

Native Title Newsletter

November/December, No. 6/2009

WHAT'S NEW



Compromised Jurisprudence (Second Edition) **Lisa Strelein**

This revised edition is the most up-to-date book on the subject of native title. It includes new chapters on the recent High Court cases, including the most controversial Federal Court case of the last two years, Bennell, the south-west Western Australia/Perth claim.

The final two chapters include a discussion of these decisions and all the Federal Court appeals since the last edition. The annotated case list has also been updated.

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NTRB knowledge management pilot: Agreement making

By Joe Fardin, Research Fellow, NTRU

The AIATSIS 'NTRB knowledge management pilot: Agreement making' commenced in October 2009. It is a 12 month project examining options for the development of an agreement precedents database. The database will be a closed system with access restricted to native title representative bodies and service providers (NTRBs).

Agreement making is a priority for the native title sector and for the Australian Government. At the recent Native Title Ministers Meeting in Adelaide it was recognised that native title can provide opportunities and outcomes for Indigenous people through facilitation of broader settlement packages. The Guidelines for Best Practice devised by The Joint Working Group on Indigenous Land Settlements has similarly structured its directives based on this principle. It recognises that practical and sustainable outcomes are desirable. In addition, a recent Australian Government discussion paper on optimising benefits from native title agreements has recognised that agreements arrived at from within the native title framework provide a major form of engagement between Indigenous groups, industry and governments.

It is generally acknowledged, however, that significant challenges and opportunities remain in improving the efficiency and effectiveness of agreement making. Among other things, these challenges and opportunities engage with issues of capacity, transparency and confidentiality.

This project responds to calls for resources to address these issues. The project will collate, analyse and disseminate agreement data of precedential value for use by NTRBs, building on

previous efforts to create open-access databases. In doing so, the project will investigate the viability of developing a national knowledge management system to ensure the sustainability and accessibility of the data and analysis collected from this project. The system will be modelled on the knowledge management systems used by larger law firms. It is intended to provide two primary benefits: promote best practice in both the form and content of agreements, while reducing duplication of effort by NTRBs and increasing efficiency in the drafting process. The project will also test possibilities for increased communication and coordination between NTRBs.

The project is currently nearing the end of its scoping and design phase. Preliminary research and planning have been completed, and a project working group has been set up with representatives from a subset of five NTRBs. The working group will guide the direction the project takes, through providing advice and content, testing results, and championing the project within the NTRB sector. The working group is also in the process of finalising a legal framework protecting the rights and interests of the project participants.

The next phase involves the core work of the project: information gathering and analysis. With the working group members as a first point of reference, the project will seek agreements and agreement clauses suitable for use as templates, as well as information on the process around the creation of these agreements. The project manager will carry out in-house work at several NTRBs as part of this process. The agreements submitted to the project will be collated and sanitised in order to remove confidential information prior to inclusion in the database.

The design of the database itself will form the final phase of the project, and will be based on guidance from the working group and NTRBs more broadly.



Traditional Owner Comment

Maluwap Nona, Chair, Maluilgal TSI Corporation

Interview conducted by Chris Ryan on Thursday 4 June at the 10th Annual Native Title Conference 2009 in Melbourne.

What does native title mean to you?

Native title has given us a sense of belonging. It is 17 years post-Mabo and we are now starting to grip our cultural connection to the sea and land, the natural resources and species, both on the land and sea that are part of our totem, our customs, and our beliefs and values.

Native title has also given us a wider connection with other traditional property owners in the region of the Torres Strait and a broader sense of belonging.

What is the biggest challenge facing your PBC?

The hardest part is breaking the barriers of mindsets that have been around since 1872. There's now a common understanding that we're all traditional property owners – but our job as PBCs is to bridge the gaps and strategically look at what are we trying to protect and preserve for the next generations to come.

Yes, we are under-resourced, but one of our greatest strengths is voluntary advocacy. If we are going to maintain this way forward there are many that need to be groomed in to carry on this responsibility. It doesn't matter how long it's going to take, it's got to be done.

What is the future for native title in your country?

There's a way forward now. We've got the authorities to the table – the Torres Strait Regional Authority (TSRA) and regional councils - to form a Memorandum of Understanding (MOU) with all the PBCs. This will be a learning curve for all of us, to share the responsibilities and to see that we are all important in the region and we all can play a part in the outcomes we want to achieve.

The spirit of our ancestors, it speaks through us and I am at a time where I am so privileged that I've been given the mandate to serve and be a servant for my people. To me, serving them in such a way, I am more blessed than rich. The richness, that is within.

I just want to see that the campfire is still burning and the fish are still roasted on the beach and we can have a good laugh and see the sunset and the sunrise and still express our good ways of island custom. We are always welcoming people to our country and want to share that knowledge with all the people in this global village.

NTRU Project Report

NTRU Submissions

The NTRU has made a number of recent submissions on a range of topics, including heritage law reform, climate change adaptation and minor amendments to the *Native Title Act 1993* housing and infrastructure provisions.

The Department of Environment, Water, Heritage and the Arts is presently reviewing the Indigenous heritage law regime. The NTRU prepared a submission on the proposed amendments to the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (ATSIHP Act)*, commenting specifically on how the reforms will affect native title. The *ATSIHP Act* was developed as a short term measure to protect sites and objects of significance to Indigenous people that were under threat. The Evatt Review conducted in 1996 exposed the shortcomings of the regime, however one subsequent reform attempt proved ineffective. It is hoped that the present review and reform will contribute to a more effective and empowering heritage protection regime.

The National Climate Change Adaptation Research Facility requested comments from various stakeholders regarding a draft settlements and infrastructure adaptation plan. The NTRU offered brief comments on this draft, which will contribute to the final adaptation plan. Climate change has the potential to affect native title rights and interests through damage to land, sites of significance and water resources. The research plan is based on the themes of the built environment; vulnerable coastal communities; infrastructure; and urban and regional planning and management.

Reflections from the 2009 Australian Anthropological Society's Conference on 'The Ethics and Politics of Engagement'

By Elizabeth Humphries, Research Assistant, NTRU

The Australian Anthropological Society's annual conference in December 2009 provided a valuable avenue for academic discussions and presentations amongst anthropologists involved in native title practice and research. For me, as a recent anthropology graduate, the conference provided greater insight into the roles and challenges facing anthropologists working in native title.

The presentations in the native title stream covered a range of issues from the practice and processes of anthropological native title work, to conceptual and critical analysis of native title bureaucracy, as well as descriptions and suggestions for political change in native title.

The presentations particularly illuminated some of the contestations in the relationship between the academy and anthropologists working in native title.

Two of these issues raised in the conference will be briefly discussed.

- 1) How should anthropological practitioners working in native title engage with the academy?
- 2) How does the academy inspire and train young anthropological graduates to competently work in native title?

The discussions identified a tension between anthropological practitioners working in native title and the academy. David Martin brought up an established debate within anthropology, as to whether

anthropologists should enable change through the academy in the form of social and cultural critique, or whether anthropologists should be engaged in practical change outside the academy, such as through agreement making in native title.

There is a danger, Martin continued, that the law and politics of native title changes anthropologists' thinking and talking in ways antithetical to anthropology. To me it seems that engagement with the academy simultaneous to native title practice is necessary. Katie Glaskin similarly argued that there is a need for anthropologists working in native title to deconstruct concepts used in native title practice, such as the term 'society', and hence critically engage with the academy. She adds, however, that there is a need for pragmatism in order to forge ahead.

These discussions highlighted the often challenging position that native title anthropologists straddle in using anthropology as a means of engaging in social change.

A second issue identified in the discussions relates to the role of the academy in inspiring and training graduate anthropologists to work in native title. John Morton described the process of writing native title reports as that of the work of an artisan. Continuing this metaphor, it was queried that if the native title anthropologist is an artisan, where are the artisans' apprentices? David Trigger later raised the same question more bluntly: where are the enthusiastic graduates wanting to work in native title?

In the following discussions, the lack of anthropology graduates in native title was suggested to be due to their ambivalence over the role of anthropology in native title as well as anxiety regarding the legal elements of native title.

Furthermore these discussions suggested that graduate anthropologists often lacked the practical skills to be competent native title practitioners. These skills were argued to be lacking from academic instruction.

As a young graduate anthropologist, the issues raised at the conference are of immediate concern to me. I came away from the conference feeling that there is a great need for anthropological instruction and training within Australia to address native title. In particular, undergraduate anthropologists should develop an intellectual understanding of native title as well as obtain practical anthropological skills that would be applicable for native title practice. This intellectual focus and

practical training within the academy is vital in attracting graduate anthropologists to native title work.

The responsibility of training anthropology graduates should not only fall on academia, but as Toni Bauman argued, on senior anthropologists working in native title who are in the best position to mentor young anthropological graduates.

The conference identified the many challenges for anthropologists working in native title. Despite such challenges, the presentations and discussions demonstrated the positive impact of anthropologists and the use of anthropology in creating better native title outcomes.

Further issues arising from the native title presentations at the 2009 Australian Anthropological Society's conference will be published in a forthcoming publication from the NTRU.

Office of Native Title Connection Workshop

By Sarah Johnston,
Communications Officer, Office of
Native Title

On the 12th and 13th of November, the Office of Native Title (ONT) hosted its 2009 Native Title Connection Workshop in Perth for native title stakeholders nationwide.

"About 100 people attended the workshop from all over the country to exchange information about the native title connection process and native title issues in general," ONT Acting Research Director Sarah Charbonneau noted.

The workshop consisted of a series of topics spread over two days regarding native title and the native title connection process. The topics were presented by lawyers and anthropologists who have worked in the area of native title within the private and public sector.

Legal professionals such as Graham Hiley QC, who co-conducted the 2006 review of the *Native Title Act 1993* (Cth), and Federal Court judge Justice Barker gave presentations. This was complemented by presentations from well known native title anthropologists David Martin and Mike Robinson.

Topics included legal issues arising from connection assessments, the utilisation of pleadings, challenges facing Native Title Representative Body anthropologists, evaluation of Western Australia's connection assessment process, the value and limitations of collecting information directly from claimants, the current state of native title case law, resource issues in native title and new directions in native title.

Ms Charbonneau concluded that "Discussions following the presentations were robust and gave the ONT a good perspective of stakeholder issues regarding native title and the native title connection process."

On the second day of the workshop ONT Executive Director, Gary Hamley announced the Review of the State Government's Native Title Connection Guidelines.

Ms Charbonneau reported that the ONT had sought advice from Graham Hiley about the effect of case law developments on these Guidelines. The ONT is now internally reviewing this advice. "The Office hopes to circulate the proposed changes to the Guidelines for external comment around April 2010," she noted.



Changes to NTRU Website

We are currently updating the NTRU website. We appreciate your patience during this process. If you are having any problems accessing NTRU resources please contact Amy Williams on (02) 6246 1161 or via email at ntru@aiatsis.gov.au

What's New

Recent Cases

James v State of Western Australia [\[2009\] FCA 1262](#)

This case concerned a part of the original native title application lodged on behalf of the Martu People of the Western Desert area of Western Australia. Although a determination was made over part of the original application area (*James on behalf of the Martu People v State of Western Australia* [\[2002\] FCA 1208](#)) there is still part of the area not covered by the determination. The issue of the outstanding area, and whether the leases over that area extinguish native title rights and interests was referred to the Federal Court by the National Native Title Tribunal under section 136D *Native Title Act* 1993 (Cth) and Order 78, Division 3 of the Federal Court Rules (FCR). Justice McKerracher ordered that the referral be reserved to the Full Court.

Thudgari People v State of Western Australia [\[2009\] FCA 1334](#)

By consent, the Court made a determination of native title in favour of the Thudgari People. The determination covers approximately 11,280 square kilometres and is located at the northern edge of the Gascoyne region of Western Australia, lying between the Ashburton and Gascoyne Rivers.

Dodd on behalf of the Wullli Wullli People v State of Queensland (No 2) [\[2009\] FCA 1180](#)

This case concerned an application to amend a claim group description. There were two key issues. Firstly, there were questions about the process by which members of the applicant group were elected. Secondly, there was discussion about whether the amendments had

to be voted on separately by the claim group as previously constituted and also by the claim group as it was to be constituted following amendments to the claim group. In relation to the first issue, Dowsett J was satisfied that there was no irregularity in the process by which members of the applicant group were selected. In relation to the second issue, Dowsett J found that a second meeting was not required on the basis that a sufficient majority was obtained on the first occasion.

Mills v State of Queensland [\[2009\] FCA 1431](#)

An application was sought under section 66B(1)(a)(ii) of the *Native Title Act* 1993 (Cth) to replace the current applicant (deceased) in the native title claim of the Naghir People. The key issue was whether the replacement applicant was correctly authorised to act as the applicant. The judge adjourned proceedings to allow matters to progress as requested by the Torres Strait Regional Authority (TSRA). Specifically, the parties were asked to participate in a mediation facilitated and funded by the TSRA in order to determine the composition of the claim group and any overlaps with the native title determination of the Mualgal People.

Combined Dulabed Malanbarra Yidinji People v State of Queensland [\[2009\] FCA 1498](#)

This case arose out of an application for the determination of native title by consent on behalf of Lorraine Muckan, Len Royee and the Combined Dulabed Malanbarra Yidinji People. The determination area covers approximately 166.6 square kilometres of land and water, within the upper Mulgrave River basin, 40 kilometres south-west of Cairns. In accordance with section 66 of the *Native Title Act* 1993 (Cth) a number of respondents became party to the proceedings (State of Queensland, Cairns Regional Council, Tablelands Regional Council, Ergon Energy Corporation Limited and Jacqueline Spokes) which was then referred to mediation. The parties reached an agreement as to the terms of the determination, which was then filed with the Federal Court in accordance with section 87 of the Act. Justice Spender, in the present proceedings, affirmed the parties' agreement, finding that the terms of the proposed determination satisfied the requirements of section 225 of the Act and made the orders sought to give it effect.

Tucker on behalf of the Narnooobinya Family Group v Western Australia [\[2009\] FCA 1459](#)

Under the *Native Title Act* 1993 (Cth) two separate motions were filed on 11 September 2009 by the Ngadju and Narnooobinya groups respectively for the determination of Native Title. While both claims overlap significantly, the Ngadju claim is more advanced than that of the Narnooobinya claim which has created delays for the Ngadju's submission. Therefore the Goldfields Land and Sea Council on behalf of the Ngadju people has sought a motion requesting that the Narnooobinya application be dismissed. The Narnooobinya applicants seek to dismiss this application in the course of seeking rejoinder to the Ngadju application. Marshall J, while acknowledging the caution with which to exercise the dismissal of Native Title claims has provided the Narnooobinya applicants with the opportunity to set out the details of their proposed application by 11th December 2009. Failure to comply will result in the dismissal of their Native Title claim.

Angale on behalf of the Irlpme Arrernte People v Northern Territory of Australia [\[2009\] FCA 1488](#)

The case concerned a native title application made in 2006 by the Irlpme Arrernte native title claim group. The application was made for the purpose of invoking the applicant's right to negotiate with the holders of an Exploration Licence Application in respect of land comprising some 270 square kilometres within the Bond Springs pastoral lease in the Northern Territory. In February 2008, the parties advised the court that, through negotiation, an agreement in respect of the Exploration Licence Application had been reached. However, the Irlpme Arrernte native title claim group did not formally withdraw the claim. Nor did the applicants further progress their claim for a period of more than a year and a half, despite directions from the court.

The Court thus considered that the mandatory dismissal provisions under section 94(C)(1) of the *Native Title Act* 1993 (Cth) had been triggered. The applicants had failed, despite directions, to take any steps to have their claim resolved and nor, on what the court was told, did they intend to. The Court considered that there were no compelling reasons not to dismiss the application. No-one would be prejudiced by the dismissal of the application. The claim, the court found, had served its purpose, and would continue to be available to the applicants in the future should they wish to reassert their rights. The application was thus dismissed.

Native Title Publications

Department of Finance and Deregulation, '[Evaluation of the Capacity Development Program of the Office of the Registrar of Indigenous Corporations](#)', Office of Evaluation and Audit (Indigenous Programs), Department of Finance and Deregulation, 2009.

National Native Title Tribunal, '[Guide to future act decisions made under the right to negotiate scheme](#)', National Native Title Tribunal, 2009.

D Ritter, *Contesting Native Title: From controversy to consensus in the struggle over Indigenous land rights*, Allen & Unwin, N.S.W, 2009.

CJ Sumner & L Wright, 'The National Native Title Tribunal's application of the Native Title Act in future act inquiries', *University of Western Australia Law Review*, vol. 34, no. 2, 2009.

J Sheehan, 'Native title holders as vulnerable publics: conflict between spatial planning and native title law in Australia', *Geography Research Forum*, vol. 29, 2009, pp. 132-140.

P Memmott, M Moran, C Birdsall-Jones, S Fantin, A Kreutz, J Godwin, A Burgess, L Thomson and L Sheppard, '[Indigenous home-ownership on communal title lands](#)' *AHURI Final Report*, no. 139, Australian Housing and Urban Research Institute, Melbourne, 2009.

J Render, [Mining and Indigenous Peoples Issues Review](#), International Council on Mining and Metals, London, UK, 2009.

Western Australian Government, [Ord-East Kimberley Development Plan](#), Department of Regional Development and Lands, Western Australian Government, Perth, 2009.

Native title in the News

National

23/12/2009 -AU- Native title blocking Indigenous home ownership Indigenous Business Australia blamed native title laws for blocking the signing of individual 99-year leases on lands held under Aboriginal trust in Queensland. This leaves many Indigenous Australians keen to own a home, instead forced to remain in the public housing system. The Mayor of Palm Island

disputes this claim. *Australian*, (National AU, 23 December 2009), 5. *Australian*, (National AU, 24 December 2009), 4.

New South Wales

10-Dec-2009 - NSW - Land use undecided Darug Traditional owners are seeking a determination on a native title claim via court appointed mediation. The Traditional Owners are concerned that determinations on the heritage and cultural value of the land (which is earmarked for development), are being made by certifiers who claim to act on behalf of the Darug people, but do not have any affiliation with them. *Penrith City Star*, (Sydney NSW, 10 December 2009), 11. *Rouse Hill Times* (Sydney NSW, 16 December 2009), 1.

23-Dec-09 - NSW - Native title claim registered Aboriginal families in the Wellington Valley have had their native title claim registered in the Native Title Tribunal. The claim covers a large tract of Central West land including Wellington, Mudgee and Orange. Gallangabang Aboriginal Corporation facilitated the claim for the traditional owners. *Wellington Times*, (Wellington NSW, 23 December 2009), 1, 5.

Northern Territory

27-Nov-09 - NT - Top End town handed back to first owners One of the longest-running native title claims in Australian history has been settled by a township being handed back to traditional owners. Jabiru township, 220km east of Darwin will now be leased back to the Federal Government rent free for 99 years. It will remain part of Kakadu National Park. The native title claim was originally lodged in 1997. *Northern Territory News*, (Darwin NT, 27 November 2009), 4.

Queensland

03-Nov-09 - QLD - Native title dismissed The Federal Court has dismissed three native title claims affecting the Central Highlands Regional Council area. The claims by the Ghungalu and Kangoulu People were dismissed on September 1 due to failure to comply with directions orders. *Blackwater Herald*, (Blackwater QLD, 3 November 2009), 6. *Morning Bulletin*, (Rockhampton QLD, 3 November 2009), 10.

04-Nov-09 - QLD - Missing link sorted Cairns Regional Council has agreed to acquire all native title rights over a

small area of the Cairns Esplanade to create a reserve. Councillors were told the matter was a longstanding issue which came about during Esplanade re-development. *Cairns Sun*, (Cairns QLD, 4 November 2009), 9.

07-Nov-09 - QLD - Step closer to native title claim Two north-west Queensland Aboriginal groups have moved closer to securing a native title claim on a segment of land in the lucrative minerals field. A Memorandum of understanding (MoU) was this week signed between the Balarnu Waluwarra and Wangkayujuri people and Mount Isa City, Boulia and Cloncurry Shire Councils. The negotiated native title interest will require the creation of an Indigenous Land Use agreement for almost 24,000sq km in three local government areas. *Townsville Bulletin*, (Townsville QLD, 7 November 2009), 15.

02-Dec-09 - QLD - Kuuka Ya'u ILUAs finalised The ILUAs set out how the Kuuku Ya'u Peoples, Queensland Government and Great Barrier Reef Marine Park Authority will work together to manage national parks and the marine park where native title exists. *Western Cape Bulletin* (Weipa QLD, 2 December 2009), 5.

11-Dec-09 - QLD - Consent Determination for the Girramay People The Federal Court has made a consent determination recognising the Girramay People as native title holders of almost 475ha in North Queensland. The determination covers 16 parcels of unallocated State land from Cardwell to Bilyana and Murray Upper area, north of Townsville. Four separate indigenous land use agreements which involve other parcels of state land have also been lodged. *Cairns Post*, (Cairns QLD, 11 December 2009), 7. *Townsville Bulletin*, (Townsville QLD, 11 December 2009), 4. *Innisfail Advocate*, (Innisfail QLD, 12 December 2009), 7. *Tully Times*, (Tully QLD, 17 December 2009), 5. *Herbert River Express*, (Ingham QLD, 31 December 2009), 14.

18-Dec-09 - QLD - Native Title Determination for Dulabed and Malanbarra Yidinji Peoples Native title rights have been won by the Dulabed and Malanbarra Yidinji peoples of far north Queensland. A Federal Court sitting in Gordonvale affirmed the groups' native title rights over 16,460ha of land and water 37km south of Cairns. *Cairns Post*, (Cairns QLD, 18 December 2009), 9. *Morning Bulletin*, (Rockhampton QLD, 18 December 2009), 18. *Warrnambool Standard*, (Warrnambool VIC, 18 December 2009), 12.

South Australia

5-Nov-09 - SA - Wilcherry Hill on target Ironclad's Wilcherry Hill project is on target for mining and production of iron in 2010. Recent drilling has revealed high levels of direct shipping ore at the site, north of Kimba. The company's in-house prefeasibility study is on track for completion by the end of the year, with native title, heritage clearances and approvals currently proceeding on schedule. *Eyre Peninsula Tribune*, (Cleve Sam 5 November 2009), 2.

13-Nov-09 - SA - Uranium fallout over native title Joint venture partners of what is expected to be Australia's next uranium mine are locked in a legal dispute over a native title agreement. Alliance Resources, a 25 percent stakeholder is accusing Quasar and Heathgate of exclusion while negotiating a native title agreement to possibly combine the Four Mile Project with Heathgate's Beverley mine. *Australian*, (AU, 13 November 2009), 25. *Advertiser*, (Adelaide SA, 13 November 2009), 1. *Age*, (Melbourne VIC, 13 November 2009), 5. *Advertiser*, (Adelaide SA, 13 November 2009), 85. *Australian*, (13 November 2009), 22.

26-Nov-09 - SA - Karno's dreaming of recognition for his people The Ramindjeri people have lodged a native title claim over Kangaroo Island in a bid for recognition as the traditional keepers of the land on the Fleurieu Peninsula. *Islander*, (Kingscote SA, 26 November 2009), 1.

19-Dec-2009 - SA - Maralinga lands given back to traditional owners The final section of the former Maralinga nuclear test site in South Australia's north was returned to traditional owners. It followed the passing of legislation in South Australian Parliament allowing for Section 400, an area of 3100sq km located about 300km north-west of Ceduna, to be handed back to the traditional owners. *Advertiser*, (Adelaide SA, 19 December 2009), 7. *Sunshine Coast Daily*, (Maroochydore QLD, 19 December 2009), 29. *Mercury*, (Hobart TAS, 19 December 2009), 81. *Sydney Morning Herald*, (Sydney NSW, 19 December 2009), 9. *Daily Liberal*, (Dubbo NSW, 19 December 2009), 16.

Victoria

4-Nov-09 - VIC - Wait on native title claims slammed Australian of the Year Mick Dodson has called for a drastic overhaul of Australia's education system and native title legislation. Professor Dodson announced his concerns whilst delivering this year's La Trobe University

Sir John Quick lecture at the Bendigo Town Hall. *Bendigo Advertiser*, (Bendigo VIC, 4 November 2009), 1.

Western Australia

4-Nov-09 - WA - Court rejects native title The Federal Court dismissed two native title claims over Dampier, Karratha, Wickman and Point Samson last week after the State Government applied to have the claims rejected. The claim was made by the Wong-goo-tt-oo people over these towns but was dismissed after the court ruled the claim could not be sustained in law. *Pilbara News*, (Pilbara WA, 4 November 2009), 7.

5-Nov-09 - WA - Native title negotiations winding up Years of negotiations between the State Government and Broome's traditional owners could be finalised by the end of the month paving the way for the expansion of Broome. It is understood that the package of native title agreements being negotiated will empower the Yawuru people, giving them authority in Broome's economic, environment and cultural development. Last week Yawuru man and Indigenous leader Professor Pat Dodson announced the Yawuru people had agreed to sign the native title agreement with the State Government. *Broome Advertiser*, (Broome WA, 5 November 2009), 1.

27-Nov-09 - WA - Telescope land deal Native title claimants have struck an agreement that will allow the world's most powerful telescope to be built on their land in Western Australia. The Wajarri people announced yesterday they had signed an agreement for the Pathfinder Telescope to be erected. The site is near the town of Meekatharra. *Canberra Times*, (Canberra ACT, 27 November 2009), 7. *Border Mail*, (Albury-Wodonga VIC, 27 November 2009), 12.

27-Nov-09 - WA - Native title fight A legal battle is looming between local Aboriginal groups over entitlements to a multibillion dollar port at Oakajee. The Mallard family, of the Nanda group, believe they have been unfairly left out of native title discussions. Bill Mallard said he had procured substantial funds to take legal action against the Naaguja claimant group. Mr Millard also claimed his ancestors hailed from the proposed Oakajee site and that he has historical documents to prove his ancestry. *Geraldton Guardian*, (Geraldton WA, 27 November 2009), 2.

03-Dec-09 - WA - Consent Determination for the Thudgari People The Thudgari Peoples' native title

claim over 11,280km of mainly pastoral country was determined at a Federal Court hearing at Ullawarra Station under Justice Michael Barker. It has taken 12 years to reach a consent determination, including two years of tribunal-facilitated mediation. The native title mediation included the development of 14 Indigenous Land Use Agreements (ILUAs). *Farm Weekly*, (Rural WA, 3 December 2009), 161. *Yamaji News*, (Geraldton WA, December 2009), 21.

10-Dec-09 - WA - Nyiyaparli people make agreements with Brockman Resources Limited WA iron ore company Brockman Resources Limited announced it had signed the second and final native title agreement with the Nyiyaparli peoples in the Pilbara. Brockman now has agreements in place with all native title claimant groups covering the entire Marillana Project site. *North West Telegraph*, (South Hedland WA, 9 December 2009), 5.

10-Dec-09 - WA - Martu Idjya Banyjima native title group sign access agreement Iron Ore Holdings (IOH) signed a final land access agreement for Phil's Creek with the Martu Idjya Banyjima native title group. This has ensured that a mining license can be granted. *West Australian*, (Perth WA, 10 December 2009), 54.

16-Dec-09 - WA - Native title deal signed for Mikurrnya mine site The Ngarla people have signed a heritage and mining agreement with the Boral Group of Companies regarding the Tabba Tabba rock quarry 40 kilometres east of Port Hedland. The agreement includes compensation to the Ngarla People for impact on their country and formal recognition that past operations had disturbed the Mikurrnya site, causing distress to the Ngarla People. *Pilbara Echo*, (Pilbara WA, 5 December 2009), 3. *North West Telegraph*, (South Hedland WA, 16 December 2009), 18.

19-Dec-09 - WA - Deal struck between Eastern Guruma native title holders, NRW Holdings and Rio Tinto Eastern Guruma native title holders have signed a deal with mining giant Rio Tinto. Under the deal, Eastern Guruma and NRW Holdings will build a road and then transport ore 15km to the Tom Price mine for processing and blending with other Pilbara Blend stocks. The four-year contract was designed to increase the Eastern Guruma people's equity in the joint venture from 25 to 35 per cent which would see a rise in Aboriginal employment levels to an average of 27 per cent throughout the entirety of the agreement. The contract includes a \$6 million component for training. *Sunshine Coast Daily*, (Maroochydore QLD, 19 December 2009), 108. *Illawarra Mercury*, (Wollongong NSW, 19 December 2009), 56. *Advertiser*, (Adelaide SA, 19 December 2009),

83. *Courier Mail*, (Brisbane QLD, 19 December 2009), 86. *Northern Territory News*, (Darwin NT, 19 December 2009), 39. *Herald Sun*, (Melbourne VIC, 19 December 2009), 86. *Sydney Morning Herald*, (Sydney NSW, 19 December 2009), 2. *West Australian*, (Perth WA, 19 December 2009), 79. *Townsville Bulletin*, (Townsville QLD, 19 December 2009), 71. *Bendigo Advertiser*, (Bendigo VIC, 19 December 2009), 54. *Launceston Examiner*, (Launceston TAS, 19 December 2009), 42. *North West Star*, (Mount Isa QLD, 21 December 2009), 14. *Warrnambool Standard*, (Warrnambool VIC, 21 December 2009), 18. *North West Telegraph*, (South Hedland WA, 23 December 2009), 4

22-Dec-09 - WA - Native title resolution on agenda A Heads of Agreement process has been signed off with the South West Aboriginal Land and Sea Council. This has established a two-year timeframe for the negotiation of a settlement package to resolve all current and future native title claims across Perth and the South West. It ends the State Government's appeal against the Federal Court decision that Noongar people held native title on land where rights had not been extinguished. *Bunbury Herald*, (Bunbury WA, 22 December 2009), 11. *Albany Advertiser*, (Albany WA, 24 December 2009), 6. *Busselton Dunsborough Times*, (Busselton WA, 25 December 2009), 8. *Bunbury Mail*, (Bunbury WA, 30 December 2009), 5. *West Australian*, (Perth WA, 31 December 2009), 20.

23-Dec-2009 - WA - Owners to fight gas project deal Kimberley traditional owners have challenged an agreement between the State Government, Kimberley Land Council and Woodside to develop a gas precinct at James Price Point, 60km north of Broome. *West Australian*, (Perth WA, 23 December 2009), 18.

Indigenous Land Use Agreements (ILUAs)

NAME	TRIBUNAL FILE NO.	TYPE	STATE OR TERRITORY	REGISTRATION DATE	SUBJECT-MATTER
Masig Community Hall ILUA	QI2009/036	Body corporate agreement	QLD	04/11/2009	Development; Infrastructure
Murchison Radio-astronomy Observatory Agreement	WI2009/002	Area agreement	WA	13/11/2009	Infrastructure
Kuuku Ya'u People Marine Park ILUA	QI2009/011	Area agreement	QLD	16/11/2009	Co-management
Kuuku Ya'u People Protected Areas ILUA	QI2009/012	Area agreement	QLD	16/11/2009	Co-management
Phillip Creek PPL Bulk Handling Facility ILUA	DI2009/003	Area agreement	NT	17/11/2009	Infrastructure
Lily Hole Creek Community Living Area ILUA	DI2009/001	Area agreement	NT	18/11/2009	Community living area
Darumbal Marlborough Nickel Pipeline ILUA	QI2006/050	Area agreement	QLD	08/12/2009	Mining; Pipeline
Darumbal Marlborough Nickel Project Area #2 ILUA	QI2007/006	Area agreement	QLD	08/12/2009	Access; Development; Mining

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

http://ntru.aiatsis.gov.au/research/ilua_summary.html, 4 January 2010. For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Determinations

SHORT NAME	CASE NAME	DATE	STATE OR TERRITORY	OUTCOME	LEGAL PROCESS	TYPE
Combined Dulabed and Malanbarra Yidinji Claim	Combined Dulabed Malanbarra Yidinji People v State of Queensland [2009] FCA 1498	17/12/2009	Queensland	Native title exists in the entire determination area	Consent determination (conditional)	CLAIMANT
Thudgari People	Thudgari People v State of Western Australia [2009] FCA 1334	18/11/2009	WA	Native title exists in parts of the determination area	Consent determination	CLAIMANT
Kuuku Ya'u	Kuuku Ya'u People v State of Queensland [2009] FCA 679	16/11/2009	QLD	Native title exists in the entire determination area	Consent determination	CLAIMANT

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

http://ntru.aiatsis.gov.au/research/determinations_summary.html, 4 January 2010. For further information about native title determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au.

Items in the AIATSIS Catalogue

The following list contains either new or recently amended catalogue records relevant to Native Title issues. Please check MURA, the AIATSIS on-line catalogue, for more information on each entry. You will notice some items on MURA do not have a full citation because they are preliminary catalogue records.

The AIATSIS Library now has copies of the NARU News (North Australia Research Unit) from 1980-1996. The AIATSIS Library has subscribed to the Practical Guides series from the Copyright Council of Australia. The most recent issue is *Libraries: a copyright guide*.

The Library has catalogued three rare books containing early histories of Australia:

Jose, Arthur W.
History of Australasia : from the earliest times to the present day. Sydney : Angus and Robertson, 1921.

Jenks, Edward.
A history of the Australasian colonies : from their foundation to the year 1911. Cambridge [Cambridgeshire] : University Press, 1912.

Parkes, Henry, Sir.
Fifty years in the making of Australian history. London : Longmans, Green, and Co., 1892.

Audiovisual material of interest to native title includes:

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Giacon, John. *Gayarragi, winangali : find and hear : a language-learning program for Yuwaalaraay and Gamilaraay* [videorecording]. Armidale : Catholic Schools Office, 2009.

Palmer, Kingsley.
Yalata fieldwork, includes interview with two community members, Mima Smart and Mabel Queama. 1981.

Mining and native title [videorecording]. [Perth] : National Native Title Tribunal, c2009.

Audio recordings:

Hart, C. W. M. (Charles William Merton). [Tiwi recordings]. 1928-1930. NOTE: Copied onto tape at University of Sydney 1958, from wire cylinders originally recorded 1928-1930.

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Day, Adrian O.
Individual portraits from the Eastern Goldfields region (1950s). Three colour prints and one black and white negative.

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'The 'Global' versus the 'Local': cognitive processes of kin determination in Aboriginal Australia.' *Oceania* Vol. 78, no.3 (Nov. 2008), p. 260-279.

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Rock art dating results from the Calvert and Carnarvon Ranges, Western Desert. 2008.

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Power, culture, economy : Indigenous Australians and mining. Acton, A.C.T. : ANU E Press, 2009.

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NOTE: For items below published under the Sustainable Tourism CRC, see

<http://www.crctourism.com.au/BookShop/>

Ali, Shameem.

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Muloin, Sue.

Indigenous wildlife tourism in Australia : wildlife attractions, cultural interpretation and indigenous involvement. Gold Coast, Qld. : Co-operative Research Centre for Sustainable Tourism, 2001.

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Social investment : working with Australian communities. Melbourne : Rio Tinto, c2008.

Whitford, Michelle.

Indigenous tourism businesses in Australia : development, analysis and evaluation of a national diagnostic tool profiling SME indigenous tourism product. Gold Coast, Qld. : CRC for Sustainable Tourism, 2009.

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'Indigenous ethics is alive and operating in Australia, Canada & New Zealand.' *Aboriginal and Islander Health Worker Journal* Vol.32, no.4 (July/Aug. 2008), p. 9-12.

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Calculating lives [electronic resource] : the numbers and narratives of forced removals in Queensland 1859-1972. PhD thesis, Griffith University 2005.

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THE NATIVE TITLE RESEARCH UNIT

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