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

WHAT'S NEW IN NATIVE TITLE
MAY 2013

1. Case Summaries

Ngambri Local Aboriginal Land Council v Attorney-General of New South Wales [2012] FCA 1484

19 December 2012, Sydney

Jagot J

This matter concerns three applications seeking orders that native title does not exist in relation to three lots of land situated within the boundaries of the Ngambri Local Aboriginal Land Council land. These applications were brought by the non-claimant applicant pursuant to s 13 of the *Native Title Act 1993* (Cth). Ultimately, the Court ordered that no native title exists in relation to three lots of land in question.

Non-claimant applications are defined in s 253 of the Act as 'a native title determination application that is not a claimant application.' Non-claimant applications can fall within the categories in (2)-(4) of the table in s 61(1) of the Act. Relevant to this matter, (2) provides that a native title application can be made by: 'A person who holds a non-native title interest in relation to the whole of the area in relation to which the determination is sought'.

The non-claimant applicant holds an interest in the three lots of land pursuant to the provisions of the *Aboriginal Land Rights Act 1983* (NSW). That is, under this act, the relevant lots of land were transferred to the non-claimant applicant. It is because of these transfers that the non-applicant company has a sufficient interest to make a non-claimant application.

In considering these applications, the Court noted that the notification period pursuant to s 66 of the Act had expired, as required by s 86G(1) of the Act (a notification must be sent to representative Aboriginal/Torres Strait Islander body (NTSCORP Ltd in this case) indicating the three month period of time permitted for any objection to be raised in relation to the non-claimant application). In addition, the respondents – the Attorney-General and the NTSCORP Ltd – confirmed that they did not oppose the non-claimant applicant's application.

The Court also considered evidence from Ms Matilda Ann House who is a 67 year old Ngambri Aboriginal Elder. Ms House claimed to be a traditional elder of Ngambri Country. Ms House deposed that she personally knows the lots of land in question and claimed that she was not aware of existing or ongoing Aboriginal traditional ceremonies or practices taking place on any of the lots of land in question.

For the reasons above, the Court was satisfied that all of the procedural and substantive requirements of the Act had been met in relation to each of the non-claimant applications. The Court was also satisfied that the s 86G notification requirements were satisfied. Accordingly, the Court ordered that no native title exists on each of the three lots of land.

***Brown (on behalf of the Ngarla People) v State of Western Australia (No 2)* [2013] FCAFC 18**

22 February 2013, Perth
Mansfield, Greenwood & Barker JJ

This matter involves the finalisation of an appeal from the Federal Court to the Full Federal Court. The Appellants are Alexander Brown and others on behalf of the Ngarla People, the first respondent is the state of Western Australia, and the second respondents are BHP Billiton Minerals Pty Ltd, Itochu Minerals & Energy of Australia Pty Ltd and Mitsui Iron Ore Corporation Pty Ltd.

On 5 November 2012, the Full Court published the principal judgment in these proceedings*: Brown (on behalf of the Ngarla People) v State of Western Australia* [2012] FCAFC 154. At the conclusion of those proceedings, the Court ordered that the Ngarla Peoples' appeal be upheld, and the parties submit proposed forms of final orders for further consideration. The Ngarla People and the state each submitted a minute of proposed determination of native title. The mining companies supported the version proposed by the state. However, the Ngarla People and the state were unable to agree upon the terms of the minute of proposed determination of native title.

The point of disagreement between the parties arose out of Greenwood J's principal judgment. Greenwood J asserted the view that a broad preventive effect should occur in relation to native title rights and interests when a mining grant is in place. However, this was not the view asserted by Mansfield J, or Barker J. In basic terms, the point of confusion between the parties was whether native title rights and interests are suspended while a mining grant is in place, despite the relevant mining company ceasing mining activity on the relevant land. The state and the mining companies seemed to support the claim that native title rights and interests should not be exercised on lands covered by the grant until that grant expires.

However, after considering the principal judgments handed down by Greenwood J, Mansfield J, and Barker J, the Court agreed that the correct Minute of Proposed Determination of Native Title are that of those orders proposed by the Ngarla People, which provided for the narrower view of the preventative effect, adopted by Barker J. That is, the existence of a relevant grant will not preclude the Ngarla People from exercising their native title rights and interests on the land in circumstances where the mining activity on those lands has ceased.

***Weribone on behalf of the Mandandanji People v State of Queensland* [2013] FCA 255**

15 March 2013, Sydney
Rares J

In this matter, the Court ordered that the meetings held by purported members of the Mandandanji People on 3 September 2011, 8 October 2011 and 12 November 2011 were not properly constituted meetings for the purposes of s 251B of the *Native Title Act 1993* (Cth), and that the resolutions of those meetings were invalid and of no effect. The Court also ordered that any monetary benefit payable to the Mandandanji people relating to traditional lands be paid to the Registrar of the Court until a determination of native title is made, or until ordered otherwise.

This proceeding dealt with two competing applications for an order under s 66B of the Act to replace the existing applicant in the matter. The two competing applicants are the Binge applicants and the Mailman applicants. The Binge and Mailman applications represent divisions of the existing applicant. The Binge and Mailman applications arose as a result of a dispute as to the validity of an authorisation meeting held on 3 September 2011, and in particular, the inadequacy of notice provided to the relevant native title group members.

The meeting on 3 September 2011 was advertised by Queensland South Native Title Services Limited by public notice in four newspapers. The notice identified the four current apical ancestors of the Mandandanji People by name and invited to the meeting all the persons who were the descendants of those apical ancestors. The notice stated the following:

> The authorisation meeting will authorise matters including: Expert evidence for the connection from pre-sovereignty to contemporary society; A claim group description that is consistent with the expert evidence, which may include amending the existing apical ancestors.

The advertisement made no mention of the fifth possible apical ancestor. The meeting went ahead and a resolution was passed for the fifth ancestor to be added to the application description, and for a new group of applicants to replace the existing applicants.

On 8 October 2011, a further meeting occurred at which time the meeting resolved that the new applicant would be authorised to act on behalf of the claim group in relation to the native title application. The agreed group of applicants from this meeting formed the Binge applicant. The final resolution authorised the Binge applicant to apply the Court under s 66B of the Act to be the applicant in the native title proceedings.

On 12 November 2011, a further meeting occurred with disaffected members of the existing applicant. This meeting was advertised as an authorisation meeting under s 66B of the Act. The business of that meeting was whether the existing applicant was authorised by the claim group. That meeting resolved to appoint the Mailman applicant to make an application under s 66B of the Act.

Accordingly, the Court was tasked with having to deal with two competing applications seeking to be named the new applicant to the native title claim under s 66B of the Act. After considering the positions of the Binge and Mailman applicants, the Court held that the notice in relation to the meeting on 3 September 2011 was insufficient as the description did not clearly express the business to be conducted at that meeting, which was to decide upon the inclusion of a fifth apical ancestor. The Court also held that it follows that the meeting on 8 October 2011 was not constituted by a valid notice of meeting. This is because it called together persons who were relatives of the fifth apical ancestor, who could not be considered members of the claim group without a valid decision of the native title group. For these reasons, the Court ordered that the Binge applicants must fail.

The Court then considered whether the Mailman applicants should replace the Binge applicants. The Court found that replacing the existing applicants with the Mailman applicant would bring potential injustice as the native title members attending the meetings of 3 September and 8 October 2011 may have assumed that the Binge applicant was validly appointed and decided not to attend the 11 November 2011 meeting. Accordingly, the Court was not satisfied that the November meeting reflected in any legitimate sense, the informed consent of the members of the native title claim group, and held that the meeting of 11 November 2011 was also invalid, and ordered that the Mailman applicants must also fail.

Therefore, as a result, no applicant was authorised by the native title claim group. In addition, there remained significant division between the members of the existing applicant group, which raised questions as to the proper and authorised control of the Mandandanji Peoples' funds and assets. As such, the Court granted an injunction to hold the status quo of the Mandandanji Peoples funds and assets, and ordered that all monetary benefits to be paid to the Mandandanji Peoples pursuant was to be paid the Registrar of the Federal Court to hold for the benefit of the Mandandanji Peoples until a native title determination is made, or otherwise ordered by the Court.

Ward v State of Western Australia [2013] FCA 281

28 March 2013, Perth
Barker J

In the matter, the Court dismissed a motion brought by the state of Western Australia, which sought an order to strike out certain paragraphs of the application for compensation filed by the traditional owners of the Gibson Desert Nature Reserve. The area covered by the application for compensation within the Gibson Desert Nature Reserve is Reserve 34606.

The native title party applied for compensation under s 61(1) of the *Native Title Act 1993* (Cth). They claimed that the reservation and vesting of Reserve 34606 were separately valid category D past acts as permitted by s 19 of the

Act (a past act is a dealing with traditional lands, before 1 July 1993 or 1 January 1994, that is inconsistent with the ongoing enjoyment of native title rights and interests). Specifically, the native title party claimed that the relevant past acts were:

1. the reservation of the land as Reserve 34606, for the purpose of the conservation of fauna and flora, under s.29 of the *Land Act 1933* (WA); and
2. the vesting of Reserve 34606 in the Western Australian Wildlife Authority on 22 April 1977 for the reserve purpose under s.33 of the *Land Act 1933* (WA).

The state accepted that the compensation for the reservation of Reserve 34606 is a point which is open for contention in this matter. However, the state claimed that the compensation sought in relation to the vesting of Reserve 34606 is inconsistent with the judgment of *Western Australia v Ward* [2002] HCA 28 (*Ward*). In particular, the finding in *Ward* at [252] that at the time of vesting of a reserve 'the only interests in the land which could be affected by the vesting, and the holder of which would not be entitled to compensation, would be native title rights and interests'.

The state also took issue with the application of the non-extinguishment principle pursuant to s 5(1)(d) of the Act regarding the reservation of Reserve 34606 (the non-extinguishment principle means that the native title rights are, in effect, suspended, but not extinguished, for so long as the reservation remains). In this regard, the state claimed that the native title was extinguished at the time of the vesting of the land. Accordingly, as the vesting immediately followed the reservation, compensation can only be assessed on the basis that the native title was extinguished at vesting, 'a cybersecond after the act of reservation'. As such, the state claimed that the native title party should seek an assessment for the extinguishment of native title, and not compensation for diminished or impaired native title since 1977.

The native title party accepted that based on the *Ward* case there are serious impediments to the maintenance of the compensation application on the impugned grounds, but wished to have the opportunity to contend that the *Ward* case should be reviewed, via an appeal to the High Court. As such, the native title party wished to retain the grounds relating to the vesting of the land 'for the sake of completeness'.

The native title party also claimed, among other things, that it should be entitled to claim compensation under s 51 of the Act for compensation for 'loss, diminution, and impairment' because the reservation of Reserve 34606 suppressed any native title right to control the use of, or access to the land, and made the native title holders' rights and interests susceptible to extinguishment the subsequent vesting of the land.

The Court considered case law authorities that require that the 'exercise of powers to summarily terminate proceedings must always be attended with caution', and the decision of whether or not to dispose of proceedings require a 'practical judgment as to whether the applicant has more than a 'fanciful prospect of success''. In applying these authorities, the Court noted that on a logical view of the native title party's claims, the prospects of success are narrow. However, the issues raised by the native title party are by reason of the nature of the proceedings, potentially highly significant to the future administration of the Act.

The Court also noted that as the parties both agree that the Court was bound by the *Ward* case, little time would be wasted by the Court in considering the issue. Accordingly, the Court considered the course of action proposed by the native title party appropriate in the very particular circumstances, and dismissed the state's strike out application.

Murray on behalf of the Yilka Native Title Claimants v State of Western Australia (No 4) [2013] FCA 413

22 April 2013, Perth
Mckerracher J

In this matter, the Court adjourned an application filed by the state of Western Australia ('the State') that sought that the matter be dismissed or stayed pursuant to r 6.02 of the *Federal Court Rules 2011* (Cth) until the conclusion of the substantive trial.

Rule 6.02 of the *Federal Court Rules 2011* provides that if a person starts a vexatious proceeding, the state may apply to the Court for an order that the person must not continue the proceeding or start or continue any other proceeding in the Court without the leave of the Court.

The application for dismissal was filed after part of the evidence had been heard in relation to the substantive application. The state sought the dismissal or permanent stay of proceedings, arguing abuse of process, that the matter had already been litigated, and the subject matter was too closely connected to the subject of an earlier proceeding.

The Court noted that while the state's application may ultimately succeed, and that further costs will be incurred if the trial continues, the Court could not be confident, before hearing the further evidence, that the substantive application had no merits. The Court also noted that evidence and arguments will be available at the conclusion of the trial, unless the native title party is able to establish the merits of its claim.

Accordingly, the Court found that it was in the interests of justice to adjourn the hearing of the state's application until the completion of the substantive hearing.

Corunna v Native Title Registrar [2013] FCA 372

24 April 2013, Perth
Siopis J

This matter is an application for review pursuant to s 190F(1) of the *Native Title Act 1993* (Cth) filed by the applicants on behalf of the Swan River People. The applicants sought the review of Sosso JM's decision to reject the applicants' native title claim on the basis that they had failed to satisfy the requirements of ss 190B(5)(a) and (b) of the Act. Upon review, the Court agreed with the Sosso JM's decision and dismissed the applicants' application for review.

On 17 February 2012, the applicants filed a native title determination application. The applicants' claim asserted native title rights and interests over both land and sea. A vast bulk of the claim was the sea west of Rottnest Island, which is at the centre of the controversy in this application.

On 29 May 2012, the Registrar determined not to accept the application for native title per s 190A(6B) of the Act. On 12 April 2012, the applicant applied to the Tribunal for review per s 190E(1) of the Act. That review was considered by Sosso JM who determined that the claim did not meet the statutory requirements of ss 190C(3), 190B(5), and 190B(6) of the Act. Therefore, Sosso JM determined not to accept the applicants' application.

The applicants then sought a review of Sosso JM's decision to refuse the registration of the applicants' claim on the grounds that in considering conditions under ss 190B(5)(a) and (b) of the Act, Sosso JM (i) erred in his interpretation of the relevant case law, and (ii) made a decision which was manifestly unreasonable.

Relevantly, s 190B(5) of the NTA provides:

> (5) The Registrar must be satisfied that the factual basis on which it is asserted that the native title rights and interests claimed exist is sufficient to support the assertion. In particular, the factual basis must support the following assertions:
>
> > (a) that the native title claim group have, and the predecessors of those persons had, an association with the area; and
> >
> > (b) that there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the claim to native title rights and interests; and
> >
> > (c) that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

In relation to ground (i), Sosso JM found that the material provided by the applicant did not demonstrate a factual basis which was sufficient to support the assertion that the claim group have, and their predecessors had, an association with that part of the claim area over the sea area west of Rottnest Island.

This was fatal to the application because Sosso JM found that it was necessary for the material to provide a factual basis sufficient to support the assertion that the claim group have, and their predecessors had, an association with the whole of the claim area. In support of that construction of s 190B(5)(a), Sosso JM referred to the matter of *Gudjala People # 2 v Native Title Registrar* [2007] FCA 1167 ('Gudjala People # 2') at [52] where Dowsett J found that:

> the test is not that there is evidence before the delegate that each member of the claim group has an association over the whole area, but cumulatively, there is material before the delegate that shows an association between the whole group and the whole area of the claim.

Sosso JM considered evidence which suggested that some of the claimants were turtle hunters; however, noted that there had been no suggestion that the hunting of turtles took place other than on the landward portion of the claim area. There was also an ambiguous reference to Rottnest Island in some of the evidence, but did not provide a solid basis for inferring that the claim group's association with the island was traditional. Sosso JM also noted that the evidence indicated that there were Dreaming stories that related to the waters immediately off the coast and the islands near the mainland.

Accordingly, Sosso JM found that there was a dearth of material which could support a finding that the huge expanse of sea which forms part of the claim area was linked to the traditional laws and customs of the claim group. Sosso JM also found that the absence of any evidence which would support the assertion that the traditional laws and customs of the claim group apply to the vast expanse of sea which forms more than half of the claim area, was an insuperable barrier to a positive finding pursuant to s 190B(5)(b) of the Act.

In this review, the Court found that Sosso JM did not make an error of law in determining that the appropriate test was whether the material provided demonstrated a factual basis sufficient to support the assertion that the native title claim group have, and their predecessors had, an association over the whole area of the claim. The Court agreed with the reasoning of Sosso JM, but noted that the authority of *Martin v Native Title Registrar* [2001] FCA 16 was an authority more on point.

In relation to ground ii), the Court found that Sosso JM was entitled to find that the quality of that material was not sufficient to demonstrate compliance with s 190B(5)(a), and quoted French J in Martin stating: '[The delegate] was not obliged to accept the very broad statements contained in Sch F which have no geographic particularity.'

Further, the Court considered the decision in Gudjala People # 2 where the Full Court provided that the general description must be in sufficient detail to permit a Registrar to make a genuine assessment of the application under s 190A of the Act and must 'be something more than assertions at a high level of generality'.

The Court found that the material provided by the applicant in this case in support of the sea claim west of Rottnest Island was at a high level of generality and, significantly, lacked geographic particularity in relation to the boundaries of the sea portion of the claim west of Rottnest Island.

Accordingly, in this review, the Court found against the applicants on both ground, and dismissed the applicants' application.

Agius v State of South Australia (No 2) [2013] FCA 417

10 May 2013, Adelaide
Mansfield J

In this matter the Court ordered that Milan Millison and Linda Millison be removed as parties to the proceedings as they did not have a sufficient 'interest' pursuant to s 84(5) of the *Native Title Act 1993* (Cth). The substantive proceedings in this matter were brought on behalf of the Kaurna Peoples for a determination of native title rights and interests over extensive areas of the Adelaide Plains and associated areas.

The Millisons owned a property adjacent to part of the native title claim area. The Millisons claimed that they had 'ongoing concerns revolving around home security and the peaceful amenity of the residence that can potentially deteriorate from the outcome of the native title application'. The Millisons also claimed that they are interested in supporting native revegetation of the area that 'if they were parties to the application, they would be in a better position to negotiate and seek agreements under the Act' with both the Kaurna Peoples and the state of South Australia to 'ameliorate their concerns'.

Section 84(5) of the Act provides that the Federal Court may at any time join any person as a party to the proceedings, if the Court is satisfied that the person's interests may be affected by a determination in the proceedings and it is in the interests of justice to do so. Also, s 84(8) of the Act empowers the Court at any time to order that a person, other than the applicant, cease to be a party to the proceedings.

The Court considered the case law authorities, including *Byron Environment Centre Inc v The Arakwal People* [1997] 78 FCR 1 at 7, where Black CJ said that; 'the interests affected must be greater than those of a member of the general public'. Further, Merkel J in Byron concluded that the following principles are applicable in determining standing under the Act:

- the interest required to be a party in the National Native Title Tribunal under s 68(2) is not limited to an interest in relation to land or waters as defined by s 253;
- the interests of a person that may be affected by a determination for the purposes of s 68(2) are to be genuine, demonstrable, not indirect and not remote or so insubstantial that it will be mere speculation as to whether and, if so, how the interests may be actually affected by the determination;
- the requisite interest is one which can be defined with reasonable certainty and is in each case readily ascertainable as a matter of fact and law;
- intellectual, emotional, conscientious, ideological or representative interests are not sufficient or relevant interests for the purposes of s 68(2); and
- whether a person has the requisite or a sufficient interest involves questions of degree and fact in each case.

The Court noted that in this matter that the Millisons concerns regarding home security and peaceful amenity is an 'interest' that will be unaffected by any determination of native title. The Court noted that a native title determination recognises the existence of native title from the time of settlement. It does not, by the determination, create native title rights and interests. So, if the application is successful, the rights and interests of the Kaurna Peoples will simply be recognised. There will be no change in the status of the Millisons' home security. In any event, the Court did not consider any evidence which suggested that the Millisons' concern about their home security or the peaceful amenity of their residence is an element which distinguishes them from the ordinary members of the public. Consequently, the Court did not consider that those concerns were properly elevated into 'interests' of the kind contemplated by s 84(5) of the Act.

The Court also held that there was no foundation for thinking that the desire of the Millisons to negotiate with the state and to seek agreements with the Kaurna People and the state in relation to the use their property constitutes a sufficient interest. The application has been registered under pt 7 of the Act, so the Millisons can conduct negotiations with the Kaurna People and the state as are appropriate. The status of the Millisons in that regard will not be enhanced if they were parties to the application.

Finally, to the extent that the Millisons base their claim on their particular concern about supporting native revegetation of the area, there was no evidence which would convert that 'interest' to one recognised by s 84(5) of the Act. The Court held that this 'interest' was no more than their desire as good citizens to restore native vegetation to what was apparently unoccupied land. It is not based on any claimed especial right to undertake that project, different from that of other right-minded citizens.

Accordingly, for the reasons above, the Court ordered that the Millisons be removed as parties to the application.

***Peterson v State of Western Australia* [2013] FCA 518**

16 May 2013, Perth

Mckerracher J

In this matter, by consent, the Court ordered that native title exists in relation to land outlined in three applications made on behalf of the Martu People pursuant to ss 225 and 87 of the *Native Title Act 1993* (Cth).

The relevant land is situated in the Pilbara region of Western Australia, and includes Reserve 34607, known as Karlamilyi or Rudall River National Park; land and waters known as Reserve 5279; land and waters formerly known as Reserve 11474, Reserve 11541 and Reserve 13638, which was reverted to unallocated Crown land; and land known as Reserve 5279. The parties agreed that, among other things, a determination that native title exists should be made in relation to these lands.

The Court noted the requirements of s 87(1) of the Act which, in effect, provides that the Court may make a determination of native title, by consent, over any area covered by a native title application without holding a hearing in circumstances where:

(a) the period specified in the notice given under s 66 of the Act has ended;

(b) the terms of an agreement, in writing signed by or on behalf of the parties, are filed with the Court;

(c) the Court is satisfied that an order in, or consistent with, those terms would be within the power of the Court; and

(d) it appears appropriate to the Court to make the orders sought.

The Court considered each of these requirements. Relevantly, the Court noted that the notification period required by s 87(1)(a) had expired; the terms of the agreement were filed with the Court as required by s 87(1)(b); and that those terms are within the power of the Court per ss 94A and 225 of the Act as required by s 87(1)(c). Finally, the Court considered whether the orders sought were appropriate, as required by s 87(1)(d). In this regard, the Court considered *Lander v State of South Australia* [2012] FCA 427 at [11] which provides that the focus of the Court is on the making of the agreement by the parties.

Further, the Court referred to the matter of *Hughes on behalf of the Eastern Guruma People v State of Western Australia* [2007] FCA 365 at [9], where it was held that any orders may be made under s 87 of the Act where the Court, without evidence of the primary facts, is satisfied that the parties have freely and on an informed basis come to an agreement. In this regard, the Court noted that the native title party and the state both had had the benefit of legal representation throughout the proceedings. Further, the Court noted that it had the benefit of considerable materials, including a connection report in relation to the relevant lands.

Accordingly, the Court made the consent orders proposed by the parties pursuant to s 87 of the Act.

***Weribone on behalf of the Mandandanji People v State of Queensland (No 2)* [2013] FCA 485**

23 May 2013, Brisbane

Rares J

This matter involved an interlocutory application brought by a group of affected third parties. Namely, Mandandanji Limited, Mandandanji Enterprises Pty Ltd, and Mandandanji Cultural Heritage Services Pty Ltd. The Mandandanji companies sought for the Court to set aside its orders of 15 March 2013, or to preclude the Mandandanji companies from compliance with those orders. The orders limited the way in which the native title applicant could direct monies held and future monies received pursuant to Indigenous land use agreements (ILUAs) and s 31 agreements under the *Native Title Act 1993* (Cth). The Mandandanji companies argued that the Court had no power to make such orders. The other parties, the state of Queensland and the Commonwealth, supported the Mandandanji companies' application. However, the Court ultimately dismissed the application.

On 15 March 2013, the Court made orders that controlled the way in which several millions dollars, and currently payable entitlements for over $1.2 million more, should be dealt with in light of serious dysfunction in the applicant group and a significant anthropological issue regarding which of two possible applicant groups will be found to comprise the native title claim group at the final hearing. The Orders required, among other things, that monies held by or owing to the applicant be paid to the Registrar of the Court until a determination of native title or a further order is made. The orders also provided that each member of the claim group who is also a director of a corporation which received a benefit from the claim group since March 2009 must require the corporation to account for those benefits within 90 days.

The Mandandanji companies argued that the circumstances did not justify the Court making the orders. They also argued that the Court did not have the power to make the Orders as they were not sufficiently related to the final relief sought in the proceedings, which is a determination of native title under s 225 of the Act. In this regard, the Mandandanji companies cited Brennan J in *Jackson v Sterling Industries Limited* (1987) 162 CLR 612 at [620]-[621], where his Honour said: 'The relief which the Court is authorised to give does not extend beyond the grant of remedies appropriate to the protection and enforcement of the right or subject matter in issue.' Relying on this

authority, the Mandandanji companies asserted that it was necessary for other proceedings to be commenced, separate to the proceedings before the Court to lawfully make the orders.

The Mandandanji companies also asserted, among other things, that the scheme of the Act was such that, prior to a determination under s 225 of the Act, an applicant could deal with benefits received by reason of its status as an applicant, including providing those to any members of the native title claim group as constituted from time to time and that nothing in the Act precluded that group from enjoying, without limitation, the benefits under ILUAs and s 31 agreements. The Mandandanji companies also submitted that the Act created a clear distinction between the rights conferred on an applicant or native title claim group prior to a determination of native title and those of a registered native title body corporate that would hold such rights for a person determined to hold those rights per s 225 of the Act. Therefore, they contended that it was not a purpose of the Act to impose any duty on an applicant to act for the benefit of the persons who might be found ultimately to be entitled to a determination in their favour. The state of Queensland and the Commonwealth agreed with the claims made by the Mandandanji companies.

The Court noted that it has the power to protect the integrity of processes once proceedings have been commenced as per *CSR Limited v Cigna Insurance Australia Limited* (1997) 189 CLR 345 at [391]. The Court also cited *Patrick Stevedores Operations No 2 Pty Ltd v Maritime Union of Australia* (1998) 195 CLR 1 at [35] where the Court stated that: 'The powers of the Federal Court under s 23 of its Act are powers 'to make orders of such kinds, including interlocutory orders, as it 'thinks appropriate'''.

The Court noted that the one limitation on the powers of the Federal Court to grant interlocutory injunctions is that those powers must be exercised for the purpose for which they are conferred. Deane J in *Jackson* at [622], said a power to prevent the abuse or frustration of a court's process should be accepted 'as an established part of the armoury of a court of law and equity' and that 'the power to grant such relief in relation to a matter in which the Federal Court has jurisdiction is comprehended by the express grant to that Court by s 23 of the Federal Court of Australia Act'. The Court also noted that at [625] in *Jackson*, Deane J provided that orders must be framed 'so as to come within the limits set by the purpose which [the order] can properly be intended to serve'.

The Court noted that the general principle which informs the exercise of the power to grant interlocutory relief is that the court may make such orders, at least against the parties to the proceeding against whom final relief might be granted, as are needed to ensure the effective exercise of the jurisdiction invoked [See *Tait v The Queen* (1962) 108 CLR 620]. Although, the Court also accepted that if another statute provides an exhaustive code of available remedies that does not authorise the grant of an injunction, s 23 of the *Federal Court Act* will not authorise the Court to grant that additional relief, or permit the Court to grant an injunction where no case for such relief exists under a statute or the general law.

In finding against the Mandandanji companies, the Court held, among other things, that the scheme of the Act does not create an exhaustive code of exclusive remedies such as would preclude the ordinary exercise of the Court's jurisdiction under s. 23 of the *Federal Court Act 1976* (Cth). Nor does the fact that a determination under s 225 of the Act is the final relief sought in these proceedings preclude the making of the orders to protect the *status quo* while, at least, the applicant on the Court's record is too dysfunctional to progress the proceedings. The Court noted that the assertions of the Mandandanji Companies, Queensland and the Commonwealth ignored the significance of the fact that the rights and interests in s 225(b) claimed when an application is filed in the Court are the subject matter of the proceedings. While the Act allows those rights and interests to be eroded in certain circumstances (such as are provided in Subdiv C of Div 3 of Pt 2) the Court must have jurisdiction to preserve those rights and interests, or the benefits that others have gained from their use, for those who were truly the persons who it determines owned them.

2. Legislation

Caring for Our Country and Landcare scrutinised

The House of Representatives Agriculture Committee tabled a report focusing on Caring for Our Country and Landcare programs.

The committee's report was the result of an enquiry into the 2011-12 annual reports of the Department of Agriculture, Fisheries and Forestry (DAFF) and the Department of Sustainability, Environment, Water, Populations and Communities (SEWPaC).

The committee investigated:

- The 2012 Review of the Caring for Our Country initiative
- Joint land acquisition arrangements of the National Reserve Scheme – Australia's network of protected areas
- Community engagement in the natural resource management decision making
- Ways to improve information sharing to ensure that future natural resource management projects can be better assessed and managed.

Committee Chair Dick Adams MP said: 'Caring for Our Country and Landcare play important roles in Australia's natural resource management approach. Reviewing the operation of these programs, ensuring communities are properly engaged, and that best practice are widely shared improves outcomes for the country.'

The committee made on recommendation, calling on both Departments to inform the Committee once the new monitoring, Evaluation, Review and Improvement Strategy relating to the Caring for Our Country initiatives has been published.

Inquiry by the Australian Law Reform Council into certain areas of the native title system

The Government has announced public consultation on draft terms of reference for an inquiry by the Australian Law Reform Commission (ALRC) into certain areas of the native title system.

Under the draft terms of reference, it is proposed that the ALRC inquire into and report on the following two issues under the Native Title Act 1993 (the Act) that can significantly affect the timely and effective resolution of native title claims:

- connection requirements relating to the recognition and scope of native title rights and interests, and
- the identification of barriers, if any, imposed by the Act's authorisation and joinder provisions to claimants', and potential claimants':
    - access to justice, and
    - access to and protection of native title rights and benefits.

The ALRC are seeking input into the draft terms of reference. In particular:

1. Do the draft terms of reference capture all of the key issues arising under the Act relating to connection, and authorisation and joinder?
2. Are there any additional native title issues that should be included in the terms of reference?

Explanatory materials and further information on the consultation process is available via the Attorney-General's Department website. The deadline for submission is by close of business **Friday 28 June 2013** (EST). Comments can be sent via email to native.title@ag.gov.au or by mail to:

Native Title Unit
Attorney-General's Department
3 -5 National Circuit
Barton ACT 2600

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 May 2013, **15** ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
8/5/2013	Indjalandji-Dhidhanu People and Local Government ILUA	QI2012/096	AA	Qld	Access Government Community
8/5/2013	Batavi a ILUA	QI2012/120	AA	Qld	Tenure resolution
8/5/2013	Indjalandji-Dhidhanu People and Rocklands/Morstone ILUA	QI2012/098	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Barr Creek ILUA	QI2012/099	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Undilla ILUA	QI2012/111	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Meltham ILUA	QI2012/113	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Bluebush ILUA	QI2012/115	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Koolamara ILUA	QI2012/125	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Barkly Downs ILUA	QI2012/130	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Thorntonia ILUA	QI2012/131	AA	Qld	Access Pastoral
8/5/2013	Indjalandji-Dhidhanu People and Ardmore ILUA	QI2012/135	AA	Qld	Access Pastoral
9/5/2013	Camooweal Caves National Park Protected Area ILUA	QI2012/127	AA	Qld	Government Communication
9/5/2013	Indjalandji-Dhidhanu People and Ergon Energy ILUA	QI2012/121	AA	Qld	Access Infrastructure Communication
21/5/2013	Bularnu Waluwarra and Wangkayujuru People and Local Government ILUA	QI2012/132	AA	Qld	Government Communication
22/5/2013	Arrow Energy and Southern Barada People, Kabalbara People, Jetimarala/Yetimarla People, Darumbal People and Darumbal People #2 LNG Project ILUA	QI2012/133	AA	Qld	Infrastructure Petroleum/Gas Exploration

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 May 2013, **2** native title determinations were handed down.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC/PBC
Martu (Part B), Karnapyrri, and Martu #2	Peterson v State of Western Australia [2013] FCA 518	16/5/2013	WA	Native Title exists in the entire determination area	Consent determination	Claimant	Western Desert Lands Aboriginal Corporation (Jamukurnu-Yapalikunu) RNTBC
Jerrinja Local Aboriginal Land Council	Jerrinja Local Aboriginal Land Council v Attorney General of the State of NSW [2013] FCA 562	31/05/2013	NSW	Native title does not exist	Litigated determination	Non-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 May 2013, **16** Future Acts Determinations were handed down.

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
6/5/2013	Ike Simpson & Ors on behalf of Wajarri Yamatji (native title party) - and - The State of Western Australia (Government party) - and - Ishine International Resources Ltd (grantee party)	NNTTA 47	WA	Objection - Dismissed
7/5/2013	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 49	WA	Objection - Dismissed
7/5/2013	Wanjina-Wunggurr Native Title Aboriginal Corporation (Wanjina-Wunggurr Wilinggin) (WCD2004/001); Wanjina-Wunggurr Native Title Aboriginal Corporation (Dambimangari) (WCD2011/002) (native title parties) - and - The State of Western Australia (Government party) - and - Spinifex Abrasives Pty Ltd (grantee parties)	NNTTA 48	WA	Objection - Dismissed
7/5/2013	Bulk Dismissal	NNTTA 50	WA	Objection - Dismissed

7/5/2013	Adani Mining Pty Ltd (grantee party) - and - Jessie Diver, Patrick Fisher, Lynette Landers, Irene White, Elizabeth McAvoy, Patrick Malone and Les Tilley on behalf of the Wangan and Jagalingou People (native title party) - and - The State of Queensland (Government party)	NNTTA 52	Qld	Future Act - Can be done
7/5/2013	WF (deceased) and others on behalf of the Wiluna Native Title Claimants (WC1999/024) (native title party) - and - The State of Western Australia (Government party) - and - Echo Resources Ltd (grantee party)	NNTTA 51	WA	Objection - Expedited Procedure Applies
9/5/2013	Raymond Ashwin & Ors on behalf of Wutha – (WC1999/010) (native title party) - and - The State of Western Australia (Government party) - and - Kubwa Iron Ore Holdings Pty Ltd (grantee party)	NNTTA 44	WA	Objection - Expedited Procedure Applies
15/5/2013	Karajarri Traditional Lands Association Aboriginal Corporation (native title party) - and - The State of Western Australia (Government party) - and - Iluka Resources Limited (grantee party)	NNTTA 55	WA	Objection - Dismissed
15/5/2013	Raymond William Ashwin & Ors on behalf of Wutha (WC1999/010); PT (name withheld for cultural reasons) on behalf of Mantjintjarra Ngalia #2 (WC2006/006) (native title parties) - and - The State of Western Australia (Government party) - and - Shaun Christopher Busby (grantee party)	NNTTA 54	WA	Objection - Dismissed
15/5/2013	Buurabalayji Thalanyji PBC Aboriginal Corporation (native title party) -and- The State of Western Australia (Government party) -and- Sunway Enterprises Pty Ltd (grantee party)	NNTTA 53	WA	Objection - Dismissed
17/5/2013	Nyangumarta Warrarn Aboriginal Corporation (native title party) - and - The State of Western Australia (Government party) - and - Iluka Resources Limited (grantee party)	NNTTA 56	WA	Objection - Dismissed
20/5/2013	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 57	WA	Objection - Dismissed

21/5/2013	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 58	WA	Objection - Dismissed
21/5/2013	Wintawari Guruma Aboriginal Corporation (native title party) -and- The State of Western Australia (Government party) -and- State Resources Pty Ltd (grantee party)	NNTTA 59	WA	Objection - Dismissed
21/5/2013	Apex Gold Pty Ltd (grantee party) - and - WF (Deceased) & Ors on behalf of Wiluna (WC1999/024) (native title party) - and - The State of Western Australia (Government party)	NNTTA 60	WA	Future Act - NIGF Satisfied - Tribunal has jurisdiction
24/5/2013	Glenn Derrick Councillor & Ors on behalf of Naaguja & Frederick Taylor & Ors on behalf of Amangu (native title party) - and - The State of Western Australia (Government party) - and - Gascoyne Resources WA Pty Ltd (grantee party)	NNTTA 61	WA	Objection - Dismissed

6. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

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

Information on RNTBCs and PBCs including Training and Support, News and Events, Research and Publications and External Links can be found at nativetitle.org. For a detailed summary of individual RNTBCs and PBCs see PBC Profiles.

Additional information about RNTBCs and PBCs 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

Benedict Scambery

My country, mine country: Indigenous people, mining and development contestation in remote Australia

This study concerns agreements made between Indigenous Australians and the mining industry, and focuses on three Australian states. Set in the period 2003-07, the study examines agreement outcomes within the shifting Indigenous policy context of the time that sought to de-emphasise the cultural behaviour or imperatives of Indigenous people in undertaking economic action in favour of a mainstream approach to economic development.

Key themes in this study concern concepts of value, identity and community and the tension that exists between culture and economics in the Australian Indigenous policy environment.

Available for purchase at ANU E Press, or free PDF download online.

Mary Edmunds

Human rights and encounters with modernity

This book tells the story of how ordinary people in very different parts of the world are dealing with rapid change in the late twenty-first century. It also asks the question of what it is to be human in a modernising and globalising world, and addresses how in response to these changes, different groups have defined and redefined themselves, applying these definitions to display how these groups put into practice their understanding of the good and what constitutes a good life.

Available for purchase at ANU E Press, or free PDF download online.

Alberto Gomes

'Anthropology and the Politics of Indigeneity'

With multiple interpretations, configurations and local inflections, the concept of Indigeneity has attracted much debate and contestation. It has become a significant political strategy in the counter-hegemonic indigenous social movements against exploitative, oppressive and repressive regimes throughout the world. This article is a critical reflection on the transformational concept of Indigeneity with reference to Indigenous peoples from Australia, India, Malaysia and Hawaii.

Anthropological Forum, 2013 Vol. 23, No. 1, pp. 5-15

Available for download at Taylor & Francis online.

Sarah Keenan

'Property as Governance: Time, Space and Belonging in Australia's Northern Territory Intervention'

This article analyses two cases brought by Aboriginal Australians against the Australian government acquisition of long leases of their land under the *Northern Territory National Emergency Response Act* (2007). These leases are conspicuous, particularly in that the government always made it clear that it would not take up its right to exclusive possession of the leased land, and has not done so. The leases have not been used to evict residents, as some feared, nor to pursue mining or agricultural activity. Socio-legal theories centered on the right to exclusive possession cannot account for these leases. The article explores the use of property under the 2007 Act, the legal geographies of the areas subject to the leases and the political potency of property beyond exclusive possession, and suggests an understanding of property as a spatially contingent relation of belonging. Specifically, the article argues that property is productive of temporal and spatial order and so can function as a tool of governance.

The Modern Law Review, 2013 Vol. 73, No. 3, pp. 464-493

Available for purchase at Wiley online.

Louise Crabtree, Vivienne Milligan, Hazel Blunden, Peter Phibbs & Carolyn Sappideen

How can community land trusts provide accessible and stable tenure options for Indigenous Australians?

Community Land Trusts (CLTs) represent an option for providing accessible tenure forms for Indigenous Communities throughout Australia. CLTs resonate with Indigenous housing aspirations, can provide stability for individuals and communities, and reduce financial vulnerability through shared equity or long-term leasehold models.

This Research and Policy Bulletin is based on research conducted by the authors at the Australian Housing and Urban Research Institute (AHURI), University of New South Wales and University of Western Sydney. The research examines the potential relevance of models based on CLTs for the Australian Indigenous housing sector.

Available for download at AHURI online.

ACIL Allen Consulting

Tenants' experiences of the National Partnership Agreement on Remote Indigenous Housing Property and Tenancy

Management Reforms

Property and Tenancy Management (PTM) reforms and the new Remote Rental Framework represent a significant change for remote communities and follow a substantial investment in new, rebuilt and refurbished housing stock. The reforms extend urban public housing standards to remote communities with no previous requirement to enter into a formal undertaking on joint responsibilities relating to property and tenancy management. The undertaking relates to all aspects of sustaining the housing and nominates a head tenant(s) responsible for the house and damages.

The objective of the project was to fill critical information gaps about the impact of the PTM reforms on tenants and communities at a relatively early stage in the reform process. Hearing from communities about their experience of the reforms provides important feedback to inform the ongoing development and implementation of policy, program design and effective service delivery.

Available for free download at Australian Policy online.

Tran Tran, Lisa Strelein, Jessica Weir, Claire Stacey & Anna Dwyer

Changes to country and culture, changes to climate: strengthening institutions for Indigenous resilience and adaptation

The roles of Indigenous people in climate change adaptation are little understood. Current research highlights the contribution of Indigenous knowledge to climate change monitoring and observation, the role of community organisations in developing adaptive capacity, environmental justice and regimes for the participation of Indigenous people in abatement and climate change economies. What has not featured prominently in climate change adaptation literature is how Indigenous groups interact with the socio-institutional structures to assert their knowledge and participate in climate change adaptation activities.

This report fills this gap by addressing how socio-institutional framework for decision-making on Indigenous held lands that impact on climate change adaptation. The research on which it was based was undertaken with the support from two Registered Native Title Bodies Corporate (RNTBCs) from the Kimberley and Cape York: the Karajarri Traditional Lands Association Aboriginal Corporation RNTBC (KTLA) based in Bidyadanga, Western Australia and Abm Elgoring Ambung Aboriginal Corporation RNTBC (Abm Elgoring Ambung) based in Kowanyama, Queensland.

Available for free download at National Climate Change Adaptation Research Facility (NCCARF) website.

Central Land Council

The Governance role of local boards: A scoping study from six communities

Local government reform was implemented in 2008 across the Northern Territory. As a part of this, shire councils were elected across 8 shires providing regional/ward representation. At the community level, local boards were established for most remote communities. The aim of local boards was to provide a reference group within the community that the shire could consult on shire business. From October to December 2009, the Central Land Council (CLC) initiated research to gather perspectives and experiences from the community residents on their understandings of the legitimacy, role and functioning of the local boards. The research was intended to inform the CLC of the role and work of local boards in relation to broader community governance issues.

Available for free download at CLC website.

Randall Abate & Elizabeth Ann Kronk

Climate change and Indigenous peoples: The search for legal remedies

This timely volume explores the ways in which indigenous peoples across the world are challenged by climate change impacts, and discusses the legal resources available to confront those challenges. Indigenous peoples occupy a unique niche within the climate justice movement, as many indigenous communities live subsistence lifestyles that are severely disrupted by the effects of climate change. Additionally, in many parts of the world, domestic law is applied differently to indigenous peoples than it is to their non-indigenous peers, further complicating the quest for legal remedies. The contributors to this book bring a range of expert legal perspectives to this complex discussion,

offering both a comprehensive explanation of climate change-related problems faced by indigenous communities and a breakdown of various real world attempts to devise workable legal solutions. Regions covered include North and South America (Brazil, Canada, the US and the Arctic), the Pacific Islands (Fiji, Tuvalu and the Federated States of Micronesia), Australia and New Zealand, Asia (China and Nepal) and Africa (Kenya). This comprehensive volume will appeal to professors and students of environmental law, indigenous law and international law, as well as practitioners and policymakers with an interest in indigenous legal issues and environmental justice.

Available for purchase at the Book Depository online.

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation (NPY)

Traditional Healers of Central Australia: Ngangkari

The Ngangkari are the traditional healers of the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Lands, encompassing 350,000 square kilometres of the remote western desert. For thousands of years the Ngangkari have nurtured the physical, emotional and social well-being of their people. To increase understanding and encourage collaboration with mainstream health services and the wider community, the Ngangkari have forged a rare partnership with health professionals and practitioners of western medicine. Experience the world of the Ngangkari as they share their wisdom, natural healing techniques and cultural history through life stories, spectacular photography and artwork.

Available for purchase from Magabala Books online.

The Conversation

'Dugongs are safer in the Torres Strait than Townsville'

A conversation on the role of traditional hunting and fishing in north Queensland and its effects on dugong populations. With views expressed by some of Australia's leading academics in the field of traditional hunting and its effects on ecosystem services including Helene Marsh, Sean Kerins and Jon Altman, this discussion looks in particular at the role of native title in affording Indigenous Australians the rights to hunt and fish.

Available at The Conversation.

AIATSIS 2013 PBC Survey

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) invite all Prescribed Bodies Corporate (PBCs) to participate in a national survey examining the capacities of PBCs throughout Australia. This research shall help inform AIATSIS submission in the *Review of Native Title Organisations*, being conducted by FaHCSIA in 2013. The survey will be open until **Friday 28 June 2013**. For more information, please see NTRU website or contact Claire.Stacey@aiatsis.gov.au. For more information regarding the FaHCSIA review, please see FaHCSIA website.

Indigenous Land Corporation

The Indigenous Land Corporation (ILC) is pleased to announce the 2013 call for land acquisition applications is now open. The ILC has two categories of land acquisition funding assistance: Socio-Economic Development and Cultural and/or Environmental Values. Organisations may know of a suitable property beforehand, or can apply without a property and identify one later pending approval of their project. Applications for Socio-Economic Development will be accepted on or before **28 June 2013**.For more information, please see ILC Website or freecall **1800 818 490**.

Media Releases

South Australia Native Title Services

'Native Title Services dispute comments by exploration company' – 2 May 2013

South Australia Native Title Services have expressed disappointment over comments made by Minotaur Exploration which they say, 'suggest that Aboriginal people are responsible for land access problems and driving investment away from South Australia'. The comments by Minotaur Exploration managing director Andrew Woskett at the

South Australian Resources Energy Investment Conference detailed parts of negotiation processes 'to secure (a Part 9B) agreement on native title clearance to begin exploration'.

See Media Release for more details.

The Hon. Tony Burke MP, Minister for Sustainability, Environment, Water, Populations and Communities; Minister for the Arts

'Working together to protect the Daintree' – 8 May 2013

Eastern Kuku Yalanji has been declared an Indigenous Protected Area (IPA) in a ceremony held at Cape Tribulation in north Queensland. Following the native title declaration in 2007 and negotiation of 17 different Indigenous Land Use Agreements (ILUAs), the IPA represents a significant step towards to ultimate goal of traditional owners managing and maintaining their own country.

See Media Release for more details.

Yamatji Marlpa Aboriginal Corporation

'Yinhawangka people sign Pilbara Native Title Agreement with Dragon Energy' – 10 May 2013

The Yinhawangka people recently announced a native title agreement with Dragon Energy, paving the way for its flagship Pilbara Iron Project. Under the agreement, Yinhawangka consent to all activities associated with the development of an iron ore mine at Dragon's Rocklea Central and North deposits. It also allows for further mining leases within the area.

Yinhawangka representative Roma Butcher said, 'It was a pleasure doing business with Dragon Energy'. Dragon's General Manager Gang Xu was so easy to talk to and clearly has a huge respect for Yinhawangka People.

See YMAC Media Release for more details.

Yamatji Marlpa Aboriginal Corporation

'Badimia People sign Native Title Agreement with Top Iron' – 22 May 2013

The Badimia People, traditional owners of land in the midwest region of Western Australia, are pleased to announce they have entered into an agreement with Top Iron Pty Ltd. The agreement paves the way for the iron ore miners to develop their Greater Mummaloo Project in Badimia country, near the existing Extension Hill project.

Badimia working group member Frank Walsh Jnr. said of the agreement, 'Badimia people have once again shown that they can reach agreements like this with mining companies in our region and that we are quite supportive of those companies who totally respect and understand our Badimia people and culture'.

See YMAC Media Release for more details.

The Hon. Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities; Minister for the Arts

'Supporting Traditional Owners to protect turtles and dugongs' – 22 May 2013

The Australian and Queensland governments are providing support for traditional owners to engage in supporting, promoting and managing turtle and dugong populations throughout parts of north Queensland. The first round of grants under the Federal Government's package will support Queensland's Indigenous communities in managing their sea country. Minister Burke said 'There is no doubt that our engagement with traditional owners is resulting in improved protection for turtles and dugongs'.

See Media Release for more details.

News and Podcasts

AIATSIS Seminar Series

Jon Altman and Francis Markham

'Mapping Indigenous Lands and their Values in Australia'

Since the passage of significant Commonwealth land rights laws in 1976, the Mabo judicial revolution in 1992 and subsequent *Native Title Act 1993*, corporate Indigenous ownership, jurisdictional authority and influence over land has rapidly expanded. Australia has experienced a land tenure 'revolution'. While there have been deeply contested views about the implications of this transformation for Indigenous and Australian economic development, there has been few national scale assessments of the extent of Indigenous land holdings or their resource value.

In this exploratory seminar we combine the latest information we can find on land tenure, population and resources using GIS techniques. We then consider why so little is known about the extent of Indigenous land holdings and why mapping tools are not used more often. We deploy our maps to generate some important questions for consideration, not just about rights and interests in land, but about the transformative potentiality of extraordinary land tenure changes over the past 40 years for diverse Indigenous economic futures.

Available online at AIATSIS website.

Robert Williams

'Using the language of savagery against Indigenous Australia'

A leading indigenous scholar from the United States says Australia is still using the language of savagery to justify their treatment of the Aboriginal populations. Robert Williams is an enrolled member of the Lumbee Indian Tribe of North Carolina. His book *The American Indian in Western Legal Thought: The Discourses of Conquest,* published in 1990, was cited in the landmark *Mabo vs Queensland* case, resulting in the establishment of the *Native Title Act 1993* (Cth).

Listen to the full interview at ABC radio online via RN Drive.

Ian Viner

'Wik was the groundbreaking native title decision in the late 1990s'

Ian Viner QC spoke to Norman Swan in 1997 at the time the Native Title Amendment Act was being debated. Commonly known as the Ten Point Plan, he explained what each of the first five points were about and gives definition of native title. The Act was introduced in 1998.

Listen to the full interview on ABC Radio National.

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, RNTBCs and PBCs.

Berndt Foundation Research Foundation Grants

The Berndt Foundation was established after a sum of money was bequeathed to The University of Western Australia to promote anthropological research about Aboriginal Australia. The Foundation has allocated funds to support postgraduate research by any postgraduate student enrolled in Anthropology and/or a cognate discipline at an Australian university who will contribute to anthropological research and Aboriginal Studies more broadly. Amounts of up to $8,000 will be awarded to applicants that help to (i) facilitate thesis research, (ii) meet criteria established through the Foundation's Postgraduate Research Grant Committee, and (iii) are judged by the Foundation's Postgraduate Research Grant Committee to warrant financial support. Applications are due on or by **31 August 2013**. For more information see the Berndt Foundation website or download the Australia Postgraduate Research Grants Information Sheet – 2013.

2013 Herbert & Valmae Frelich Foundation Biennial Winter School: *Indigenous Issues: Past, Present and Future*

Date: 7-10 July 2013
Location: Sir Roland Wilson Building, McCoy Circuit, Australian National University, Canberra, ACT

This course is for those school teachers and other professionals working in Australian schools who wish to further broaden their understanding of issues that confront our understanding of Indigenous Australia. This winter school will explore the past (facts and myths), and question how it continues to shape the present, and the future both in negative and positive ways.

Past summer/winter schools have been praised for providing teachers with a unique experience to link them with leading academics from the ANU, and elsewhere, and deepening their understanding of ways that they can then employ in their educative practices.

The winter school will include presentations on the following themes:

- Aboriginal people's colonial narratives
- The Stolen Generations
- Mabo and native title
- Aboriginal kinship and spirituality
- Aboriginal art
- The legal system and Aboriginal people
- The discourse of human rights in indigenous communities
- Economic sustainability
- Education, learning and knowledge

For more information including costs and registration, please see ANU website or contact Dr Renata Grossi (02) 6125 5527

10. Events

Puliima National Indigenous Language & Technology Forum 2013
Date: 28-29 August 2013
Location: William Angliss Institute Conference Centre Melbourne, Victoria
Registration: For registration information go to Puliima 2013 or contact the Puliima team on (02) 4927 8222
Puliima National Indigenous Language & Technology Forum is a biennial event aimed at bringing together people from all over Australia to explore pioneering project ideas, exciting products and equipment that can be used in community-based Indigenous language projects. The forum allows people to network with others who share an ambition to preserve and celebrate Indigenous languages. Speakers include community representatives from throughout Australia, New Zealand and North America as well as representatives from university language centres, research institutes and language development initiatives. For more information, see Puliima 2013 Website.

A Symposium on Indigenous Peoples, Economic Empowerment and Agreements with Extractive Industries

Date: 25-26 June 2013

Location: Melbourne Law School, University of Melbourne

Registration: For registration information go to Symposium 2013 or contact Judy Longbottom on (03) 8344 9161

Extractive industries have reached into virtually every corner of the world. Over the past 10 years, the Agreement, Treaties and Negotiated Settlements (ATNS) project has been investigating the impact this expansion has on Indigenous societies. This Symposium celebrates 10 years of the ATNS Project, and provides a unique opportunity for Indigenous organisations, researchers and industry to gain access to the research outcomes of the project and contribute to this growing body of knowledge.

The Jack Cusack Memorial Lecture: *Capturing Indigenous seasonal knowledge – the Gulumoerrgin (Larrakia) and Ngan'gi seasonal calendars'*

Date: 27 June 2013

Location: CSIRO Discovery Centre, Clunies Ross St, Acton, ACT

Registration: Please RSVP before **26 June 2013**

In 2013, the Jack Cusack Memorial Lecture will be presented by CSIRO's Emma Woodward and Gulumoerrgin/Larrakia woman, Lorraine Williams, from the Northern Territory. The Ngan'gi Seasons calendar represents a wealth of Indigenous ecological knowledge. The development of the calendar by Patricia Marrfurra McTaggart and other key knowledge holders of the Ngan'gi language was driven by a community desire to document seasonal-specific knowledge of the Daly River and its wetlands, including the environmental indicators that act as cues for bush tucker collection. The seasonal cycle recorded on the calendar closely follows the cycle of native annual speargrass, with many of the 13 seasons identified named according to speargrass life stages.

For more information, please see CSIRO website.

CAEPR Seminar Series 2013

Date: Every Wednesday

Time: 12:30-2:00pm

Location: Australian National University, Haydon Allen G052

Enquiries: For more information, please see CAEPR Seminars 2013 of call Centre Administration on (02) 6125 0587

50 Years On: Breaking Barriers in Indigenous Research and Thinking
Date: 26-28 March 2014
Location: National Convention Centre, Canberra, ACT

In 2014, AIATSIS will be celebrating its 50th year. To celebrate this milestone, AIATSIS will be holding its biennial National Indigenous Studies Conference with the theme '50 years on: Breaking Barriers in Indigenous Research and Thinking'. The conference will celebrate how far we have come in the area of Indigenous studies in Australia in the past 50 years. It will celebrate the 50th anniversary of the legislated establishment of the Australian Institute of Aboriginal Studies (now AIATSIS) as well as 50 years of leadership and excellence in Indigenous studies by AIATSIS.

For more information including Call for Papers and Registration, please see AIATSIS website or contact Alexandra Muir: (02) 6261 4223

AIATSIS
AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES

50 YEARS ON 1964–2014
BREAKING BARRIERS IN INDIGENOUS RESEARCH AND THINKING
AIATSIS NATIONAL INDIGENOUS STUDIES CONFERENCE 2014

The Native Title Research Unit produces monthly publications to keep you informed on the latest developments in native title throughout Australia. You can subscribe to NTRU publications online, follow @NTRU_AIATSIS on Twitter or 'Like' NTRU on Facebook.

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