AIATSIS
AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES
NATIVE TITLE RESEARCH UNIT

WHAT'S NEW IN NATIVE TITLE
FEBRUARY 2013

1. Case Summaries

Aplin on behalf of the Pitta Pitta People v State of Queensland [2012] FCA 883

28 August 2012, Consent determination, Federal Court of Australia – Boulia, Qld
Dowsett J

In this decision, the Court recognised the native title rights and interests of the Pitta Pitta people over about 30,000 square kilometres near the Queensland/Northern Territory border centred on the town of Boulia, about 200 kilometres south of Mt Isa.

The claim was first filed in 1999 but has been amended a number of times since. Two of the five people who made the original application passed away before seeing the recognition of native title. The respondent parties included the state of Queensland, the Boulia, Cloncurry, Diamantina and Winton Shire Councils, and a large number of pastoralists. Because the claim was so complex, it was referred to intensive case management in the Court in 2011 where the parties subsequently reached agreement.

The nature and extent of the native title rights and interests, other than in relation to water, are the non-exclusive rights to:

a) be present on, by accessing, traversing and camping on the area
b) hunt and gather on the area for non-commercial; personal, domestic, social, cultural and communal purposes
c) take and use natural resources from the area for non-commercial, personal, domestic, social, cultural and communal purposes
d) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm

e) conduct ceremonies on the area
f) teach on the area the physical and spiritual attributes of the area and
g) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

The nature and extent of native title rights and interests in relation to water are the non-exclusive rights to:

a) hunt, fish and gather from the Water for personal, domestic, social, cultural and non-commercial communal purposes and
b) take and use the Water for personal, domestic and non-commercial communal purposes.

In his judgement, Justice Dowsett gave a brief history of the Pitta Pitta people since first European contact, noting the conflict and violence between the Pitta Pitta people and pastoralists over access to waterholes. His chronology draws attention to the infamous massacre of the Pitta Pitta people at the Woonamo waterhole in 1878. In the late 1880s and 1890s Pitta Pitta people settled into camps on cattle stations where they sought to maintain their traditional way of life.

The anthropological evidence showed that the Pitta Pitta people are made up of clan groups with shared perceptions, common celebrations, unity in dealing with enemies, related languages and a system of intermarriage. The reports also show a continuing connection to country through: ceremony; a class system; marriage rules; rules for inheritance; a system of trade; and hunting and gathering. Twenty five claimants provided affidavit material confirming the continued connection to the claim area. Justice Dowsett said it was clear that traditional laws and customs had survived with any changes the result of adapting to European settlement. The Court also had the benefit of genealogical charts detailing the members of the claim group.

The Court was satisfied that it should make the orders agreed to by the parties. The native title is to be held in trust by the Pitta Pitta Aboriginal Corporation, as the prescribed body corporate.

Mundraby on behalf of the Combined Mandingalbay Yidinji-Gunggandji People v State of Queensland [2012] FCA 1039

21 September 2012, Consent determination, Federal Court of Australia – Cairns, Qld
Dowsett J

In this decision, the Court recognised the native title rights and interests of the Mandingalbay Yidinji and the Gunggandji people in a combined claim over the coastal land and hinterland between Mission Bay in the north and the Mulgrave River in the south.

The claim area lies within a deed of grant in trust (DOGIT) granted by the state of Queensland to the Yarrabah Aboriginal Shire Council on 23 August 2012. The claim was originally filed in 1999 but was amended a number of times, most recently in February 2012 when a deceased elder was removed as an applicant for the claim.

The respondent parties included the state of Queensland, the Yarrabah Aboriginal Shire Council, a number of Yarrabah residents with interest in discreet blocks under state legislation, and representatives of the Wanyurr Majay people (traditional owners of land to the south of the claim area).

The parties agreed that the nature and extent of the native title rights and interests in the claim area, other than in relation to water, are the rights to possession, occupation, use and enjoyment to the exclusion of all others. The nature and extent of native title rights and interests in relation to water within the claim area are the non-exclusive rights to:

a) hunt, fish and gather from the waters
b) take and use the natural resources of the water and
c) take and use the water of the area

in all cases, for personal, domestic and non-commercial purposes.

The applicant entered into an Indigenous land use agreement (ILUA) with representatives of the Wanyurr Majay people allowing them access to part of the claim area for traditional activities.

Justice Dowsett outlined the history of the claim area including the sighting of Aboriginal people in the area by Captain Cook in 1770 as evidenced in folklore and rock paintings. His honour also detailed the effects of European settlement including the establishment of an Anglican mission at Mission Bay on traditional connection to the land. In 1960, the mission was closed and the state government assumed responsibility for the community. The following decades saw the transfer of land to Indigenous residents, some of whom were not traditional owners. The progress towards determination therefore involved the resolution of difficult questions of law relating to claims by block holders to land under Queensland legislation.

Justice Dowsett emphasised that the Mandingalbay Yidinji and the Gunggandji people recognised their different histories and more recent shared history. His Honour was satisfied that the evidence demonstrated ongoing occupation pursuant to traditional laws and customs. His Honour gave a brief summary of the affidavit material. Two affidavits cited the story of the Gunggandji seeking assistance from the Yidinji to drive the Mamu tribe south of the Russell River. Affidavit evidence said that the Yidindji then stayed in the area and inter-marriage resulted.

The Court also outlined the primary anthropological evidence establishing the traditional laws and customs that link the Mandingalbay Yidinji and the Gunggandji people to the claim area. This evidence showed that the Mandingalbay Yidinji and the Gunggandji people can together be identified as members of a northern-focused, rainforest-based, regional society. The evidence also pointed to an identifiable system of cosmological narrative, a system of land tenure, and a common system of laws and customs. Justice Dowsett was satisfied that the claimed rights and interests derived from the observance of those traditional laws and customs.

His Honour was satisfied that all matters identified in s 225 NTA had been addressed and that the agreement between the parties was in accordance with s 87A NTA. The Court explained that because the claim was over freehold land grated solely for the benefit of Aboriginal people, interests under the DOGIT remain in force but are suppressed in accordance with the non-extinguishment principle in s 238 NTA. The orders provided that a prescribed body corporate would be nominated within 6 months.

Johnson on behalf of the Tableland Yidinyji People #1 v State of Queensland [2012] FCA 1417

14 December 2012, Consent determination, Federal Court of Australia – Atherton, Qld
Dowsett J

In this decision, the Court recognised the native title rights and interests of the Tableland Yidinyji people to land and waters around the upper Barron River and its tributaries and Lake Tinaroo on the Atherton Tableland, northern Queensland. The area over which rights were recognised is only part of the traditional Yidinyji country. Five separate native title claim groups speak for a portion of country making up the Yidinyji language-culture complex.

This claim was initially lodged as two claims in 1998 and then combined into the current claim in 2000. While the case was proceeding, one of the applicants passed away, leaving two remaining applicants. The respondent parties were the state of Queensland, Tablelands Regional Council, Cairns Regional Council, and Ergon Energy Pty Ltd.

The nature and extent of the recognised native title rights are the non-exclusive rights to:

a) access, be present on, move about on and travel over the area
b) camp, and for that purpose, build temporary shelters
c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes

d) take, use and share Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes
e) take and use the Water of the area for personal, domestic and non-commercial communal purposes
f) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation
g) conduct ceremonies on the area
h) teach on the area the physical and spiritual attributes of the area
i) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm and
j) be buried and bury native title holders within the area.

Drawing on anthropological evidence, Dowsett J made reference to the presence of charcoal particle deposits that indicate the possible presence of people and their firesticks in the area from about 38,000 years ago. It was the discovery of alluvial gold on the Palmer River in 1872 that opened the north up to settlement. By 1877 graziers had also arrived, which lead to a tin mining rush. At first the density of rainforest in the area restricted settlement of the region, but in the later part of the 19th century tracks were cut through the scrub and a coach service began in 1883, until Atherton was linked to Cairns by rail. By 1881 timber-cutters arrived on the Atherton Tableland, leading to massive loss of forest. Miners and cattle stations impinged from the west, restricting Yidinyji access to traditional resources. The remaining rainforest provided some refuge for Indigenous families but no longer provided sufficient food. People were forced to raid farms and occasionally spear cattle, which brought retaliation from the settlers. Detachments of Aboriginal troopers were allotted to task of dispersing Aboriginal camps.

Affidavit material was also provided attesting to the continued acknowledgement and observance of traditional laws and customs in relation to the claim area. Matters of descent, residence, use and occupation were addressed in affidavit evidence. The claim group defines itself by its descent from apical ancestors known to have occupied country in the claim area. Justice Dowsett found that the claim group was descended from Tableland Yidinyji people in occupation of the claim area prior to 1788. His Honour said that through the observance of traditional laws and customs the Tableland Yidinyji people have maintained a connection with the claim area since a time prior to 1788.

The Tableland Yidinyji Aboriginal Corporation is to be the prescribed body corporate.

Saltmere on behalf of the Indjalandji-Dhidhanu People v State of Queensland [2012] FCA 1423

18 December 2012, Consent determination, Federal Court of Australia – Camooweal, Qld
Dowsett J

In this decision, the Court recognised the native title rights and interests of the Indjalandji-Dhidhanu people over approximately 19,730 square kilometres on the eastern Barkly Tableland, in the upper reaches of the Georgina River Basin and on the Queensland/Northern Territory border. The claim area is centred on the township of Camooweal.

The claim was first lodged on 8 October 2009 but was preceded by 3 earlier claims the first of which was lodged in 1996. The respondent parties include the Mt Isa City Council alongside several pastoralists and pastoral companies.

The nature and extent of the native title rights are the non-exclusive rights to:

- access, be present on, move about on and travel over the area
- camp, and live temporarily on the area as part of camping, and for that purpose build temporary shelters
- hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes
- take and use natural resources from the land and waters of the area for personal, domestic and non-commercial communal purposes
- take and use the water of the area for personal, domestic and non-commercial communal purposes

- conduct ceremonies on the determination area
- be buried and bury native title holders within the area
- maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm
- teach on the area the physical and spiritual attributes of the area
- be accompanied on to the determination area by the Bularnu Waluwarra Wangkayujuru law men who, though not native title holders, are people required by traditional law and custom for the performance of ceremonies related to the bushfire dreaming story on the determination area.

In making the determination, Justice Dowsett was assisted by a comprehensive anthropological report, the applicant's submissions and an affidavit material from the Queensland Department of Natural Resources and Mines. The evidence suggested that European explorers first came to the area in 1860 and pastoralists arrived shortly after occupying the upper reaches of the Georgina River. This caused conflict as pastoralists and the local Aboriginal people competed for the same resources, primarily water. Dispersal by the Native Mounted Police, based to the north of the claim area, and disease contributed to population decline.

Dhidhanu is a clan or subgroup of Indjalandji, although there is no longer any ethnographic or social distinction between the two. The evidence identifies three remaining Indjalandji-Dhidhanu groups. The claim group's identity is based on descent from common apical ancestors, shared Dreamings linked to sacred sites, and two closely related Aboriginal dialects. The Court was prepared to infer that the Indjalandji-Dhidhanu people have an unbroken physical connection to the claim area, dating back to a time prior to European contact.

The applicant proposed that the Indjalandji-Dhidhanu Aboriginal Corporation would be the prescribed body corporate. Justice Dowsett also noted that it was a great achievement that the claim group itself launched and conducted this claim without any assistance, financial or other, from any native title representative body.

Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation)/Western Australia/FMG Resources Pty Ltd [2013] NNTTA 10

1 February 2013, An inquiry into expedited procedure objection application, National Native Title Tribunal – Perth, WA
Daniel O'Dea, Member

In this matter, the National Native Title Tribunal determined that the the proposed grant of an exploration licence wholly within the determined area of the Birriliburu native title claim was an 'act attracting the expedited procedure' under s 237(b) of the *Native Title Act 1993* (Cth).

On 28 April 2011, the state of Western Australia gave notice under s 29 of the Act of its intention to grant an exploration licence to FMG Resources Pty Ltd, and included in the notice a statement that it considered the grant attracted the expedited procedure. The expedited procedure means that the proposed licence could be approved without the normal negotiations required by s.31 of the Act.

On 26 August 2011, on behalf of the Birriliburu native title holders, Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) ('the native title party') lodged an expedited procedure objection application in relation to the proposed licence. They argued that the proposed licence, and the activities that would be conducted under its authority, would interfere with areas or sites of particular traditional significance. Under s 237(b) of the Act this would mean that the expedited procedure would not apply.

The Tribunal was required to determine was whether there was a real chance or risk of interference with areas or sites of more than ordinary significance to the native title party in accordance with their traditions.

The native title party submitted that the proposed licence area is 'site rich', containing sites and areas of particular importance, including a site that is associated with a men's restricted *jukurrpa*. The native title party also submitted that:

- the nature of the country in and around the proposed licence is such that any entry onto parts of the proposed licence or the surrounding country which has not been agreed with the native title party, would be likely to result in interference within the meaning of s 237(b)
- the nature and number of sites and areas of particular significance within and around the proposed licence means that simply drawing FMG's attention to the *Aboriginal Heritage Act 1972* ('AHA') would not be enough to make interference with those sites and areas unlikely
- even if the licence is made conditional on FMG being willing to enter into the Regional Standard Heritage Agreement, this would not make it unlikely that the proposed licence will interfere with sites or areas of particular significance and
- Meaningful consultation and negotiation between the native title party and FMG are necessary to ensure that sites or areas of particular significance are not likely to be interfered with.

FMG argued that the evidence submitted by the native title party did not mention any area located within the proposed licence area, and also that no evidence was provided in relation to the location or significance of sites or areas of particular significance that are said to exist within the proposed licence area. The company also said that the native title party's evidence did not show that the exploration activities would necessarily cause interference with any sites or areas of particular significance that may exist in the proposed licence area. The state adopted FMG's arguments about that.

The Tribunal noted that in expedited procedure inquiries the native title party must provide evidence with sufficient detail and specificity to enable the Tribunal to assess whether the proposed acts are likely to interfere with areas or sites of particular significance. That evidence must include information about the location and significance of relevant sites or areas. The Tribunal also noted that the mere fact that one of the relevant areas is a registered site under the AHA is not conclusive.

After considering the evidence submitted, the Tribunal found that there was insufficient evidence to conclude that areas claimed are sites of particular significance; and that if the evidence established that one of the areas claimed was a site of particular significance, there is little to suggest that FMG's activities would be likely to interfere with those places. The Tribunal also rejected the native title party's contention that the proposed licence is situated in a 'site rich' area.

Accordingly, the Tribunal gave a determination that the grant of the proposed licence was an act attracting the expedited procedure under s237 (b) of the Act, meaning that the right to negotiate was not available.

***WF (deceased) & Ors on behalf of the Wiluna Native Title Claimants/Western Australia/JML Resources Pty Ltd* [2013] NNTTA 8**

1 February 2013, An inquiry into expedited procedure objection application, National Native Title Tribunal – Perth, WA
Daniel O'Dea, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the intended grant of an exploration licence in the Wiluna Native Title claim area was an 'act attracting the expedited procedure' under s 237 of the *Native Title Act 1993* (Cth) ('the Act').

On 16 November 2011, the State gave notice under s 29 of the Act of its intention to grant an exploration licence to JML Resources Pty Ltd and included in the notice a statement that it considered that the grant attracted the

expedited procedure. The expedited procedure means that the proposed licence could be granted without the negotiations normally required by s 31 of the Act.

On 15 March 2012, the native title party lodged an expedited procedure objection, claiming that the granting of the proposed licence is likely to interfere with areas or sites of particular significance to the native title holders in accordance with their traditions. Under s 237 (b) of the Act this would mean that the expedited procedure would not apply.

The issue for the Tribunal to determine was whether there was likely to be (in the sense of a real chance or risk of) interference with areas or sites of particular significance (that is, more than ordinary) to the native title party in accordance with their traditions. In considering this issue, the Tribunal read evidence and considered submissions from each of the parties.

The native title party submitted that the proposed licence contains sites and areas of particular importance; and covers an area which is 'site rich' and of particular significance. The native title party also submitted that:

- The nature of the country in and around the proposed licence area is such that any entry onto parts of the proposed licence or the surrounding country which has not been agreed with the native title party, would be likely to result in interference within the meaning of s. 237(b)
- The nature and number of sites and areas of particular significance within and around the proposed licence means that merely drawing JML's attention to the *Aboriginal Heritage Act 1972* would not be enough to make interference with those sites unlikely.
- Meaningful consultation and negotiation between the native title party and JML is necessary to ensure that sites or areas of particular significance are not likely to be interfered with.

The State argued that neither the native title party's contentions nor the evidence submitted indicated the location of the sites claimed, though it acknowledged that this is most likely due to the nature of the sites. Nonetheless, the Government party contended that general evidence indicating that there are or may be secret places or dreaming tracks on or near the proposed licence area is not sufficient to establish that it is a site of particular significance.

After considering the evidence submitted, the Tribunal found that given that the native title party did not specifically identify the relevant areas claimed in evidence, the Tribunal was unable to conclude that the evidence established the existence of any sites of particular significance in the proposed licence area. The Tribunal also rejected the native title party's contention that the proposed licence is situated in a 'site rich' area.

Accordingly, the Tribunal gave a determination that the grant of the proposed licence was an act attracting the expedited procedure under s 237 (b) of the Act. This means that the native title party does not have a 'right to negotiate' about the grant of the proposed licence.

***Backreef Oil Pty Ltd and Oil Basins Ltd/JW (name withheld) and Ors on behalf of Nyikina and Mangala/Western Australia* [2013] NNTT 9**

1 February 2013, An inquiry into a Future Act Determination Application, National Native Title Tribunal – Perth, WA
Helen Shurven, Member

In this matter, the Tribunal determined that the grant of a petroleum exploration permit application to Backreef Oil Pty Ltd and Oil Basins Ltd ('the grantee parties') may be done under s 38 of the *Native Title Act 1993* (Cth) ('NTA'), subject to some conditions including that the native title party to be notified and consulted in relation to the grantee parties' activities.

On 30 January 2008, the State of Western Australia gave notice under s 29 of the NTA of the proposed permit. The area covered by the proposed permit included about 67% of the Nyikina and Mangala native title claim area.

The parties engaged in good faith negotiations and could not reach an agreement about the terms on which the native title party would agree to the grant of the permit. Accordingly, the grantee party made an application to the Tribunal for a determination that the grant of the proposed permit may be done.

The Tribunal's task involved considering the effect that the granting of the proposed permit will have on the native title party, the broader community, and the public interest as outlined in s 39(1) of the Act.

The native title party's contentions were primarily directed to three principal issues: the effect of the proposed permit on the enjoyment by the native title party of their registered rights and interests (s 39(1)(a)(i) NTA); the effect of the proposed permit on the way of life, culture and traditions of the native title party (s 39(1)(a)(ii) NTA); and its effect on areas or sites of particular significance to the native title party in accordance with its traditions (s 39(1)(a)(v) NTA).

After considering the evidence presented, the Tribunal accepted that the native title party continues to use and enjoy areas within the claim, and within the proposed permit areas. However, the native title party did not produce any evidence which identified the specific areas enjoyed, the particular uses of the areas, and the particular sites of significance within the proposed licence area. As such, in the absence of such evidence, the Tribunal could not consider any relevant claims within the proposed permit area, or how the proposed licence would have a significant effect on the enjoyment of the native title parties existing native title rights.

In addition, the Tribunal accepted that the exercise and enjoyment of the rights to make decisions about the use, enjoyment and control access of the area are likely to be impaired to a certain degree by the exercise of the grantee party's rights under the proposed permit. Accordingly, the Tribunal considered it necessary to impose conditions, which will ensure that the native title party is notified and consulted in relation to the grantee party's activities, and that the native party will be permitted to continue to access some areas within the proposed licence area.

Accordingly, the Tribunal decided that the act may be done, subject to the grantee party complying with extra conditions. The extra conditions included a requirement that the grantee party notify the native title party of any proposals to undertake further exploration or production activity; and of any findings of cultural materials of the type that would require the grantee party to notify the Aboriginal Cultural Committee per s 18 of the *Aboriginal Heritage Act 1972*. The extra conditions also require the grantee to permit the native title party to continue to access the land, except areas used for exploration, production or areas where it would be unsafe.

***David Stock and Others on behalf of the Nyiyaparli People/Glenn Douglas Archer/State of Western Australia* [2013] NNTTA 11**

4 February 2013, An inquiry into a Future Act Determination Application, National Native Title Tribunal – Perth, WA
Helen Shurven, Member

On 21 February 2001, the State of Western Australia gave notice under s 29 of the *Native Title Act 1993* (Cth) ('the Act') of a future act, namely, the grant of a mining lease under the *Mining Act 1978* (WA) to Zdenko Soklich.

The proposed tenement is completely within the registered claim of the Nyiyaparli People.

On 20 May 2005, the original applicant for the proposed tenement transferred his interest in the proposed tenement to Pamela Ann Soklich. On 25 August 2006, Pamela Ann Soklich transferred her interest in the proposed tenement to Glenn Douglas Archer ('the grantee party'). The grantee party is now the current holder of the proposed tenement.

In July 2012, the Nyiyaparli claim group decided to enter into an agreement with the grantee party. This agreement set out the terms on which the claim group was willing to agree to the grant of the proposed tenement.

On 25 January 2013 the claim group applied under s 35 of the Act for a determination under s 38 of the Act in relation to the proposed tenement, and requested that the future act determination be made by consent.

Accordingly, the Tribunal handed down its determination that the act, namely the grant of the mining lease to the grantee party, may be done.

Gomeroi People v Attorney General of New South Wales [2013] FCA 81

6 February 2013, Application for joinder, Federal Court of Australia – Sydney, NSW
Jagot J

In this case, the Court had to consider a number of applications from individuals who wanted to be joined as parties to the Gomeroi people's native title claim. The Court decided that all but one of those individuals were already parties to the proceedings, and went further to make orders removing them as parties. The remaining application for joinder was dismissed.

The first application was filed by Martin De Launey. Fourteen members of the Dabee clan of the North East Wiradjuri also filed applications. The third was filed by Victor Mark Perry for and on behalf of the Wonnarua people and was intended to substitute an earlier application filed by the Wonnarua Nation Aboriginal Corporation. None of the persons who filed applications for joinder appeared before the Court, but there were appearances on behalf of the applicant, the Gomeroi people, and the first respondent, the state of New South Wales.

Section 84(3)(a)(ii) NTA provides that any person is a party to the proceedings if they claim to hold native title in relation to the land and waters the subject of the proceeding. Accordingly, his Honour said that Mr De Launy and each of the 14 Dabee clan members were already parties to the proceeding as each person claimed to hold native title in the Gomeroi claim area.

Leaving aside Mr Perry's application, the Court had to determine whether to make an order that Mr De Launey and each of the 14 Dabee clan members cease to be a party to the proceedings. The test for determining this is whether the Court is satisfied that: (i) the claim to native title in the Gomeroi claim area amounts to no more than speculation and is not supported by evidence; and (ii) the interests asserted cannot be characterised as 'genuine, demonstrable and direct interests'.

The evidence filed by the applicant showed that the historical and current native title claims on behalf of the Dabee clan sit outside the Gomeroi claim area. No additional material was filed despite the opportunity to do so. As none of these people appeared, there was nothing to contradict the position put by the applicant. The applicant also filed an affidavit of James William Rose, an anthropologist from NTSCorp Limited. This affidavit concluded that there was no evidence that Mr Launey had any connection with the Gomeroi claim area. Based on the evidence, Justice Jagot was not satisfied that it was appropriate or in the interests of justice for Mr De Launey or the 14 Dabee clan members to remain parties to the proceedings and made orders to this effect.

The case for Mr Perry was different as he did not claim to hold native title in the Gomeroi claim, thus there was no presumption that he was already a party to the proceedings. His Honour therefore treated it as an application for joinder under s 84(5) NTA. The basis of his interest was an agreement entered into between Mr Perry, on behalf of the Wonnarua claim group, and Coal & Allied Operations Pty Ltd in relation to a mining project. It was not clear on the evidence before the Court that the project was within the claim area or that any part of the contract would be affected. The Court therefore made orders that the application of Mr Perry on behalf of the Wonnarua people to be joined as a party to the proceeding be dismissed.

NC (deceased) v State of Western Australia (No 2) [2013] FCA 70

12 February 2013, Application to replace the applicant, Federal Court of Australia – Perth, WA
McKerracher J

In this case, the Court granted an order to replace the named applicants for the Yindjibarndi #1 native title claim lodged in 2003. Three individuals were removed as applicants and a number of other individuals were added.

The Yindjibarndi people have already been recognised as the non-exclusive native title holders over parts of their traditional lands in the Pilbara region. This first claim was filed in 1999 and the determination was in 2005.[1] The Yindjibarndi Aboriginal Corporation RNTBC are the PBC for this Yindjibarndi native title area.

In 2011 there was a meeting in Roebourne attended by members of the Yindjibarndi claim group. There were two main factions within the claim group – one supporting Wirlu-Murra Yindjibarndi Aboriginal Corporation (WMYAC) and one supporting the Yindjibarndi Aboriginal Corporation (YAC). These two factions disagreed about whether the meeting had been conducted properly, and disagreed about whether the outcome of the meeting was valid.

A second Yindjibarndi claim group meeting was held in 2012. Resolutions were passed at the meeting stating that the original applicant group was no longer authorised to deal with the native title claim, and authorising a new replacement group of named applicants. The authorisation of the new applicants was subject to certain conditions:

- that the new applicants would appoint YAC to act as its agent, and would receive legal advice from YAC's lawyers
- that none of the new named applicants would seek separate legal representation for the claim group without YAC's consent
- that none of the new named applicants would make any decisions about any area of land or waters without YAC's written consent
- that the new applicants would not make any decision to hold a further authorisation meeting without YAC's written consent and
- that if any named applicant dies[2] or is unable or unwilling to remain an applicant, or if any named applicant breaches any of the conditions, than that person is no longer authorised to be an applicant and the remaining named applicants continue to be authorised without the need for a new meeting.

When the new applicants asked the Court to formally amend the native title claim to reflect the outcomes of that meeting, two members of the original applicant group, who were associated with WMYAC, objected. Ms Allen and Ms Sandy argued that there were serious problems in the decision-making processes used at the meeting, and that the resolutions passed at the meeting were invalid. They said that on this basis the original applicants were still the only people authorised as applicants for the claim.

Ms Allen and Ms Sandy asserted that there were five main problems with the process of decision-making at the 2012 meeting:

1. The group did not pass a resolution deciding that there was no traditional decision-making process for decisions of this kind. Instead, the meeting was begun with a statement projected on a screen saying that there was no traditional process. The Chair of the meeting read this statement out to the meeting, and no person objected. Nevertheless, Ms Sandy and Ms Allen argued in Court that the process was invalid because it did not involve the group making a decision about that question.
2. The decision-making process that was adopted by the group (voting by dropping a button into a bucket, after each person's eligibility to vote was determined and recorded) was adopted by a show of hands. This meant that the process for adopting a decision-making process was different from the process that was adopted.

1 The terms of the determination of native title as set out in 2005 determination were altered on appeal to the Full Court of the Federal Court in 2007 to give effect to the application of s 47B to extinguishment areas: *Moses v State of Western Australia* [2007] FCAFC 78.

2 Note that a respected elder, who was the first-named applicant on the claim, died shortly after the 2012 meeting. So although he was included in the resolution listing the group of newly authorised applicants, his name was not included in the list of people to be included in the formal order amending the applicant group.

3. There was never any formal settled decision about how the votes would determine the decision – for example whether valid decisions must be unanimous, simple majority or absolute majority.
4. Although the 'button' method was agreed, the later resolutions were passed by various other methods including a show of hands, and a process where people moved to one side of the room or another.
5. There was a significant division in opinion about the process: 60% wanted to vote for all of the named applicants at once, and 40% opposed this and wanted to vote for applicants one at a time. Ms Allen and Ms Sandy argued that because of the communal nature of native title, decisions must be made communally, and this normally means a unanimous decision (or at least one without substantial dissent). If decisions are to be made by majority, they said, there should be a unanimous decision to adopt a majority decision-making process.

In relation to the first objection, McKerracher J held that it was not necessary for the group to make a formal resolution about the fact that they had no traditional decision-making process for making decisions of this kind. He noted that nobody disagreed with this fact – Ms Allen and Ms Sandy were not asserting that there was a traditional process; instead, they said that the law required the group to make a formal decision about that fact. McKerracher J held that this was incorrect – the law only required that the group not have such a traditional process. His Honour said: 'The Chair who conducted the meeting with great care and patience left ample opportunity for those who held a different view'.

On the second, third and fourth points, McKerracher J held that the law does not require claim groups to make a formal resolution about its decision-making process. The Court can look at the way the people at the meeting have acted and make a judgment about whether or not a particular decision-making process has been 'agreed to and adopted'. In particular, the Court can look at whether anybody at the meeting objected to the process, or left the meeting or refused to participate. If not, then the Court may be able to conclude that the group as a whole agreed to that decision-making process. So in the case of the 2012 meeting, it did not matter that one decision-making process was used to make the decision about adopting a second decision-making process. As long as a process was agreed and adopted, that was enough. In relation to whether the meeting had agreed on how votes would count towards a decision (simple majority, absolute majority, special majority, or unanimous vote), McKerracher J found that the people attending the meeting had in effect decided that a simple majority would be enough for a valid decision. The first resolution passed at the meeting stated that the vote would be a vote of all of those present at the meeting – this meant that they could not have intended an absolute majority vote, or voting by elders only. There was no suggestion that any special majority was required and no indication that only unanimous decisions would be valid. Importantly, the DVD recording of the meeting shows that nobody raised any objection when the Chair of the meeting proceeded on a simple majority basis – not even the experienced lawyers representing Ms Allen and Ms Sandy at the meeting. This same reasoning applies to the issue of multiple voting process being used throughout the meeting. McKerracher J said that there was nothing unusual about a Chair asking for a show of hands, and later conducting a poll to clarify the vote if necessary. And, as mentioned, nobody objected to this at the time.

His Honour rejected the idea that a decision-making process must be adopted unanimously, and noted nevertheless that no person objected to the process at the meeting. He said: 'The commendable temperament and patience of the Chair makes it very clear that whenever propositions were put to the 2012 meeting, there was ample opportunity for questioning or disagreement with the methods of voting proposed. There was no relevant dissent as to the process.'

McKerracher J held that there was no technical problem with the authorisation of the new applicants. His Honour noted, however, that he had a discretion – a choice whether or not to allow the new applicants to replace the original applicants. He emphasised that it is not for the Court to decide whether or not the group's decision is a wise or good one, but said that nevertheless the Court had the power to refuse the application under s66B to replace the applicant. His Honour considered that it was a serious matter for a substantial proportion of the claim group to be

unrepresented in the applicant group; the voice of a large minority faction would not be heard in decision-making. On the other hand, he noted that there was serious potential for stalemate if both factions were represented in the applicant, and that numerous attempts to mediate the dispute between them had been unsuccessful (as well as expensive, time-consuming and emotionally charged). Weighing up the different considerations, the judge said: 'Although considerations are finally balanced, in my view, the time has come for the claim to move on.' He said it was clear that 'the native title group as a whole has put its trust and authority in the Replacement Applicant.' Accordingly, his Honour made the order to replace the named applicants.

***Pilbara Stone Pty Ltd/ Angelina Cox & Others on behalf of Puutu Kunti Kurrama & Pinikura 2 / Western Australia* [2013] NNTTA 22**

12 February 2013, An inquiry into a future act determination application, Federal Court of Australia – Perth, WA

Helen Shurven, Member

In this matter, the Tribunal determined that the grant of a mining lease, to Pilbara Stone Pty Ltd may be done under s 38 of the *Native Title Act 1993* (Cth) ('NTA'). The proposed tenement completely overlapped the Puutu Kunti Kurrama and Pinikura 2 native title claim.

On 29 June 2011, the State of Western Australia gave notice of a future act under s 29 of the NTA, namely the grant of a mining lease under the *Mining Act 1978* (WA), to Pilbara Stone Pty Ltd.

On 13 August 2012, the grantee party made a future act determination application pursuant to s 35 of the NTA. The native title party opposed that application, contending that the grantee party had not fulfilled its obligation to negotiate in good faith, as required by s 31(1)(b) of the Act.

The matter progressed to a hearing, and shortly before the determination was due to be handed down, the parties withdrew their evidence and submissions, and sought to re-commence the mediation process through the Tribunal. The parties also all signed and lodged a joint submission indicating that the parties had negotiated in good faith, the proposed tenement will not have a significant or material impact on the registered native title rights, and that the future act may be done.

Accordingly, the Tribunal made a determination that the future act, being the grant of the proposed tenement, may be done pursuant to s 38(1)(b) of the Act.

2. Legislation

Aboriginal and Torres Strait Islander Peoples Recognition Act 2012

Status: Passed Both Houses

The *Aborignal and Torres Strait Islander Peoples Recognition Act 2012* was passed in the Houses of Parliament on 25 February 2013. View the Act on the Parliament of Australia website.

Preamble

- A preamble to the Act indicates that the Parliament is committed to 'building the national consensus needed for the recognition of Aboriginal and Torres Strait Islander peoples in our Constitution.' It further states the Parliament's belief that 'this Act is a significant step in the process towards achieving constitutional change.'
- The preamble also acknowledges 'the important work of the Expert Panel, 'while recognising that 'further engagement with Aboriginal and Torres Strait Islander peoples and other Australians is required to refine proposals for a referendum and to build support necessary for successful constitutional change.'

Along with a preamble, the Bill has three substantive parts:

1. A statement of recognition by the Parliament, on behalf of the people of Australia, of Aboriginal and Torres Strait Islander peoples (clause 3)

2. A requirement for the Minister with responsibility for Indigenous Affairs to commence a review of support for a referendum to amend the Constitution within a particular timeframe (clause 4) and
3. A sunset clause, which provides that the Act should expire two years after enactment (clause 5)

Tax Laws Amendment (2012 Measures No. 6) Bill 2012

The House Economics Committee investigating the Tax Laws Amendment Bill 2012 has recommended the unamended passage of the Bill. Committee Chair Julie Owens said that the bill makes important changes to tax laws. 'It will protect the integrity of the tax system, closer align the tax law to underlying policy, and achieve important social goals' Ms Owens said.

This Bill amends the tax legislation to make it clear that native title payments and other benefits are not subject to income tax (which includes capital gains tax). The amendments will apply retrospectively from 1 July 2008.

- view the Bill and the explanatory memorandum
- view the second reading speeches
- view the joint media statement issued by Nicola Roxon MP, Attorney-General, Minister for Emergency Management and David Bradbury MP, Assistant Treasurer, Minister Assisting for Deregulation

Courts and Tribunals Legislation Amendment (Administration) Act 2012

Status: Passed Both Houses

The House of Representatives Standing Committee on Social Policy and Legal Affairs tabled its report into the *Courts and Tribunals Amendmant (Adminstartion) Act 2012.* After consultation with stakeholders including receiving submissions and a public hearing on 30 November 2012, the Committee was satisfied with the objectives and implementation of the reforms. The Committtee has also recommended an external review of the affected courts and tribunal undertaken by the Australian National Audit Office at a later appropriate point in time.

This Act seeks to amend the *Native Title Act 1993* to: enable the transfer of the National Native Title Tribunal's appropriations, staff and some of its administrative functions to the Federal Court of Australia; and provide that the tribunal is no longer a statutory agency for the purposes of the *Financial Management and Accountability Act 1997* and the *Public Service Act 1999*; *Family Law Act 1975* and *Federal Circuit Court of Australia Act 1999*. This is to enable the merger of the administrative functions of the Family Court of Australia and the Federal Magistrates Court of Australia, including by establishing a single Chief Executive Officer position for both courts; and *Ombudsman Act 1976* to make an amendment consequential on the establishment of a single Chief Executive Officer.

- View the Parliamentary Inquiry
- View Report

3. Indigenous Land Use Agreements

The Native Title Research Unit within AIATSIS maintains an ILUA summary which provides hyperlinks to information on the National Native Title Tribunal (NNTT) and the Agreements, Treaties, and Negotiated Settlements (ATNS) websites.

In February 2013, **31** ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
05/02/2013	Djungun People & Tablelands Regional Council	QI2012/087	BCA	Queensland	Access Extinguishment Government

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
05/02/2013	Kondaparinga Station Body Corporate ILUA	QI2012/095	BCA	Queensland	Access Terms of Access Pastoral
08/02/2013	Wik and Wik Way People and Cook Shire Council ILUA #3	QI2012/080	AA	Queensland	Consultation protocol Government
08/02/2013	Wik and Wik Way People and Piccaninny Plains Pastoral ILUA	QI2012/079	AA	Queensland	Access Pastoral
08/02/2013	Wik and Wik Way People and Kendall River Pastoral ILUA	QI2012/081	AA	Queensland	Access Pastoral
08/02/2013	Wik and Wik Way People and Watson River Pastoral ILUA	QI2012/082	AA	Queensland	Access Consultation protocol Pastoral
08/02/2013	Wik and Wik Way People and Merluna Pastoral ILUA	QI2012/084	AA	Queensland	Access Pastoral
11/02/2013	RTIO Kuruma Marthudenera People ILUA	WI2012/006	AA	Western Australia	Mining
21/02/2013	Mer Reserve Transfer ILUA	QI2012/128	BCA	Queensland	Government Infrastructure
22/02/2013	Dja Dja Wurrung People and Ironbark Mining ILUA	VI2012/005	AA	Victoria	Mining Exploration
26/02/2013	Bathurst Heads (Wongai) Mine ILUA	QI2012/086	AA	QLD	Mining
27/02/2013	Gugu Badhun People/Jervoise ILUA	QI2012/126	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Spring Creek (aka Lynwater) ILUA	QI2012/124	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Meadowbank (aka Kinrara) ILUA	QI2012/123	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Ryeburn and Seaview ILUA	QI2012/122	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Lynwater (aka Spring Creek)	QI2012/119	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Oak Hill s ILUA	QI2012/118	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Mount Fullstop	QI2012/117	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Kallanda ILUA	QI2012/114	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Lincoln Springs ILUA	QI2012/112	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Kangaroo Hills ILUA	QI2012/110	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Hidden Valley ILUA	QI2012/109	BCA	QLD	Access Pastoral

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
27/02/2013	Gugu Badhun People/Hopewell, Redbank, Creek and Valley of Lagoons ILUA	QI2012/108	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Lamonds Lagoon ILUA	QI2012/107	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Glendhu (aka New Farm) ILUA	QI2012/106	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Eland and Lucky Downs ILUA	QI2012/105	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Craiglee North & Craiglee South ILUA	QI2012/104	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun people/Craigs Pocket ILUA	QI2012/103	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Camel Creek ILUA	QI2012/102	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Christmas Creek ILUA	QI2012/101	BCA	QLD	Access Pastoral
27/02/2013	Gugu Badhun People/Conjuboy ILUA	QI2012/100	BCA	QLD	Access Pastoral

For more information about ILUAs, see the NNTT Website and the ATNS Database.

4. Native Title Determinations

The Native Title Research Unit within AIATSIS maintains a determinations summary which provides hyperlinks to determination information on the Austlii, NNTT and ATNS websites.

In February 2013, **1** native title determination was handed down.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type
Ngarla Overlap Proceeding	*AB (deceased) & Ors on behalf of the Ngarla People v State of Western Australia & Ors* (unreported, FCA, 19 February 2013, Bennett J)	19/02/2013	WA	NATIVE TITLE EXISTS IN THE ENTIRE DETERMINATION AREA	LITIGATED DETERMINATION	CLAIMANT

5. Future Acts Determinations

The Native Title Research Unit within AIATSIS maintains summaries of Future Acts Determinations summary which provides hyperlinks to information on the National Native Title Tribunal (NNTT).

In February 2013, **13** Future Acts Determinations were handed down.

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
01/02/2013	Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) (native title party) - and - The State of Western Australia (Government party) - and - FMG Resources Pty Ltd (grantee party)	NNTTA 10 (1 February 2013)	WA	Objection – Expedited Procedure Applies

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
01/02/2013	Backreef Oil Pty Ltd (first grantee party/first applicant) - and - Oil Basins Ltd (second grantee party/second applicant) - and - JW (name withheld) and others on behalf of Nyikina and Mangala (WC1999/025) (native title party) - and - The State of Western Australia (Government party)	NNTTA 9 (1 February 2013)	WA	Future Act – Can be done subject to conditions
01/02/2013	WF (deceased) & Others on behalf of the Wiluna Native Title Claimants (WC1999/024) (native title party) - and - The State of Western Australia (Government party) - and - JML Resources Pty Ltd (grantee party)	NNTTA 8 (1 February 2013)	WA	Objection - Expedited Procedure Applies
04/02/2013	David Stock and Others on behalf of the Nyiyaparli People (WC05/6) (Applicant/native title party) - and - Glenn Douglas Archer (grantee party) - and - The State of Western Australia (Government party)	NNTTA 11 (4 February 2013)	WA	Consent determination: future act can be done
05/02/2013	Various Dismissal Dates (see schedule in Determination document) Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and – Grantee parties as listed in the attached schedule (grantee parties)	NNTTA 12 (5 February 2013)	WA	Objection - Dismissed
11/02/2013	Ike Simpson & Others on behalf of Wajarri Yamatji (native title party) -and- The State of Western Australia (Government party) -and- Crosslands Resources Pty Ltd (grantee party)	NNTTA 15 (11 February 2013)	WA	Objection - Dismissed
11/02/2013	Kevin Cosmos & Others on behalf of Yaburara & Mardudhunera People (native title party) -and- The State of Western Australia (Government party) -and- Geotech International Pty Ltd (grantee party)	NNTTA 14 (11 February 2013)	WA	Objection - Dismissed
11/02/2013	Mark Albury, Charles Stapleton, Sharleen Leisha, Marlene Leisha, Carol McLeod & Anor on behalf of Karingbal #2 (native title party) - and - OME Resources Australia Pty Ltd (grantee party) - and - State of Queensland (Government party)	NNTTA 13 (11 February 2013)	QLD	Future Act - Can be done subject to conditions
12/02/2013	Various Dismissal Dates (see schedule in Determination document) Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and – Grantee parties as listed in the attached schedule (grantee parties)	NNTTA 16 (12 February 2013)	WA	Objection - Dismissed
15/02/2013	Cyril Barnes and Others on behalf of Central East Goldfields People (WC1999/030) (native title party) - and - The State of Western Australia (Government party)	NNTTA 17 (15 February 2013)	WA	Objection - Expedited Procedure Applies

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
	- and - AngloGold Ashanti Australia Ltd; Independence Group NL (grantee party)			
19/02/22013	Various Dismissal Dates (See schedule in Determination document) ative title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and – Grantee parties as listed in the attached schedule (grantee parties)	NNTTA 19 (19 February 2013)	WA	Objection - Dismissed
19/02/2013	Various Dismissal Dates (see schedule in Determination document) Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and – Grantee parties as listed in the attached schedule (grantee parties)	NNTTA 21 (19 February 2013)	WA	Objection - Dismissed
22/02/2013	Pilbara Stone Pty Ltd (grantee party/applicant) - and - Angelina Cox & Others on behalf of Puutu Kunti Kurrama & Pinikura 2 (WC2005/004) (native title party) - and - The State of Western Australia (Government party)	NNTTA 22 (22 February 2013)	WA	Future Act - Can be done

6. Registered Native Title Bodies Corporate

The Native Title Research Unit within AIATSIS maintains a RNTBC summary document which provides details about RNTBCs in each State/Territory including the RNTBC name, RNTBC type (agent or trustee) and relevant native title determination information.

Additional information about RNTBCs can be accessed through hyperlinks to corporation information on the Office of the Registrar of Indigenous Corporations (ORIC) website; case law on the Austlii website; and native title determination information on the NNTT and ATNS websites.

7. Native Title in the News

The Native Title Research Unit within AIATSIS publishes *Native Title in the News* which contains summaries of newspaper articles and media releases relevant to native title.

8. Related Publications

Jonathon Kingsley, Mardie Townsend, Claire Henderson-Wilson & Bruce Bolan, *Developing an Exploratory Framework Linking Australian Aboriginal Peoples' Connection to Country and Concepts of Wellbeing*, February 2013

Aboriginal people across Australia suffer significant health inequalities compared with the non-Indigenous population. Evidence indicates that inroads can be made to reduce these inequalities by better understanding social and cultural determinants of health, applying holistic notions of health and developing less rigid definitions of wellbeing. The following article draws on qualitative research on Victorian Aboriginal peoples' relationship to their traditional lans and links to wellbeing, in an attempt to tackle this. Concepts of wellbeing, Country and nature have also been reviewed to gain an understanding of this relationship. An exploratory framework has been developed to understand this phenomenon focusing on positive (e.g., ancestry and partnerships) and negative (e.g., destruction of Country and racism) factors contributing to Aboriginal peoples' health. The outcome is an explanation of how

Country is a fundamental component of Aboriginal Victorian peoples' wellbeing and the framework articulates the forces that impact positively and negatively on this duality.

Available for download at the International Journal of Environmental Research and Public Health

Newsletters

Yamatji Marlpa Aboriginal Corporation (YMAC) News: **Issue 20, February 2013**

'Country, Culture, People, Future' is the latest issue of YMAC quarterly newsletter. The newsletter reflects on a number of significant issues that have impacted the people of the Pilbara Yamatji regions of Western Australia. The newsletter is available for full download at YMAC Website.

Media Releases

Yamatji Marlpa Aboriginal Corporation (YMAC)

Yinhawangka People reach native title agreement with Rio Tinto – 5 February 2013

The Yinhawangka People and Rio Tinto announc an agreement to continue iron ore mining operations within the Yinhawangka Peoples native title area in the central Pilbara. The agreement includes Rio Tinto's existing, current and future iron ore mining opertions in the area. The agreement importantly includes protocols for the protection of homeland communities as well as excluding areas of cultural significance for the Yinhawangka Peoples. Available for full download at YMAC Website.

NAIDOC Week 2013

We value the vision: Yirrkala Bark Petitions 1963 – 5 February 2013

This years NAIDOC theme celebrates the 50th Anniversary of the presentation of the Yirrkala bark petitions to the Federal Parliement. Available for full downlad at NAIDOC Website.

National Native Title Tribunal (NNTT)

The NNTT seeks feedback on it's services – 21 February 2013

In accordance with the NNTT Mission to facilitate 'timely and effective native title outcomes', the NNTT is seeking feedback from clients and stakeholders through its 2013 Client Satisfactions Research Survey. To participate, please register by emailing enquiries@nntt.gov.au For more information, see NNTT Webiste.

Audio News and Podcasts

SBS World News Australia

ERA signs new royalties deal with traditional owners – 1 February 2013

Energy Resources Australia (ERA), which operates the Ranger uranium mine located inside Kakadu National Park, have re-negiotiated a royalties deal with the local Mirarr people. The new deal replaces a previous agreement signed in 1978, an arrangement that the Mirarr people have long protested against as they considered it to have been pushed on to them. Full story available at SBS Website.

ABC Local Radio

Fed Govt includes Koongarra in Kakadu – 6 February 2013

James Glenday discusses the decision by Federal Environment Minister Tony Burke to repeal a law that could allow uranium mining in and near Kakadu National Park in the Northern Territory, including what the decision has meant for Senior Djok elder Jeffrey Lee, whose lands cover the site of the uranium deposit. Full story available at ABC Local Radio Online. Also available for audio download at SBS Website.

ABC Rural Radio

Native Title negotiations affecting start of Ord Stage Three – 20 February 2013

The Northern Territory Government will not confirm if development of Stage 3 of the Ord Expansion Project will start in September. Native Title negotiations are yet to be completed wich has raised concerns over the commencement date of the expansion. Full story available at ABC Rural Online.

ABC Radio National

Torres Strait Native Title Claim back in court – 20 February 2013

In their bid to establish commercial fishing rights under native title laws, Torres Strait Islanders, represented by the Torres Strait Regional Authority, have returned to Canberra where their case has been heard in the High Court of Australia. Full story available at ABC Radio National Online.

Video Bulletins

Gillard delivers 5th *Closing the Gap* report

The World Today, ABC News, 6 February 2013

The Prime Minister Julia Gillard told Parliament today that there remains a 'massive and unacceptable' gap between living standards of Indigenous and non-Indigenous Australians with the Leader of the opposition Tony Abbott sharing some of the Prime Minsters concern. Naomi Woodley reports on the Prime Ministers 5th *Closing the Gap* speech and discusses the mixed results towards achieving the 6 targets outlined in the 2008 by the Council of Australian Governments (COAG). Full report available at The World Today, ABC Online.

9. Training and Professional Development Opportunities

The Aurora Project
See the Aurora Project: 2013 Program Calendar for information on training and personal development for staff of native title representative bodies, native title service providers, and RNTBCs.

Native Title: A Vehicle for Change and Empowerment? Academic Workshop on Native Title
Convenor: Indigenous Law Centre, University of New South Wales (UNSW)
Date: 5-6 April 2013
Further information: please see the ILC website

Key Issues in Native Title Anthropology
Convenor: Centre for Native Title Anthropology, Australian National University (ANU), Canberra
Date: 8–12 April 2013 (on-campus component)
Further information: please email cameo.dalley@anu.edu.au and see ANTH8055 Key Issues in Native Title Anthropology

'So you want to work in native title anthropology?' Professional development masterclass
Convenor: Cairns Institute, James Cook University (JCU), Cairns
Date: 13–20 April 2013
Further information: please email susan.mcintyretamwoy@jcu.edu.au

10. Events

National Native Title Conference 2013: Shaping the Future
Date: 3–5 June 2013
Time: 9am-5pm each day
Location: Alice Springs Convention Centre, Alice Springs, Northern Territory

Registration: For registration information go to http://wired.ivvy.com/event/ntc13/ or contact Jennifer Jones on (02) 6261 4250 or jennifer.jones@aiatsis.gov.au

In 2013 the Annual National Native Title Conference will be convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the Central Land Council (CLC) on the traditional lands of Lhere Artepe, the traditional owners of the Alice Springs area.
Registrations are now open

This year's conference theme 'Shaping the Future' is reflected in the following themes:

The *Native Title Act* 20 years on, where to from here? • Native title and social justice • Native title rights and recognition in an international context • Emerging issues in native title	**The Indigenous estate and development options** • Planning and investment priorities • Natural resource management • Culture and country
Indigenous governance • Getting the right cultural fit • Taking the long-term view, strategic planning • Building capacity	**Building a future** • Economic and community development • Keeping culture strong • Education and job