What's New – March 2012

1. Winner of the NTRU Publications Survey

The NTRU would like to thank all those who participated in our recent survey on NTRU publications. We appreciate your feedback and the many constructive suggestions. The winner of the survey has been selected and it is Ms Sue Ware. Sue works for the Central Desert Native Title Services and has been offered a free registration for the Native Title Conference. The NTRU welcomes feedback on our publications at any time. Please feel free to contact us with your suggestions on ntru@aiatsis.gov.au .

2. Cases

***WF (Deceased) & Ors on behalf of the Wiluna Native Title Claimants/ Western Australia/ Emergent Resources Ltd* [2012] NNTTA 1**
23 February 2012, Perth
Member Daniel O'Dea

In this case the Tribunal decided that the proposed grant of an exploration licence was a future act attracting the expedited procedure under s 237 of the *Native Title Act 1993,* meaning that the native title party did not have the statutory right to negotiate.

The State of Western Australia had given notice of its intention to grant an exploration license to Emergent Resources Ltd over an area of 30 square kilometres, situated entirely within the Wiluna native title claim area. The State indicated that it considered that the grant would attract the expedited procedure. WF (deceased) and others, on behalf of the Wiluna native title claimants, lodged an expedited procedure objection.

The Tribunal had to consider in this case whether the proposed license satisfied s 237(b) of the *Native Title Act 1993* (Cth). This section states that the expedited procedure cannot apply unless the relevant future act is not likely to interfere with sites of particular significance to native title holders. The native title party sought confidentiality orders pursuant to s 155 of the *Native Title Act 1993* (Cth) to restrict the publication of three of their four affidavits on the basis that they contained culturally sensitive material. The Tribunal was not prepared to make such orders, but did modify Tribunal practice by not setting out the affidavits in full in the Tribunal's written judgment.

The Tribunal accepted that three of the deponents, initiated men and senior members of the Wiluna claimants, had the authority to speak on behalf of the native title party. The Tribunal accepted the evidence of the fourth deponent on the basis that he was a qualified anthropologist who had conducted research for the Central Desert Native Title Services (CDNTS). The State challenged the reliability of the evidence provided by the Wiluna deponents on the basis that was not detailed enough and did not contain sufficient material to establish that granting the exploration licence would interfere with significant sites.

There were no registered Aboriginal Sites or Heritage Places under the *Aboriginal Heritage Act 1972* (WA) within the proposed license area, though two sites within the area were registered as 'Other Heritage Places' . The Tribunal noted that the Register of Aboriginal Sites does not purport to be a record of all Aboriginal sites in WA, and so the Tribunal will consider any evidence to support the existence of other sites of particular significance. Further, the question of whether the *Aboriginal Heritage Act 1972*) is sufficient to ensure that interference with particular sites is unlikely, will turn on the facts of each case.

The three Wiluna affidavits stated that there are sites of particular significance within the proposed license area, including: four dreaming tracks; two hills associated with a particular dreaming; places that are closed for women; and important artefacts. The native title party also contended that the two registered sites were of significance to the Martu people.

The Tribunal looked to the evidence contained in the affidavit of the CDNTS anthropologist to confirm the the significance of the dreaming tracks and associated sites to Martu people. But as this evidence was based on the affidavits of the Wiluna deponents it could not be relied on to support information that did not appear in the primary evidence. Moreover, the direct evidence of members of the native title party with reference to sites of particular significance is preferred over the evidence of anthropologists.

The Tribunal held that the evidence of the native title party did not provide sufficient detail and specificity with regard to the nature of the significance of sites and their exact location. The Tribunal accordingly determined that the grant of the exploration license attracted the expedited procedure, and so could proceed without engaging the statutory right to negotiate.

***Karajarri Traditional Lands Association (Aboriginal Corporation)/Western Australia/ASJ Resources Pty Ltd* [2012] NNTTA 1**
24 February 2012, Perth
Member Helen Shurven

In this case the Karajarri Traditional Lands Association (Aboriginal Corporation) unsuccessfully objected the expedited procedure being applied to a proposed exploration licence.

The State of Western Australia gave notice of its intention to grant an exploration license to ASJ Resources Pty Ltd over 290 square kilometres of land within the claim area of the Karajarri People. The notice indicated that the State considered that the grant attracted the expedited procedure pursuant to s 237 of the *Native Title Act 1993* – that is, that the grant could be made without the negotiations required by s 31 *Native Title Act* 1993. The Karajarri Traditional Lands Association lodged an objection to the proposed grant being dealt with under the expedited procedure.

The State sought to have the Karajarri objection application dismissed on the basis that the Tribunal had already decided in a previous decision over the same parcel of land that the expedited procedure was applicable. This argument was based on the doctrine of *res judicata*, which holds that a Court's decision on a dispute between parties must be final and conclusive, so that neither party is allowed to re-litigate the dispute. The State also argued that Karajarri's objection was barred by *issue estoppel,* a rule which holds that where an issue of fact of law has been decided between two parties, that issue cannot be re-argued in subsequent proceedings between the same parties. The Tribunal, however, doubted whether *res judicata* and *issue estoppel* apply to administrative decision making by Tribunals (as opposed to judicial decisions by Courts). Even if these doctrines were applicable, the Tribunal took the approach outlined in *Matusko* which allows a Tribunal to use flexible procedures where fresh evidence is provided. In this case, new affidavit evidence had been provided by both the native title party and ASJ Resources Pty Ltd. For this reason the Tribunal decided not to dismiss the objection as suggested by the State.

On the substantive question raised by the objection, the Tribunal noted that s 237 *Native Title Act 1993* stipulates that a future act will attract the expedited procedure if:

a) the act is not likely to interfere with community or social activities of native title holders and;
b) the act is not likely to interfere with areas or sites of significance and;
c) the act is not likely to involve major disturbances to land or waters.

To object to the expedited procedure on the basis of the first ground, the objector must demonstrate a direct interference with community or social activities of a tangible and not wholly spiritual nature. The Tribunal clarified that it was open to them to determine whether the protective regime under the *Aboriginal Heritage Act 1972* (WA) is sufficient to make it unlikely there would be interference with sites of particular significance. Therefore sites identified by the native title party that are not registered under the *Aboriginal Heritage Act 1972* (WA) may be taken into consideration by the Tribunal. The task of the Tribunal is to undertake a predictive assessment of the likelihood, as opposed to possibility, of potential interference or disturbance.

The Department of Indigenous Affairs documentation showed no registered Aboriginal Sites or Heritage Places under the *Aboriginal Heritage Act 1972* (WA) within the area of the proposed license. The nearest Aboriginal communities are approximately 35-40km north west of the proposed license. Affidavit evidence provided by the native title party details the range of activities Karajarri people perform within the license area – hunting, gathering bush tucker and medicines, camping – and how the grantee party 'could damage

the land or interfere with our hunting and foraging rights'. The Karajarri witness also gave evidence about sites of significance, including an initiation site, paintings, and waterholes. The State argued that affidavit evidence provided for by the native title party had not claimed that all areas referred to were actually in the proposed license area and some sites were described in very general terms.

The Tribunal decided that the proposed grant of the exploration licence did attract the expedited procedure, on the following grounds:

a) The Karajarri affidavit evidence lacked specificity in relation to the number of members of the native title party who use the area for community and social activities and the precise locations that are regularly used for such activities.
b) The Tribunal was confident that ASJ Resources Pty Ltd would take steps to eliminate the likelihood of sites of particular significance being interfered with.
c) The evidence did not sufficiently demonstrate that the proposed activities would cause major disturbances to land or waters.

***Worimi Local Aboriginal Land Council v Attorney-General of New South Wales* [2012] FCA 147**
28 February 2012, Sydney
Cowdroy J

In this unopposed application the Federal Court determined that no native title rights and interests exist over land located at Anna Bay. This application was heard simultaneously with another application involving Worimi Local Aboriginal Land Council, as it concerned the same evidence.

In 2002 the land was granted to the Worimi LALC under s 36 of the *Aboriginal Land Rights Act 1983* (NSW), subject to any native title rights or interests that may have existed prior to the transfer. Under s 42(1) of the *Aboriginal Land Rights Act 1983* (NSW) an Aboriginal Land Council must not deal with land subject to native title rights and interests unless the land is the subject of an approved determination of native title. The Worimi LALC had passed a resolution to sell the land. Three affidavits were filed supporting the application that no native exists in the land, nor were any native title claims identified. The evidence also established that no ongoing Aboriginal traditional activities or practices had taken place on the land.

***Bonner on behalf of the Jagera People #2 v Queensland (No 3)* [2012] FCA 214**
9 March 2012, Brisbane
Collier J

This case concerns an urgent interlocutory application to restrain the holding of a meeting authorising amendments to the Jagera People #2 native title claim. The application was dismissed by Justice Collier.

The claim area subject to the Jagera People #2 native title application encompasses land and waters in south-east Queensland, between Brisbane and Toowoomba. The notice advertising the meeting stated that the purpose of the meeting was to consider changes to the claim group description and to make decisions on other matters relating to the native title claim.

Three indigenous respondents applied for an injunection to stop the meeting from going ahead. That application was supported by three affidavits. The first deponent objected to the claim being amended on the grounds that the amended claim area would divide certain peoples; the amended claim would exclude certain apical ancestors; and a number of elders did not support the authorisation meeting. The second affidavit deposed that the connection report was not based on comprehensive consultation with the claim group and was not prepared by an unbiased and independent contractor. The third deponent objected to the proposed amendment based on the composition of the amended claim group and the amended claim boundary. The third deponent also contended that the connection report was not thorough or accurate.

In circumstances where a plaintiff seeks an injunction, they must demonstrate that:

1. There is a serious question to be tried; and
2. The plaintiff is likely to suffer injury that damages cannot remedy; and
3. The 'balance of convenience' (a comparison of factors for and against the granting of the injunction) favours granting an interlocutory injunction.

Justice Collier was not satisfied that the general concerns and allegations put forward by the applicants advanced a serious case for preventing the authorisation meeting from proceeding. Secondly, her Honour did not consider that the applicants would suffer any injury at all if the meeting was to proceed. Instead, her Honour regarded the meeting as a forum where the concerns raised by the applicants could be aired. Finally,

her Honour considered several factors – the thousands of dollars spent advertising the meeting, the organisation of a venue and catering, the lateness of the application to restrain the meeting – that tilted the balance of convenience against the applicants. Her Honour also noted that earlier the same day, orders had been made to refer the issues in dispute to mediation, for which each respondent was to serve an expert anthropologist's report. Justice Collier was satisfied that this would give the applicants further opportunities to address their concerns. Accordingly, her Honour dismissed the application.

***Baker on behalf of the Muluridji People v Queensland* [2011] FCA 1432**
16 March 2012, Mareeba
Logan J

This case comprises two consent determinations of native title on behalf of the Muluridji people over 12 030 hectares of land and waters to the north-west of Mareeba, about 30km west of Cairns in North Queensland. The Federal Court recognised exclusive native title rights in relation to about 745 hectares of land (Part 1) and non-exclusive native title rights over about 11 285 hectares of land and waters (Part 2). The non-exclusive rights include the right to access and camp on the area; to light fires (though not for clearing vegetation); to hunt, fish and gather, to take natural resources for non-commercial purposes; and to conduct ceremonies, maintain and protect significant sites, and teach the physical and spiritual attributes of the area.

Native title was recognised by an agreement reached between the parties pursuant to s 87 of the *Native Title Act 1993*. As such the court was not required to make its own inquiry on the merits of the applicant's claim. Justice Logan referred positively to Justice Mansfield's treatment of s 87 in *King v Northern Territory of Australia* [2011]. Given that the parties were legally represented and all interests in the land which affect native title within the proposed determination area were identified, it was appropriate for the Court to make orders. His Honour acknowledged the linguistic identity of the Muluridji people and their connection to the land in accordance with traditional laws and customs. Extensive material, including anthropological reports, supported the connection of the claim group to the land and waters within the determination area. Justice Logan further determined that the Muluridji Aboriginal Corporation is to be the prescribed body corporate for the purpose of s 57 of the *Native Title Act 1993* (Cth).

***Banjo Wurrunmurra and Others on behalf of Bunuba/Western Australia/Francis Robert Salmon and Jamie Dean Duffield* [2012] NNTTA 27**
19 March 2012, Perth
Member Helen Shurven

In this case the Tribunal decided that the proposed grant of an exploration licence is not a future act attracting the expedited procedure under s 237 of the *Native Title Act 1993*, and so the native title party did have a statutory right to negotiate.

The State of Western Australia gave notice of its intention to grant an exploration license over 9.8 square kilometres of land within a registered native title claim of the Bunuba People. The proposed license area is 77 kilometres north of Fitzroy Crossing in the shire of Derby, West Kimberley. The Bunuba people lodged an expedited procedure objection. Section 237(a) of the *Native Title Act 1993* provides that a future act will not attract the expedited procedures unless the act is not likely to interfere with community or social activities of native title holders in relation to the land and waters concerned. Issues arising under s 237(b) and s237(c) were not raised in any detail given the evidence relating to s 237(a) supported a determination that the expedited procedure was not attracted.

The evidence provided by the native title party comprised the affidavit of a senior Bunuba person, also a named applicant in the *Bunuba* native title claim and a resident of Biridu Aboriginal Community (one of the five communities within a 45 kilometre radius of the tenement). The deponent gave evidence regarding the community and social activities performed on the tenement area. These activities included: visiting country and sharing stories; camping along creeks to get water or digging soaks; collecting wood and building fires; hunting and fishing using traditional techniques to transfer knowledge to the young people; collecting bush tucker and bush medicine. The deponent also indicated that there are two important songlines that run through the tenement area and important rock formations. The deponent expressed concern that exploration companies may exhaust the water supply on the tenement area.

The State made the following contentions:

1. The affidavit evidence is unhelpful as the camping sites indicated fall outside the tenement.
2. The existence of songlines is not enough to support a decision that the expedited procedure does not apply, as this would affect the vast majority of Australia.

3. The proposed license is not likely to directly interfere with community or social activities as the grantee party intended to offer a Regional Standard Heritage Agreement ('RSHA')
4. The proposed license would have no greater effect on community or social activities than the previous tenements and the pastoral lease that overlap the proposed license.
5. There are no Aboriginal communities situated on the proposed license and the native title party rarely visit the proposed license.
6. The grantee has a right to take and divert water under s 66 of the *Mining Act 1978* (WA).

The Tribunal accepted the deponent's assertions that community and social activities, such as camping, occurred in or near the license area. The Tribunal cited *Moses Silver and Ors/Ashton Exploration Australia Pty Ltd/Northern Territory*, which says that spiritual activities are within the scope of s 237(a) of the *Native Title Act 1993* if they are rooted in physical activities. The Tribunal accepted that the community actively follows and sings the songlines as part of a physical community or social activity. The Tribunal stated that the RSHA went more to preventing the likelihood of major disturbances to land and water than interference with community or social activities.

The Tribunal found that the previous tenements and the pastoral lease had not placed considerable restraints on the exercise of community or social activities. The Tribunal did not accept the State's contention that the native title party rarely visit the proposed license given the affidavit evidence to the contrary and the number of Aboriginal communities within a 25-45 kilometre radius of the tenement. Finally, the Tribunal determined that none of the endorsements or conditions that the State intended to place on the proposed tenement specifically dealt with the interference with community or social activities using water on the proposed license.

In the absence of evidence as to the nature and extent of exploration activities, the Tribunal found that the granting of the proposed license was likely to interfere with the community or social activities of the Bunuba people.

***Roberts on behalf of the Najig and the Guyanggan Nganawirdbird Groups v Northern Territory* (No 3) [2012] FCA 255**
20 March 2012, Darwin
Finn J

The applicant lodged a native title determination application over land and waters subject to a former Crown Lease in the Mataranka Locality. This was subsequently amended by the parties. Pursuant to ss 87 and 94A of the *Native Title Act* (Cth) the parties reached an agreement that no native title exists in relation to the determination area. The parties agreed to this on the basis that the conversion of the former Crown Lease to a Crown Lease Perpetual was a pre-existing rights based act that wholly extinguished any existing native title rights and interests in the determination area.

Justice Finn considered that it would be appropriate to make the orders sought for the following reasons: all parties were legally represented; tenure searches had been conducted to identify other interests in the claim area; respondent parties provided to the other parties lists of their interests; the parties agreed on the nature and extent of different interests in the claim area; there were no other native title proceedings on foot that covered any of the claim area; and the state had played an active role in negotiating the consent determination.

***Roberts on behalf of the Najig and the Guyanggan Nganawirdbird Groups v Northern Territory* (No 2) [2012] FCA 254**
20 March 2012, Darwin
Finn J

In this short judgment, Justice Finn made orders that the native title determinations for Mataranka and the Town of Mataranka be heard separately. This order was considered appropriate as the parties sought a determination that native title exists with respect to the Town of Mataranka application (see below, *Roberts* determination), but that no native title exists with respect to the Mataranka determination (see below, *Roberts (No 3)* determination).

***Roberts on behalf of the Najig and the Guyanggan Nganawirdbird Groups v Northern Territory* [2012] FCA 223**
21 March 2012, Mataranka
Finn J

In this decision Finn J made a determination by consent that native title exists in lands and waters within and surrounding the town of Mataranka.

The Court was satisfied that the parties had reached an agreement as to the terms of the determination pursuant to s 87 of the *Native Title Act* (Cth). The determination area comprises two estates, held respectively by the Najig group and the Guyanggan Nganawirdbird group.

In part of the claim area, the court determined that the claimants have rights to possession, occupation, use and enjoyment of the area to the exclusion of all other. In the remainder of the claim area, the claimants had a range of non-exclusive rights including access, camping, hunting, fishing, gathering and using natural resources, taking and using natural water, conducting ceremonies, maintaining and protecting important sites, and lighting fires (but not to clear vegetation). The court also recognised the non-exclusive right to live on the area and to erect shelters for that purpose.

In relation to the connection requirement under s 223 of the *Native Title Act 1993*, Finn J noted that the connection material was prepared by anthropologists employed by the Northern Land Council. The Territory had raised various contentions about the connection material, which resulted in amendments to the application concerning revised genealogies and the parts of the determination area where native title has been extinguished based upon the grant of tenure and public works.

Having established that all parties had agreed to the nature and extent of other interests within the determination area, pursuant to s 225 of the *Native Title Act* (Cth), Justice Finn regarded it as appropriate to make orders. His Honour noted that the Northern Territory as first respondent had played an active role in negotiating the consent determination. His Honour commended procedures implemented by the Northern Territory Government 'which facilitate the speedy resolution of, and recognition of, native title claims.' Justice Finn noted that, although the agreement avoided the need for a protracted court hearing, 'It is almost a decade since the application was filed. That it has taken this long to be finalised is, in some measure, a matter for regret.'

2. Legislation

***Native Title (Prescribed Bodies Corporate) Amendment Regulation 2012 (No. 1)* (Cth)**
This regulation makes an amendment that had been intended to be made by the Native Title (Prescribed Bodies Corporate) Amendment Regulations 2011 (the Amendment Regulations). This amendment was not made by the Amendment Regulations due to a drafting error that occurred during the editing process of the Amendment Regulations. The Regulation amends the definition of native title decision in sub-regulation 3(1) of the Native Title (Prescribed Bodies Corporate) Regulations 1999 by omitting the word 'do' from after the words 'agree to' in paragraph (b) of the definition. This correction recognises the fact that acts of governments may affect native title rights and interests, as well as acts done by the common law holders.

Further information is available at: http://www.comlaw.gov.au/Details/F2012L00578

***Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth)**
Regulations as amended, taking into account amendments up to Native Title (Prescribed Bodies Corporate) Amendment Regulation 2012 (No. 1)

Further information is available at: http://www.comlaw.gov.au/Details/F2012C00151

3. Policy

Government of Western Australia

Guide to the Government Indigenous Land Use Agreement and Government Standard Heritage Agreement - January 2012 (PDF 156 Kb)
This Guide provides further details about the government ILUA and GSHA for those involved or considering the ILUA.

Governance Principles for Native Title Agreements - January 2012 (PDF 72 Kb)
The Principles support the native title party's governance structures and practices for managing benefits in a transparent and sustainable way.

Guidelines for the Provision of Connection Material - February 2012 (PDF 71Kb)
The Guidelines aim to assist those involved in the native title process to understand the information the Government requires to make a decision about settling native title applications.

'The South West Settlement: Negotiation Process' – February 2012
A statement outlining the process for negotiations between the State and the South West Land and Sea Council for the resolution of native title claims in the South West region.

'The South West Settlement: Resolution of Native Title Claims in the South-West Region - Questions and Answers' – February 2012
This document provides an outline of the South West settlement including explanations of the various Heads of Agreement benefits, practical effects and financial impacts.

4. Indigenous Land Use Agreements

- In March 2012, **5** ILUAs were registered with the National Native Title Tribunal.
- The Native Title Research Unit maintains an ILUA summary which provides hyperlinks to information on the NNTT and ATNS websites.
- For more information about ILUAs, see the National Native Title Tribunal Website: ILUAs
- Further information about specific ILUAs is available in the Agreements, Treaties and Negotiated Settlements (ATNS) Database.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
02/03/2012	QGC Pty Limited - Jangga ILUA	QI2011/032	Area agreement	QLD	Development Petroleum/Gas Pipeline Exploration Energy
02/03/2012	Wangkangurru/Yarluyandi Petroleum Conjunctive ILUA	SI2011/023	Area agreement	SA	Petroleum/Gas
16/03/2012	Torres Strait Island Regional Council - IBIS Indigenous Land Use Agreement (Body Corporate Agreement)	QI2012/025	Body corporate agreement	QLD	Commercial Public
16/03/2012	Muluridji People and Tablelands Regional Council ILUA	QI2011/058	Area agreement	QLD	Access Infrastructure
23/03/2012	Hancock Alpha Coal Project (Port Area Native Title Group)	QI2011/019	Area agreement	QLD	Mining

5. Native Title Determinations

- In March 2012, **4** native title determinations were handed down.
- The Native Title Research Unit maintains a Determinations Summary which provides hyperlinks to determination information on the Austlii, NNTT and ATNS websites.
- Also see the National Native Title Tribunal Website: Determinations
- The Agreements, Treaties and Negotiated Settlements (ATNS) Database provides information about native title consent determinations and some litigated determinations.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type
Town of Mataranka	*Roberts on behalf of the Najig and the Guyanggan Nganawirdbird Groups v Northern Territory of Australia* [2012] FCA 223	21/03/2012	NT	Native Title Exists in Parts of the Determination Area	CONSENT DETERMINATION	CLAIMANT
Mataranka	*Roberts on behalf of the Najig and the Guyanggan Nganawirdbird Groups v Northern Territory of Australia (No 3)* [2012] FCA 225	20/03/2012	NT	Native Title Does Not Exist	CONSENT DETERMINATION	CLAIMANT
Muluridji People	*Baker on behalf of the Muluridji People v State of Queensland* [2011] FCA 1432	16/03/2012	QLD	Native Title Exists in Parts of the Determination Area	CONSENT DETERMINATION	CLAIMANT
Muluridji People #2	*Baker on behalf of the Muluridji People v State of Queensland* [2011] FCA 1432	16/03/2012	QLD	Native Title Exists in Parts of the Determination Area	CONSENT DETERMINATION	CLAIMANT

6. Registered Native Title Bodies Corporate

The Native Title Research Unit maintains a Registered Native Title Bodies Corporate 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 the RNTBC 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. Public Notices

The *Native Title Act 1993* (Cth) requires that native title parties and the public must be notified of:

- proposed grants of mining leases and claims;
- proposed grants of exploration tenements;
- proposed addition of excluded land in exploration permits;
- proposed grant of authority to prospect;
- proposed mineral development licences.

The public notice must occur in both:

- a newspaper that circulates generally throughout the area to which the notification relates
- a relevant special interest publication that:
    - caters mainly or exclusively for the interests of Aboriginal peoples or Torres Strait Islanders;
    - is published at least once a month;
    - circulates in the geographical area of the proposed activities.

To access the most recent public notices visit the NNTT website or the Koori Mail website.

8. Native Title in the News

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

9. Native Title Publications

1. Publications

- J K Weir (ed.), *Country, Native Title and Ecology*, ANU E-Press and Aboriginal History Inc., Canberra, 2012.

Abstract:
Country, native title and ecology all converge in this volume to describe the dynamic intercultural context of land and water management on Indigenous lands. Indigenous people's relationships with country are discussed from various speaking positions, including identity and knowledge, the homelands debate, water planning, climate change and market environmentalism. The inter-disciplinary chapters range from an ethnographic description of living waters in the Great Sandy Desert, negotiating the eradication of yellow crazy ants in Arnhem Land, and legal analysis of native title rights in emerging carbon markets. A recurrent theme is the contentions over meaning, knowledge, and authority.
Book available for download from:
http://epress.anu.edu.au/titles/aboriginal-history/country-native-title-and-ecology-2

- P Burke, *Law's Anthropology: From ethnography to expert testimony in native title*, ANU E-Press, Canberra, 2011

Abstract:
Anthropologists have been appearing as key expert witnesses in native title claims for over 20 years. Until now, however, there has been no theoretically-informed, detailed investigation of how the expert testimony of anthropologists is formed and how it is received by judges. This book examines the structure and habitus of both the field of anthropology and the juridical field and how they have interacted in four cases, including the original hearing in the *Mabo* case.
Book available to download from:
http://epress.anu.edu.au/titles/law_anthro_citation

- 'Responses to David Trigger's Article Anthropology Pure and Profane: The Politics of Applied Research in Aboriginal Australia', *Anthropological Forum: A journal of social anthropology and comparative sociology*, vol. 22, no. 1, March 2012, pp. 62–93

Abstract:
This article includes seven responses to David Trigger's article, 'Anthropology pure and profane: The politics of applied research in Aboriginal Australia', which was published in November 2011. Those responding were invited to provide comments on Trigger's paper in defence of native title and consultancy work.
Article available for download from:
http://www.tandfonline.com/toc/canf20/current

- Kristin Hauslet, 'Indigenous Perspectives in the Courtroom', *The International Journal of Human Rights*, vol. 16, no. 1, January 2012, pp. 51-72

Abstract:
All around the world, indigenous peoples struggle to ascertain their rights to the lands they have traditionally occupied. Court litigation is one possibility for indigenous peoples to seek the affirmation of these rights. However, such proceedings present many challenged for indigenous claims, in particular with regard to evidentiary rules. While courts have long favoured the written word, indigenous peoples can often only rely on their oral history and traditions to prove their extensive relationship to the land in question. In order to assess indigenous claims fairly, there is a need for adapting the court procedures and general approach to the specificities of these claims.
Article available for download from:
http://www.tandfonline.com/doi/abs/10.1080/13642987.2011.609480#preview

2. Reports

- National Native Title Tribunal, *National Native Title Tribunal Strategic Plan 2012–2014*, 2012.

The Strategic Plan is a three year guide to how the NNTT will effectively deliver services to its clients and stakeholders. The Strategic framework identifies four priority areas: (i) to engage efficiently and innovatively with clients and stakeholders (ii) to deliver high quality agreement-making services (iii) to foster a workplace culture of high performance that retains diverse and high-quality employees, and (iv) to account for their work through transparent and consistent processes.

Strategic Plan available for download from:
http://www.nntt.gov.au/News-and-Communications/Media-Releases/Pages/national-native-title-tribunal-strategic-plan2012-14.aspx

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3. Media Releases

Torres Strait Regional Authority
14 March 2012 – 'TSRA Seeks Sustainable and Appropriate Marine Management Solutions'
The TSRA believes that national media coverage of turtle and dugong butchering has overshadowed the efforts and progress made by indigenous communities to sustainably manage sea resources.

National Native Title Tribunal
20 March 2012 – 'Tribunal provides assistance for the South West Native Title Claims'
The NNTT will provide assistance in relation to the alternative settlement agreement for the South West native title claims. The NNTT invites any Noongar person to contact them and provide information if they:

- Believe they are eligible to be a member of any of the registered native title claims in the South West but have not previously participated in the claim process
- Believe that the description of ancestors for any of the claims is incomplete.

Government of Northern Territory
21 March 2012 – 'Native Title Certainty',
Local Member for Stuart, Karl Hampton, today welcomed the handing down of a consent determination in Mataranka that will provide certainty regarding native title.

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4. Newsletters

- Queensland South Native Title Services, Message Tree, Volume 3, Issue 1, 2012
- Yamatji Marlpa Aboriginal Corporation, YMAC News, Issue 17, April 2012
- Department of Communities, Queensland Government, Namalata Thusi, Issue 17, March 2012

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5. Video Bulletins & Slideshows

- 'Mataranka native title claim passed after ten year wait', ABC Darwin, 21 March 2012

Traditional owners of Mataranka gathered today to celebrate the long-awaited recognition of their native title rights over the town.
Slideshow available for viewing at:
http://www.abc.net.au/local/photos/2012/03/21/3460699.htm

- 'Native Title Recognised for Mataranka', ABC Online, 22 March 2012

A ceremony marked the handover of native title land rights to the Indigenous owners of the town of Mataranka.
Video available for viewing at:
http://www.abc.net.au/news/2012-03-21/native-title-recognised-for-mataranka/3904934

- Video Bulletin #1, South West Aboriginal Land and Sea Council, 9 March 2012

Glen Kelly, CEO of the South West Aboriginal Land and Sea Council, discusses (in this first video bulletin of this series) three key components of the negotiations with the WA Government aimed at resolving the Noongar native title claims: Recognition of Noongar People as Traditional Owners of the South West, the Land component of a settlement, and the Process and Timeframe for reaching an agreement.

Video available for viewing at:
http://www.noongar.org.au/index.php

10. Training and Professional Development Opportunities

The Aurora Project
See the Aurora Project: 2012 Program Calendar for information on training and personal development for staff of NTRBS/NTSPs and RNTBCs.

Master class in Native Title for Anthropologists
Convenor: Dr Susan McIntyre-Tamwoy
Date: 14th-22nd April 2012
Time: 8:30am-5:00pm daily
Location: James Cook University, Cairns
Registration: http://alumni.jcu.edu.au/MCNativeTitleAnthropologist2012
Cost: $1860 (incl GST and non-refundable deposit) General fee waiver scholarships and travel bursaries available

This master class aims to provide graduate and early career anthropologist with targeted skills based training for native title work, with a particular focus on northern Australia. Topics covered in the course include: the roles of anthropologists in native title work and the native title process, cultural awareness and working with indigenous knowledge, contemporary kinship and concepts of Aboriginal 'society', defining the claimant group, legal frameworks and registration requirements, linguistics, genealogical research and mapping descent groups. Participants will also cover: documenting the claim and the nature of 'evidence', writing connection reports and supplementary reports, addressing Terms of Reference, dealing with ethical issues and how to maintain objectivity.

For more information see: https://alumni.jcu.edu.au/MCNativeTitleAnthropologist2012

Postgraduate Course 'Key Issues in Native Title Anthropology
Convenor: Professor Nic Peterson and Dr Pam McGrath
Date: 16th-20th April 2012
Location: Australian National University, Canberra
Curriculum & Fees: http://studyat.anu.edu.au/courses/ANTH8055;details.html
Cost: $2250 for domestic fee-paying students and $3414 for international fee-paying students

During the 2012 Autumn Session the ANU School of Archaeology and Anthropology is offering for the first time an accredited postgraduate course on native title anthropology, 'Key Issues in Native Title Anthropology'. The course, to be delivered as an intensive over five days between Monday 16th and Friday 20th April 2012, will examine key conceptual and methodological issues and arguments pertinent to the theory and practice of native title anthropology. Drawing on significant cases, students will examine and critique the definition and application of concepts such as 'society' and 'normative system', 'laws' and 'customs', and 'tradition' and 'continuity' as applied in the intersection of anthropological evidence and legal reasoning. They will also learn about the role of expert witnesses and the ongoing role of anthropologists in the post-litigation environment. The course will be coordinated and delivered by Professor Nic Peterson and Dr Pam McGrath through the Centre for Native Title Anthropology. In addition, a number of experienced consulting anthropologists and senior legal practitioners will present as guest lecturers.

For more information see:
http://ippha.anu.edu.au/sites/default/files/images/111102%20ANTH8055%20flier.pdf

One-day Symposium – Anthropology in the Aftermath of Native Title
Date: 22nd June 2012
Location: The University Club of Western Australia, Perth
Registration: RSVP to Dr Pamela McGrath at pam.mcgrath@anu.edu.au
Cost: Free

The Centre for Native Title Anthropology and the Anthropological Society of Western Australia is hosting a free one-day symposium on the future of anthropology and anthropologists in the post-native title determination world.

11. Conferences

National Native Title Conference 2012
Echoes of Mabo: Honour and Determination
4–6 June, Townsville Queensland

The 2012 Annual National Native Title Conference will be convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and North Queensland Land Council (NQLC) on the traditional lands of the Townsville area. This year the Conference will be held in Townsville, at the Townsville Entertainment and Convention Centre from the 4th to 6th June 2012.

The Native Title Conference is an opportunity for people to come together and engage in debate, including native title holders and claimants, traditional owners, native title representative bodies and service agencies, the Federal Court, National Native Title Tribunal, Commonwealth and state government agencies, academics, consultants and industry representatives. The 2012 Native Title Conference will be celebrating 20 years since the Mabo case recognised native title in Australia.

This year's conference " Echoes of Mabo: Honour and Determination " is reflected in the following themes:

- Recognition, Reform, Revolution
- Leadership and Legacies
- Families and Youth
- Culture and Country

Relevant topics within these themes include: decision making, case law, the experiences of Prescribed Bodies Corporate, compensation, water, hunting practices, cultural life, joint-management, anthropology and legal practice, mediation and dispute resolution, document and information management, making and implementing agreements, benefits, economic development, local government planning regimes, health, governance, weeds, housing, climate change, heritage, lateral violence, history, language, funding, policy, legal reform, environmental issues, international comparisons, research and statistics, sovereignty, reflections on the last 20 years, social relationships, theoretical developments and future trends.

Registrations available online soon. See the Conference website for more details:
http://www.aiatsis.gov.au/ntru/NTC12.html