Description: Warlpiri women's ceremonies filmed at Lajamanu settlement, August to October 1979.

*LV1520*

Title: Hermannsburg 1934 (\*)

Description: This film was shot by Arthur Murch, a Sydney artist, in 1934. Begins with shots of livestock followed by shots of the children at a school for children of mixed descent at 'The Bungalow', Alice Springs.

*LV1993-4*

Title: Gurindji People's Strike 1968

Description: This film footage was taken in 1968 at Wattie Creek during the strike of Gurindji stockmen.

*LV2051-5*

Title: Pintupi contact history

Description: A series of interviews on video with various Pintupi people at Kintore (Walangurru) regarding contact history. Made in 1992.

### **NT-Top End**

*LV3832-LV3845*

Title: Jungayi; Caring for Country / [production company] CAAMA

Description: A film about the importance of rock art sites in the country of the Bagula clan of the Jawoyn people in the Kakadu area of the Northern Territory. Published by the Australian Rock Art Research Association, Melbourne, 1992

*LV0685-6, 787-88,834*

Title: Yarralin, Lingara & Humbert River video footage made by Deborah Rose in 1986  
Description: Bush tucker gathering and preparation and observation of camp life.

*LV398-408, LV3584-3614(\*)*

Title: Cultural life around Maningrida area  
Description: A series of video recordings by La Trobe University Media Productions about cultural life around Maningrida in 1984.

*No. 3/1-3/69*

Title: Road to Mikginj (\*)

Description: A filmed conversation with Jacob Nayinggul and his wife at the Mikgunj outstation, dealing with land and ties to land. Jacob is concerned that the importance of this land is told to the young people of Oenpelli.

### **Queensland**

*LV2900-02*

Title: Cape York Stories and Dances, made in 1992 at Injinoo.

Description: Videos contain 'The Liar Message Stick', 'Two Brothers', 'The Rainbow Serpent' and 'Maytapul' and other stories as well as songs and oral history.

*LV3529*

Title: Woorabinda and Weipa mission footage.

Description: Home movie footage filmed by Father Ted Butler in 1968-9 at Weipa and Woorabinda Missions.

*LV1093.02*

Title: Gunanamanda - The People of Mornington Island

Description: Shows the Aboriginal people of Mornington Island preparing for ceremonies. Published by SA Film Corporation, Mornington Is., 1984.

### **Western Australia**

*LV4633-91*

Title: Ngarinyin Music and Country - field videotapes

Description: Field work materials collected October 1994 to November 1997 in Northwest Kimberleys documenting Ngarinyin relationships to country (some Worora and Wunambul relationships also).

*LV3740*

Title: Bardi totems dance(\*)

Description: Videos of dances with elaborate ceremonial poles by Bardi community members, singing by Roy Higgen. Recorded in 1996.

### **New South Wales**

*COLEMAN.M2.CD*

Title: Early scenes from Roseby Park and Brewarrina.

Description: Photographs taken at Roseby Park, 1915-1919 and Brewarrina, 1920-1929 during the periods when the Burns family managed the missions.

LV3094.04

Title: Darlington Point 1950 / field tape by Les Kubank

Description: Silent movie footage of Darlington Point Police Reserve AIM Mission Convention.

LV1529

Title: Life on an Aboriginal Station / [production company] NSW Aboriginal Welfare Board and NSW Department of Education, 1950.

Description: A story told on film from a school teacher's perspective. Includes scenes of the distribution of welfare rations to families and views of the local cemetery. NOTE: Sound and image not clear.

LV0019

Title: Ted Thomas talking on land significance

Description: Video documenting the significance of the land traditionally belonging to the Yuin Aboriginal community in the Wallaga Lake area of the South Coast of NSW.

## Torres Strait

LV0374

Title: [ Parkinson, E. Footage ] NOTE: silent footage (\*)

Description: Film showing several women demonstrating their skill and techniques at making cats cradle string puzzles ; rock art site at large overhang, images of sailing ships, turtles ; two older men demonstrate signing techniques

LV1977

Title: Land Bilong Islanders

Description: Film containing interviews with the late Eddie Mabo, James Rice, Father Dave Passi and others involved in the Mabo Case.  
Publication info: Ronin Films, Canberra, 1989

**In addition, the following indices and listings of inscriptions will be of interest for native title research. Please note that much of this material is on microfilm or CD ROM.**

## New South Wales

*Parkes Cemetery transcriptions New South Wales* [microform].

Publication info: Parkes, N.S.W. : The Society, 1993.

*Macquarie Park Cemetery transcriptions* [electronic resource]

Publication info: Sydney, N.S.W. : Society of Australian Genealogists, c2003

*Yewen's directory of the landholders of New South Wales (1900)* [electronic resource]. NOTE: This was the "first broad attempt at publishing a complete directory of landowners in New South Wales..." The directory is divided into approximately 1900 postal localities grouped under 87 larger districts.

Publication info: Modbury, S. Aust. : Archive CD Books Australia, c2004.

[Williams family trees and other material related to the Bourke Region, NSW]

Publication info: [2001?]

## Queensland

*Queensland federation index 1890-1914.* [CD ROM] NOTE: Contains records of births, deaths and marriages registered in Queensland.

Publication info: Melbourne, Vic. : Royal Melbourne Institute of Technology in association with the Registry of Births, Deaths and Marriages, New South Wales, 2004.

## South Australia

*Biographical index of South Australians 1836-1885.* [microfiche]

Publication info: Marden, S. Aust. : South Australian Genealogy and Heraldry Society, [1990?]

*Monumental inscriptions of West Terrace Cemetery* [Adelaide] [microform]

Publication info: [Marden, S. Aust.] : South Australian Genealogy and Heraldry Society, 1985.

## Tasmania

*Tombstone and memorial inscriptions of Tasmania*

[microform]

Publication info: [Burnie, Tas. : The Society], 1999.

*Cemeteries of Southern Tasmania* [microform].

Publication info: Hobart ; Genealogical Society of Tasmania, Hobart Branch, 1997-

*Tasmania* [electronic resource] : collection of records 1830s to 1930s [CD Rom]. NOTE: Compiled from material held in Mitchell Library N.S.W. and in the Archives Office of Tasmania.

Records include musters, immigration, church records to 1950, convicts, hotel licences, court, hospital, prison, land etc. Some records

are from 1792 Norfolk Island and 1823-1848 N.S.W.

Publication info: [Hampton, Vic.] : Macbeth Genealogical Services, 2002.

## Victoria

*Fawkner and Coburg cemeteries* [electronic resource].

Publication info: Fawkner, Vic. : Fawkner Crematorium & Memorial Park, 1996.

## Western Australia

*Birth, baptism, marriage and death records of the Parish of St. John's Anglican Church at Pinjarra* [WA] dating from the 1880s. [microfiche]

Publication info: Bayswater, W.A. : Western Australian Genealogical Society Inc., [1991?]

## NATIVE TITLE RESEARCH UNIT PUBLICATIONS

---

### Land, Rights, Laws: Issues of Native Title

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

### Volume 2

- No. 29 *An Anthropological Perspective on Writing for the Court*  
Katie Glaskin
- No. 28 *Promoting Economic and Social Development through Native Title*  
The Aboriginal and Torres Strait Islander Social Justice Commissioner
- No. 27 *Practical Reconciliation, Practical Re-Colonisation?*  
Professor John Borrows
- No. 26 *Agreeing to Terms: What is a 'Comprehensive' Agreement?*  
Dr. Stuart Bradfield
- No. 25 *Native Title and Agreement Making in the Mining Industry: Focusing on Outcomes for Indigenous Peoples*  
Professor Ciaran O'Faircheallaigh
- No. 24 *Beyond Yorta Yorta*  
John Basten QC
- No. 23 *Indigenous Pueblo Culture and Tradition in the Justice System: Maintaining Indigenous Language, Thought and Law in Judicial review'*  
Christine Zuni Cruz

No. 22     *'Abandonment' or Maintenance of Country? A Critical Examination of Mobility Patters and Implications for Native Title*

Dr. Peter Veth

## MONOGRAPHS

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

Treaty: Let's get it right! Aboriginal Studies Press, Canberra, ACT, 2003.

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

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

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

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

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

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

## ABOUT THE NATIVE TITLE RESEARCH UNIT

---

AIATSIS acknowledges the funding support of the ATSIC Native Title and Land Rights Centre. For previous editions of this Newsletter click on the native title research unit link at <[www.aiatsis.gov.au](http://www.aiatsis.gov.au)>

**Native Title Research Unit**  
**Australian Institute of Aboriginal and Torres Strait Islander Studies**  
**GPO Box 553**  
**Canberra ACT 2601**  
**Telephone 02 6246 1161**  
**Facsimile 02 6249 7714**  
[ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)