



Native Title Newsletter

January/February
2007

No. 1/2007

CONTENTS

BREAKING NEWS	2
CASE NOTE	3
WHAT'S NEW.....	6
Senate Inquiries	6
Recent Cases.....	6
International	8
Publications	9
Recent Events	10
Upcoming Events.....	10
NATIVE TITLE IN THE NEWS.....	11
APPLICATIONS LODGED WITH THE FEDERAL COURT	20
NOTIFICATIONS	20
REGISTRATION TEST DECISIONS	21
ILUAS	22
DETERMINATIONS.....	22
FUTURE ACT DETERMINATIONS	22
ITEMS IN THE AIATSIS CATALOGUE	24
WHAT'S NEW WITH THE NTRU	26

WHAT'S NEW WITH THE NTRU!

More information on the **Native Title Conference** 6-8 June 2007

Tides of Native Title is available online:

<http://ntru.aiatsis.gov.au/conf2007/conference2007.html>

The NTRU will be hosting the first ever **Prescribed Bodies Corporate National Meeting** 11-13 April 2007.

The Native Title Newsletter is published every second month. The newsletter includes a summary of native title as reported in the press. Although the summary canvasses media from around Australia, it is not intended to be an exhaustive review of developments. The Native Title Newsletter also includes contributions from people involved in native title research and processes. Views expressed in the contributions are those of the authors and do not necessarily reflect the views of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

BREAKING NEWS

Githabul people reach a historic agreement with the New South Wales government

The Githabul people have been recognised by the New South Wales Government as the traditional owners of an area of land covering 112 000 hectares of national parks and state forests near Kyogle, Woodenbong and Tenterfield. A ceremony held in Woodenbong on 28 February 2007 formalised an Indigenous Land Use Agreement (ILUA) between the New South Wales Government and the Githabul people recognising them as traditional owners. This is the most significant native title agreement on the East Coast of Australia in terms of the area covered and benefits that will be received by ten family groups of about 250 people.

In addition to recognition, the agreement provides the Githabul people the opportunity to build on their continued practice of traditional laws and customs including being involved in decision making processes in

relation to their land. The Elders will also be returned the ownership of sacred sites including a water spring and Campeen Mountain. The Githabul traditional owners will have statutory obligations under the management plans which formalises their role in the management of national parks. The combination of these measures means that the Githabul people will have a say in the management of the national parks in the area and be able to protect culturally significant sites. These rights coexist with the rights of the public to the park. In particular, the Githabul people will be given access to the national parks and state forests to continue their traditional activities during special times and within certain areas. Endangered species will remain protected.

The agreement recognises the links of the Githabul people to their traditional land evidenced by genealogies dating back to 1870 and detailed records maintained by the United Aborigines Missionaries staff. The strength of culture is Githabul language which

continues to be spoken and taught at the local school in Woodenbong.

The agreement also contains provisions with economic value to the Githabul family groups such as employment opportunities and the transfer of 102 hectares of crown land to the Githabul Corporation. One of the major concessions made by the Githabul people was the decision to extinguish native title over all pastoral areas (including perpetual leaseholds).

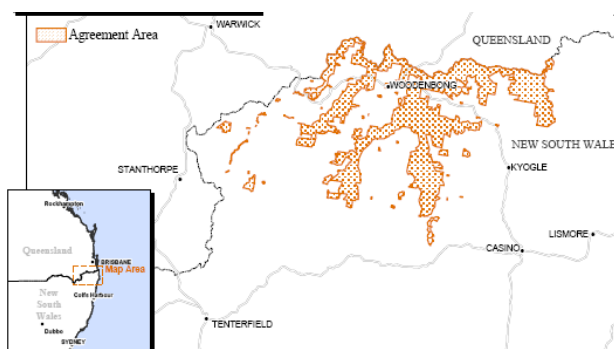
This means that the Githabul people will not be able to make any future native title claims on farmland or seek compensation for past acts of extinguishment of native title rights and interests. In exchange, the Githabul people will need to be consulted to discuss compensation for proposed future

developments affecting the rest of the claim area. This means that even though past acts will not be recognised, the Githabul people will have an active role in the management of the national parks and state forests by having a say in future acts.

Some areas of the Githabul claim remains undecided. The traditional country of the Githabul people extends beyond the NSW border into Queensland. However, the rights and interests claimed over Queensland areas including the Main Range, Mount Barney, Giraween and

Sundown national parks as well as Mount Lindesay, which straddles the border between New South Wales and Queensland, are yet to be determined. Despite these remaining questions, the ILUA is an important step towards a consent determination at the end of the year which will recognise the Githabul people's native title rights and interests in the area of land covered by the ILUA. This agreement brings a tentative conclusion to an application for the recognition of native title rights and interests lodged 11 years ago by Trevor Close.

[Back to contents](#)



Top: Map of the area covered by the ILUA: courtesy of the NNTT; Bottom: Picture of the recognition ceremony courtesy of NSW Native Title Services.



CASE NOTE

Harrington-Smith on behalf of the Wongatha People v State of Western Australia (No 9) [2007] FCA 31 (5 February 2007)

By Tran Tran

On 5 February 2007, Lindgren J dismissed the native title claim of the Wongatha People covering an area of 160 000 square kilometres, 85 kilometres north of Kalgoorlie. The decision was anticipated by parties from the mining and petroleum industry given the potential commercial value of mineral deposits in the area. The determination involved eight overlapping claims – the Cosmo Newberry, Mantjintjarra Ngalia, Koara, Wutha, Maduwongga and Ngalia Kutjungkatja No 1 and No 2 claims – with Wongatha as the lead application.

In reaching his conclusion, Lindgren J dealt with a number of preliminary issues including authorisation, the extent of the Western Desert Cultural Bloc (WDCB) which was relied upon by the claimants, and whether each of the amalgamated claim groups, as a part of the WDCB, continued to acknowledge traditional laws and customs that were present at the time of sovereignty.

First, Lindgren J dealt with the issue of authorisation, which the respondents argued was not carried out according to the requirements of the *Native Title Act 1993* (Cth). Lindgren J agreed and found that the authorisation process did not follow the proper procedures. However, his Honour noted his disappointment that authorisation had been challenged by third parties to the claim despite being agreed upon by the applicants, and continued to consider each claim based on the merit of each case.

Second, Lindgren J considered the geographic extent of 'society'. The High Court in *Members of the Yorta Yorta Aboriginal Community v State of Victoria*¹ explained that traditional laws and customs, which are said to have given rise to native title rights, are inextricably connected to the idea of society. In this case, the applicants argued that the whole of the claim area was a part of the WDCB.² After a considerable review of

expert evidence received, Lindgren J found that the WDCB extended as far west as the 'Menzies-Lake Darlot line' and therefore any area of the claims beyond this point would not succeed. This

preliminary finding set geographical parameters for the issue of whether or not native title rights and interests could be recognised.

Third, Lindgren J discussed the nature and basis of the rights and interests in land and waters under traditional (pre-sovereignty) laws and customs of the Western Desert. He noted that there were three possible conclusions:

1. that one claim is supported by traditional laws and customs and the others are not;
2. that traditional laws and customs have contemplated the sharing of the claim area for each group; or
3. that the claims by groups resembling the claim groups were alien to WDCB laws and customs.³

Lindgren J noted the semi-nomadic nature of the claimant groups pre-sovereignty and concluded that rights and interest can be 'activated and deactivated' at varied stages in life.⁴ He also acknowledged that it was not possible to list all aspects of a normative system:

I think *Yorta Yorta HC* requires applicants for a determination of native title to establish the content of the body of pre sovereignty laws and customs on which they rely allowing for regional variations so that they can establish that the normative system has continued.⁵

Lindgren J considered how 'idiosyncratic and unstable rights and interests can be accommodated to the provisions of the Act.' His Honour accepted that there had been considerable population shifts since settlement and that the current claims were based on where the claim groups had 'finished up'. His honour also found that the migration flows necessary for finding reliable sources of food and water meant that in 'succumbing to the allurements of the European presence, the claimants' ancestors changed the legal landscape of today's native title'.⁶ In the result, Lindgren concluded that 'there [was] little historical depth into the connections and affiliations because of the disruptive effect of settlement'.⁷

³ [1005].

⁴ [297].


⁵ [993].

⁶ [301].

⁷ [1011].

¹ (2002) 214 CLR 422 (*Yorta Yorta HC*).

² [979].



Lindgren J was not satisfied with the position that there were a number of societies or sub societies within the Western Desert with membership extending beyond the Wongatha claim. Accordingly, Lindgren J found that the third possibility was most likely. That is, the claims by groups resembling the claim groups were alien to WDCB laws and customs. His Honour based his decision on the basis that the differences between each claim group did not suggest that they were sub societies nor did other overlapping groups acknowledge that the other groups had rights and interests in the overlaps. In particular, his Honour found that the Wongatha and Cosmo claims were not established and the Newberry, Mantjintjarra Ngalia, Koara, Wutha, Maduwongga and Ngalia Kutjungkatja No 1 and No 2 claims were not established to the extent of an overlap with the Wongatha claim. Lindgren J found that even though the Wongatha claim groups contemplated that other claim groups may be able to establish rights and interests in the claim area, the Cosmo claim group did not make a 'similar concession'.⁸

Lindgren J was dissatisfied not just on the basis of unclear rights and interests between overlapping claims but in the establishment of the rights and interests of each group. He explained:

Usually it is said that Claim group A has group rights and interests in Claim area A, but acknowledged that particular individuals within overlapping Claim group B also have rights and interests in the A/B overlap. At other times Claim group A acknowledges that Claim group B, like Claim group A itself, may have group rights and interests in the A/B overlap, and says that it is an internal matter for the respective Claim groups to determine which individuals within them are entitled to enjoy rights and interests in the A/B overlap, and that I need not concern myself with this issue...

I accept that it should not be assumed that all members of a group holding group rights and interests have identical rights and interests *inter se*, and that some may have, in respect of particular parts of a claim area, nothing more than nominal rights and interests arising from their membership of the Claim group. Nonetheless, in my opinion if a group claim is to succeed, the group must be shown to have group rights and interests in the first place.⁹

But nor was the landholding group as abstract as the level proposed by the amalgamated claims. Of particular importance was his finding that individuals or smaller groups were not the landholding group linked to the same *Tjukurr*¹⁰ sites or a *Tjukurr* track.

⁸ [1009].

⁹ [317] – [318].

¹⁰ *Tjukurr* can be broadly interpreted as 'dreaming' or law.

Lindgren J found that, it was not permissible for groups to be formed principally to bring a group claim in relation to an area because this would mean that 'the group, the group rights and interests, and the group area, are not rooted in traditional (pre sovereignty) laws and customs'. According to Lindgren J, in order to be consistent with *Yorta Yorta HC*, 'it is required that a landowning group be unified, and its area be identified, by reference to traditional (pre-sovereignty) laws and customs'.¹¹ This introduction of the concept of a 'landholding group' is a novel one.

However, despite this conclusion the final question of whether or not there were native title rights and interests in the claim area was left open. He had decided not to 'resolve the issue of whether claim groups continue to observe the body of traditional (pre sovereignty) Western Desert laws and customs'¹² and explicitly declined to make a determination that there was no native title in the claim area. In fact, Lindgren J tentatively noted that the issue of whether or not native title rights and interests should be recognised in the claim area should be decided 'claim group by claim group'.¹³ These sentiments are reflected in the length and structure of the decision which sets out the primary facts¹⁴ according to each individual claim and documents a significant amount of the Indigenous evidence that is presented to the Court.

The decision of Lindgren J has a number of implications. His conclusion suggests that internal disputes amongst claim groups and overlapping claims will not be overlooked merely by presenting them as one claim without further evidence of unified or common traditional laws and customs. In fact, Justice Lindgren said that:

The claim group are not recognised as landholding units under traditional Western Desert law and custom, but are collections of individuals who have, for the purpose of making a group claim under the NTA, agreed to aggregate or pool their claimed individual 'my country' areas.¹⁵

The crux of Lindgren J's findings was that the 'competition between overlapping claims cannot be explained by regional variation in the same system of laws and customs'.¹⁶ That is, if the same body of WDCB laws and customs is to determine whether a

¹¹ [319].


¹² [976].

¹³ [976].

¹⁴ [978].

¹⁵ *Harrington-Smith on behalf of the Wongatha People v State of Western Australia (No 9)* [2007] FCA 31, [3998] (Lindgren J).

¹⁶ [1001].



group has group rights and interests in land, it must provide a resolution of the competing overlapping group claims.

[Back to contents](#)

Lindgren J acknowledged the difficulties faced by claimants and in reaching his conclusion, he made a number of observations. He noted that the complexity and resources expended on the Wongatha case reflected not only its complexity but also the state of native title law. Lindgren J noted in his summary that 'perhaps the heart of the problem is that the legal issue that the Court is called upon to resolve is really only part of a more fundamental political question'.¹⁷ Justice Lindgren noted a number of important issues including the expectations that are created and that each native title case is decided based on its facts and history of the claimants which, in some instances, can lead to inconsistencies in the way that Aboriginal people are treated. In particular, Lindgren J noted the evidentiary burden faced by claimants in the case, especially in establishing traditional laws and customs at sovereignty, which occurred in the claim area in 1829, even though explorers did not reach the area until 1869 and settlement did not occur until the 1890s.¹⁸

Further, Lindgren J commented that the way that native title claims are heavily contested can influence the outcomes that may be reached. His honour noted:

In pre-contact times, the [I]ndigenous people in two areas would have used the surface for camping, hunting foraging and so on. Yet in one case there is a consent determination and in the other there is a contest to the bitter end.

Why? The reason related to the value placed on the land by others. This is readily understandable, but has nothing to do with the merits of the two cases.¹⁹

Justice Lindgren expressed his disappointment with the failed mediation attempts noting his regret in having to impose a solution on the matter. Lindgren J granted more time to the Wongatha native title claimants to consider an appeal given the length and complexity of the judgment. The application was removed from the NNTT register, to which the applicants objected. This caused the judge to have to consider the meaning of his decision to 'dismiss' the claim. The appeal against the removal was unsuccessful which raised significant issues for the management of Future Acts and native title in the region.

¹⁷ Summary, 2.

¹⁸ [294 -295].

¹⁹ Summary, 4.



WHAT'S NEW

Senate Inquiries

[Standing Committee on Legal and Constitutional Affairs Inquiry into the Native Title Amendment Bill 2006](#)

Recent Cases

Bennell v Western Australia & Ors; Bodney v Western Australia & Ors; Bodney (on behalf of the Bodney family Ballaruks) v Western Australia & Ors (19 September 2006) 230 ALR 603 [2006] FCA 1243

Catchwords: Native title - Overlapping claimant applications in respect of land and waters in and around Perth - Applications in respect of five areas made on behalf of Bodney Family Group claim based on descent from Ballarruk and Didjarruk 'clans' - Whether these were land-holding groups at sovereignty or moiety groups - Lack of evidence of connection between members of claimant group and any Ballarruk or Didjarruk person alive at sovereignty - Lack of evidence of continued acknowledgement and observance of traditional laws and customs - These claims dismissed - Consideration of separate question arising out of application by the Noongar community in respect of an extensive area of south-west Western Australia - Separate questions related only to land and waters in and around Perth, however the claim was that this was part of a greater area in respect of which the Noongar community held native title rights and interests - Whether at sovereignty the normative system governing the whole of south-west Western Australia was that of a single Noongar community or whether there were a series of separate normative systems of smaller communities - Whether the single Noongar community has continued to acknowledge and observe some traditional laws and customs concerning land and waters - Identification of persons entitled to native title rights and interests - Identification of surviving rights and interests - Discussion of, and orders about, belated motion to strike out single Noongar claim for lack of proper authorisation.

Myoung v The Northern Land Council (2006) 154 FCR 324

Catchwords: LAND RIGHTS - Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) - traditional Aboriginal owners - competing claim groups

ADMINISTRATIVE LAW - Administrative Decisions (Judicial Review) Act 1977 (Cth) - decision of Northern Land Council - error of law - 'no evidence' ground - no reviewable error.

Worimi v Minister for Lands for the State of New South Wales [2006] FCA 1770

NATIVE TITLE - application to strike out claimant application - relevance of evidence given in earlier proceedings - claim group consisting of the applicant and his immediate family - whether claim group comprises the whole of the persons with native title rights - assertion that others had not been taught traditional laws and customs and do not hold native title rights - no findings as to persons who observe traditional laws and customs on a strike out application - evidence to be read on the view most favourable to applicant - evidence of traditional law and custom is that additional persons should be included in claim group - applicant not authorised by those persons - applicant not entitled to make application pursuant to s 61(1) of the Native Title Act 1993 (Cth).

Mario Guisepppe v Registrar of Aboriginal Corporations and Another [2006] FCA 1692

ADMINISTRATIVE LAW - procedural unfairness - adequacy of time allowed in show cause notice - whether reasonable - authority of Minister to approve appointment of administrator to Aboriginal Corporation.

Franks & Ors v WA & ors [2006] FCA 1811

Native title - mediation - court supervision of mediation process - mediation protocols and programs - delays - resource and staffing limitations of representative body - specific orders proposed by National Native Title Tribunal - power of court to make specific orders - orders made accordingly.



Re Simon [2006] NSWSC 1410

ABORIGINALS - general - construction of "Aboriginal person" in Aboriginal Land Rights Act 1983 (NSW) - requirement of lineal descent from inhabitants of Australia immediately before European settlement - FAMILY LAW AND CHILD WELFARE - CHILD WELFARE OTHER THAN UNDER FAMILY LAW ACT 1975 AND RELATED ACTS - adoption - construction of transitional provisions of Adoption Act 2000 - meaning of "placed with a view to adoption" - operation of Aboriginal child placement principles - operation of special consent provisions concerning placement of Aboriginal child for adoption - definition of "Aboriginal" in Adoption Act 2000.

Baird v State of Queensland No 2 [2006] FCAFC 1984

Stolen wages. Since those proposed orders are the request of all of the parties in the proceedings, it is appropriate for the Court to make the following additional orders, in addition to the orders pronounced on 17 November 2006:

- (a) There be judgment in favour of James Stanley Baird for damages, inclusive of interest, in the sum of \$17,000;
- (b) There be judgment in favour of Marie Creek for damages, inclusive of interest, in the sum of \$45,000;
- (c) There be judgment in favour of Frank Tayley for damages, inclusive of interest, in the sum of \$37,000;
- (d) There be judgment in favour of Henry Walker for damages, inclusive of interest, in the sum of \$45,000;
- (e) There be judgment in favour of Henry Deeral for damages, inclusive of interest, in the sum of \$85,000;
- (f) There be judgment in favour of Anita Karen Gordon for damages, inclusive of interest, in the sum of \$19,800.

Hillig as Administrator of Worimi Local Aboriginal Land Council v Minister for Lands for the State of New South Wales (No 3) [2006] FCA 1776

From the judgment: 'I refer to my decision in *Worimi v Minister for Lands for the State of New South Wales* [2006] FCA 1770 in which I dealt with an application to strike out a native title claimant application ('the claimant proceedings'). There was also before me an application by Mr Dates ('Worimi') to be joined to these proceedings ('the Hillig proceedings'), in which Mr Hillig as administrator of the Worimi Local Aboriginal

Land Council seeks a declaration that no native title exists over land at Port Stephens."

Ulladulla Local Aboriginal Land Council v NSW
Federal Court NSD1862/2005, 13 December 2006

Native Title does not exist.

Aubrey Lynch and Others on behalf of the Wongatha People /Western Australia/ Heron Resources NL [\[2006\] NNTTA 162](#)

Native title -- future acts -- applications for determination for the grant of exploration licences -- Right to Negotiate and pre-combination claimant applications -- transitional provisions -- impact of subsequent removal from Register -- named applicants decline to sign state deed -- regional standard heritage agreement -- native title party as a whole consents to the determination -- consent determination that the acts may be done.

Lawson v NSW Minister for Land and Water Conservation [\[2007\] FCA 8](#)

NATIVE TITLE - application by representative body to be joined as a party - application for compensation application to be dismissed - authorisation of representative body to seek dismissal of compensation application - compensation application dismissed for applicant's failure to progress.


Arnold Franks and Others v State of Western Australia and Others [\[2006\] FCA 1811](#)

NATIVE TITLE - mediation - court supervision of mediation process - mediation protocols and programs - delays - resource and staffing limitations of representative body - specific orders proposed by National Native Title Tribunal - power of Court to make specific orders - orders made accordingly.

Akiba and Others on behalf of the Torres Strait Regional Seas Claim People v State of Queensland (No 3) [\[2007\] FCA 39](#)

PRACTICE AND PROCEDURE - leave to appeal - whether interlocutory or final native title decision - whether application for leave to appeal should be granted - whether court correct in exercising its discretion against joinder - application of the two limbs of the Décor test.

NATIVE TITLE - parties - joinder - application for joinder as a party to a native title claim - position of nationals of Papua New Guinea - Torres Strait Regional Seas Claim - effect of Treaty between



Australia and Papua New Guinea on native title application - Exchange of Notes between Australia and Papua New Guinea in 2000 - classification of PNG villagers as traditional inhabitants.

***Harrington-Smith on behalf of the Wongatha People v State of Western Australia (No 9)* [2007] FCA 31**

In each of the Wongatha proceeding (WAG 6005 of 1998) and the Cosmo Newberry proceeding (WAD 144 of 1998), the Court orders that the application be dismissed. In each of the Mantjintjarra Ngalia proceeding (WAD 6069 of 1998), the Koara proceeding (WAD 6008 of 1998), the Wutha proceeding (WAD 6064 of 1998), the Maduwongga proceeding (WAD 76 of 1997), the Ngalia Kutjungkatja No 1 proceeding (WAD 6011 of 2000), and the Ngalia Kutjungkatja No 2 proceeding (WAD 6001 of 2002), the Court orders that the application be dismissed to the extent that it relates to any land or waters that are also the subject of proceeding WAD 6005 of 1998 (Harrington-Smith and Ors v State of Western Australia and Ors).

***New South Wales Aboriginal Land Council v New South Wales Native Title Services Limited* [2007] FCA 112**

1. Orders that New South Wales Aboriginal Land Council be substituted for Illawarra Local Aboriginal Land Council as the applicant in the proceedings.
2. Orders that Illawarra Local Aboriginal Land Council be joined as a respondent in the proceedings.
3. Notes that Bruce Stephen Woolf of Woolf Associates Solicitors of Level 10, 82 Elizabeth Street Sydney acts as the solicitor for NSW Aboriginal Land Council and also as solicitor for Illawarra Local Aboriginal Land Council.
4. Grants leave to the applicant to file in court copy affidavit of Roy Kennedy affirmed 5 February 2007.
5. Orders that no native title exists in relation to the land described as Lot 323 DP823189.

***Bodney v Bennell* [2007] FCAFC 11**

1. Leave be granted to The Group 17 (Pastoral Interests) to intervene in relation to ground 4.4 of the draft notice of appeal of the State of Western Australia.
2. Such Outline of Submissions (if any) which the interveners consider would make a useful contribution to the proper disposition of ground 4.4 after consultation with the appellant's legal advisers, are to be no longer than five pages in length and are to be

filed and served on the other parties to the appeal on or before Friday, 2 March 2007.

3. The interveners bear their own costs of the intervention.

4. Adjourn consideration of extending the intervention to the making of oral submissions until the close of the State of Western Australia's appeal.

***Doolan v Native Title Registrar* [2007] FCA 192**

NATIVE TITLE - application - applicant - registration of application - authorisation of a number of persons to act as an applicant – whether Native Title Registrar correct in deciding not to accept amended application for registration - effect of resolutions passed at authorisation meeting - withdrawal of members of the applicant after authorisation meeting but before registration of claim - whether further authorisation meeting required - proper interpretation of 'the applicant' in s 61(2) - application of the merits test in s 190B.

RELIEF - appropriate relief - registration of rights on Native Title Registrar under s 186(1)(g) - whether appropriate for Native Title Registrar to revoke decision.

COSTS - whether appropriate for Court to exercise its discretion to make an order for costs- whether actions of Registrar unreasonable in the circumstances - whether Registrar unreasonably maintained his position.

***Eringa No 1 Native Title Claim v The State of South Australia* [2007] FCA 182**

NATIVE TITLE - preservation of evidence - gender restricted evidence.

International

***Ermineskin First Nation v Canada* 2006 FCA 423**

From the judgment: "Canada alleges that, in the course of litigation over an Indian Reserve surveyed and set aside for the Bobtail Band more than one hundred years ago, Ermineskin has repeatedly attempted to rely upon a legal theory they did not plead, the One Group theory. Ermineskin has made unsuccessful attempts before trial and at trial to advance the One Group theory, even though that theory was not disclosed in their pleadings".



McDiarmid Lumber Ltd. v God's Lake First Nation
[2006 SCC 58](#)

Aboriginal law — Property situated on reserve — Exemption from seizure — Creditor of Indian band attempting to garnish funds in off reserve financial institution — Funds paid to band by federal government pursuant to Comprehensive Funding Arrangement — Whether funds exempted from seizure by virtue of s. 89 or s. 90(1)(b) of Indian Act — Whether funds notionally “situated on a reserve” — Whether funds paid to band pursuant to “treaty or agreement” — Meaning of word “agreement” in s. 90(1)(b) of Indian Act — Indian Act, R.S.C. 1985, c. I 5, ss. 89, 90(1)(b).

R. v Morris **[2006 SCC 59](#)**

Aboriginal law — Treaty rights — Right to hunt — Two members of Tsartlip Indian Band charged under provincial wildlife legislation of hunting with firearm during prohibited hours and hunting with illuminating device — Whether treaty right to hunt includes right to hunt at night with illuminating device — Whether provincial legislation of general application infringes band's treaty right to hunt — Whether provincial legislation applicable to band by virtue of s. 88 of Indian Act — Wildlife Act, S.B.C. 1982, c. 57, ss. 27(1)(d), (e), 29 — Indian Act, R.S.C. 1985, c. I5, s. 88.

Constitutional law — Indians — Provincial wildlife legislation — Two members of Tsartlip Indian Band charged under provincial wildlife legislation of hunting with firearm during prohibited hours and hunting with illuminating device — Whether valid provincial legislation of general application inapplicable to band because it interferes with band's treaty right to hunt — Whether provincial legislation nonetheless applicable by virtue of s. 88 of Indian Act — Constitution Act, 1867, ss. 91(24), 92(13) — Indian Act, R.S.C. 1985, c. I5, s. 88 — Wildlife Act, S.B.C. 1982, c. 57, ss. 27(1)(d), (e).

Ermineskin v Canada, **[2006 FCA 415](#)**

The claims made in relation to the Money Management Phase are based on allegations that the Crown has breached one or more of its legal obligations in respect of certain funds held in trust for Ermineskin and Samson.

The trust funds are comprised mainly of accumulated royalties derived from the exploitation of oil and gas resources found beneath the surface of the Samson Reserve (which belongs to the Samson Nation), and the Pigeon Lake Reserve (which is shared by the members of four bands, often referred to as the "Four Bands": the Ermineskin Nation, the Samson Nation, and two other bands that are not parties to these

appeals). The Ermineskin Nation also has its own reserve (the Ermineskin Reserve), but that reserve has not yet produced any royalties. The events that led to the Crown's receipt of the royalties are described later in these reasons. Appeals dismissed.

(Sourced from NNTT Judgements and Information email alert service and the Federal Court's Native Title Bulletin)

[Back to contents](#)

Publications

National Native Title Tribunal

[Guide to Sources of Assistance and Funding for Prescribed Bodies Corporate. NNTT Research Unit](#)

[What's new: Updated Maps and Statistics](#)

The latest [What's new in the Library bulletin](#) is now available.

Local Government Agreements: Content Ideas

This guide presents an overview of content ideas for agreements between Local Government and native title parties. It provides a series of triggers to help parties canvass important issues during negotiations. It does not aim to be an exhaustive source of information on Local Government agreements or specify what they should include.

Mediation reports

Research staff of the NNTT have developed reports on the following claims:

- Mirning People Area and Identity Bibliography: Western Australia
- Wajarri Yamatji Bibliography: Western Australia (WC04/10)
- Mirning Customary Practices and Contact History Bibliography: Western Australia
- Banyjima Bibliography: Western Australia (WC96/61 and WC98/62).
- Ballardong People Bibliography: Western Australia (WC00/7; WC03/6)
- Nyiyaparli Language Group Bibliography: Western Australia (WC99/4;WC96/61)

- Innowonga Bibliography: Western Australia (WC96/61; WC98/69 and WC97/43)
- Hamersley Ranges Bibliography: Western Australia (WC97/89; WC96/61)
- Malgana and Nanda Bibliography: Western Australia (WC98/17; WC00/13)
- Wajuk Language Group Bibliography: Western Australia (WC99/6)
- Jurruru People Bibliography: Western Australia (WC00/8)
- Palyku Bibliography: Western Australia (WC99/16 Palyku.)
- Purnululu and Jiddngarri Bibliography: Western Australia (WC97/79)

(Sourced from NNTT Judgements and Information email alert service)

Government Publications

[Bills Digest 2007 No. 77 : Native Title Amendment Bill 2006](#)

Office of Indigenous Policy Coordination [A Red Tape Evaluation in Selected Indigenous Communities: Final Report for The Office of Indigenous Policy Coordination](#)

Office of Indigenous Policy Coordination [Directory of Indigenous-specific Evaluations 2001 - 2006](#)

Attorney General's Department [Guidelines on the Provision of Financial Assistance by the Attorney](#) (2007) commenced 1 January 2007.

Other Publications

Gilligan, Brian, [The Indigenous Protected Areas Programme - 2006](#) (2006).

Read, Peter, Meyers, Gary and Reece, Bob (eds) *What Good Condition? Reflections on an Australian Aboriginal Treaty 1986-2006* Australian History Monograph (2006).

Tracey Whetnall Consultancy and SCRIPT [Natural Resource Management Cross-Cultural Awareness Training Framework](#)

Ulm, Sean [Coastal Themes : An Archaeology of the Southern Curtis Coast, Queensland](#) (2007).

(Sourced from NNTT Judgements and Information email alert service)

[Back to contents](#)

Recent Events

"Indigenous Law and Legal Systems: Recognition and Revitalization"

When: 26-27 January 2007

Where: University of Toronto Faculty of Law

Keynote Address: Professor James Anaya, University of Arizona

[Back to contents](#)

Upcoming Events

AIATSIS and Charles Darwin University Joint Seminar Series

When: Mondays 2007, 12.30pm - 2.00pm

Where: Mabo Room AIATSIS Building, Acton Peninsula

Natural and Cultural Resource Management in Northern Australia

For further information about AIATSIS Seminars:

Ph: 02 6246 1144 or 6261 4208

Web: www.aiatsis.gov.au/rsrch/seminars.htm

CAEPR Seminar Series 2007

When: Wednesdays 12.30 - 2.00pm

Where: CAEPR Seminar Room GO58, Ground Floor, Hanna Neumann Bldg #21, The ANU, Canberra

Email: admin.caepr@anu.edu.au

Web: <http://www.anu.edu.au/caepr/events07.php>


[2007 AAS Conference - Transforming Economies, Changing States](#)

When: 30 October – 2 November 2007

Where: Australian National University, Canberra

Preliminary call for session themes

This conference aims to provide a forum for contemporary anthropological engagements with 'the



economic' and 'the state', 'government' and 'the political' more generally.

Those proposing sessions should email a session name and a description of no more than 200 words to the conference Organising Committee, c/o Dr Monique Skidmore (Monique.Skidmore@anu.edu.au).

A separate workshop provisionally entitled **Practice and practicality: anthropology in Indigenous Australia** will also be held on Monday 29 October, and a **Postgraduate Workshop** on 30 October.

See http://www.aas.asn.au/aas_conference.php

[Back to contents](#)

NATIVE TITLE IN THE NEWS

NATIONAL

4 January 2007 **Media Release** Jenny Macklin has said that the 'Government has chronically under funded Native Title Representative Bodies.' She said that this was the 'prime cause of many of the delays in the resolution of native title claims. At the same time funding to groups objecting to native title claims has increased over eight fold since the Howard government came to power'. Ms Macklin said that 'it is no good for the Attorney General to behave like some kind of commentator. He needs to properly resource the Native Title Representative Bodies and put the focus on negotiation'. *Media Releases*, (4 January 2007), 13.

9 January 2007 **More Aboriginal park rangers** The Howard Government will 'double funding to the Indigenous Protected Area Program...after research found three quarters of participants said their involvement led to reduced substance abuse and more functional families'. The evaluation was carried out by former NSW Parks and Wildlife Service head Brian Gilligan who said that it was the "most successful innovation" in Indigenous conservation. Trainee park manager Leon Brown said 'socially it generates income for our community and it improves health because household income increases'. *The Australian*, (National 9 January 2007), 5.

16 January 2007 **Mundine seeks land use policy overhaul** ALP President Warren Mundine 'wants the party's national conference in April to embrace laws that would give Aborigines the right to buy and sell their own homes and businesses on what is now communal land'. He said that the ALP 'had to stop focusing on the debate about indigenous "rights" and that 'we have to stop putting in place obstacles, processes and legislative restrictions that retard economic development on Aboriginal land'. *Australian*, (National, 16 January 2007), 2.


31 January 2007 **Dodgy land-use deals 'not investigated'** Warren Mundine, ALP National President and head of NSW Native Title Services

said that there was a 'growing number of rogue lawyers [who] "shopped around" looking to find individual Aborigines willing to sign off on agreements cutting whole communities out of financial benefits'. National Indigenous Council member Wesley Aird said that 'government agencies and companies were regularly failing to follow the right process in negotiating settlements'. *The Australian*, (National, 31 January 2007), 2.

1 February 2007 **Fraud squad studies Defence land deal** The Department of Defence has been 'snared in a fraud investigation after allegations that \$1.5 million of taxpayer funds disappeared in an Aboriginal Land Use Agreement'. The original agreement involved the department in a bid to negotiate land access at Twofold Bay. Warren Mundine, Chief Executive of NSW Native Title Services said 'the NSW Native Title Service was hired to negotiate the agreement in 2002 but was unexpectedly sacked shortly before the deal was due to be signed between native title claimants and the federal officials representing the Department.' *The Australian* (National, 1 February 2007), 2.

8 February 2007 **Native title review** In a public hearing held in Sydney the views of Queensland land holders were heard before an inquiry. John Sewert, AgForce native title spokesperson said he 'addressed the Senate Legal and Constitutional Affairs Committee on January 30 in his role with the National Farmers Federation Native Title Taskforce'. Mr Sewert said that there was a 'need for the Native Title Act to require more detailed information to be provided by claimants as part of the claimant application'. *Queensland Country Life* (Queensland, 8 February, 2007).

15 February 2007 **Claims may be sped up** The *Native Title Amendment Act 2006* has been approved by the House of Representatives and 'aims to speed up native title procedures and encourages claims to be settled out of court'. Attorney General Phillip Ruddock told parliament that 'the native title system is currently mired by bureaucracy and needs a considered and practical approach from the Government to resolve native title claims effectively



expeditiously and fairly'. Under the new changes the 'National Native Title Tribunal will be given the greater power to compel parties to attend mediation conferences and produce documents and to inquire into central issues in native title claims'. Independent MP Peter Andren has said that the new tribunal powers were 'totally inappropriate for an administrative body and will in fact increase cost and delays because only the Federal Court has the power to enforce orders and make them effective'. Labour criticised the lack of consultation in the process. *Kalgoorlie Miner* (Kalgoorlie, 15 February 2007), 6; 'Faster title claims' *Northern Daily Leader* (Tamworth, 15 February 2007); 'Government push for 'faster' native title' *National Indigenous Times* (National, 22 February 2007), 6.

16 February 2007 **Land owners 'sidelined'** Warren Snowdon has said that the 'proposed changes to native title legislation will sideline the rights of traditional Aboriginal land owners and further complicate the administrative process'. In particular he noted that 'introducing filed term periods of recognition is not in the interests of speedy or fair resolution of claims'. *Northern Territory News* (Darwin, 16 February 2007), 5.

21 February 2007 **Land use deals have downside** Indigenous Affairs Minister Mal Brough has said that 'he wanted improvements in agreements between private sector interests and indigenous groups'. Mr Brough said that he was having discussions with the Minerals Council but noted that 'it is [also] the other side of the equation...where the money is going to, who is benefiting from it and why isn't it being put to better use in improving the lives of Aboriginal Australians'. His comments come after the five year study by Griffith University academic Ciaran O'Faircheallaigh. *North West Star* (Mount Isa, 21 February 2007), 6.

NEW SOUTH WALES

3 January 2007 **Successful native title claim offers encouragement for Tweed push** The Aboriginal people of Tweed are 'planning to fight a legal bid to extinguish any possible future land claims over the bed of the Tweed River'. Widjabal tribal elder John Roberts 'planned to meet NSW National Parks officials in March to discuss a memorandum of understanding and co-management for Mt Warning'. Indigenous Justice Advocacy Network advocate Al Oshlack said 'the neighbouring western Bunjalung people...had so far been unable to secure native title over country which has been logged and mined'. *Daily News*, (3 January 2007), 1.

5 January 2007 **Arakwal close to native title win** The Arakwal Aboriginal people of Byron Bay 'will settle a native title claim with the State Government

before the March election'. A spokesperson for the department said the State Government said 'the Arakwal people had been working on two agreements' that 'cover areas subject to two native title claims made by the Arakwal people over national park and Crown lands in the Byron Bay area'. *Coffs Coast Advocate*, (Coffs Harbour 5 January 2007), 9; 'Byron Bay land claim to settle before election' *Daily Examiner*, (6 January 2007), 8.

7 January 2007 **Media Release** Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma congratulated the Githabul people of northern NSW for securing joint partnership arrangements of what is potentially 110,000 hectares of land. Commissioner Calma said. "This native title settlement is positive proof that traditional owners want to work with government and other bodies in true partnerships...this is a defining moment for the Githabul people and the entire reconciliation and Indigenous land reform processes." Human Rights and Equal Opportunity Commission, *Media Release*, (7 January 2007).

9 January 2007 **Environment grant for Nari Nari Council** The Nari Nari Tribal Council has 'received an Environmental Trust grant to be used on its district property, Glenhope'. The money will 'be used for environmental and Aboriginal cultural heritage protection projects' and is a part of a 'state-wide package to improve the environment at a grassroots level'. *Riverine Grazier*, (9 January 2007), 5.

11 January 2007 **Massive land claim agreed: Githabul win rights to national parks** The NSW Government has agreed to 'hand over joint control of a large tract of the Githabul Nation's traditional lands covering more than 6000 square kilometres of World Heritage listed national parks and state forests'. The agreement also includes 'job and business opportunities that Githabul elders hope will help the community end its dependence on welfare'. Githabul elder Trevor Close said: 'this is reconciliation in a practical sense: we have formed a business with the state Government'. He said that the significance of the Githabul agreement was that 'it dealt with the interests of farmers, did not seek compensation for past acts, included the grant of some freehold title, recognised sacred areas and secured such a large tract of interconnected national park and forest reserved'. Friends of the Earth Spokesman Binnie O'Dwyer said 'given the way the native title legislation works, there is very little ability of traditional owners to gain control over their lands; it is only the public lands that are available for claim - therefore we need to be supportive of such claims on national parks as one element in achieving land justice for these communities'. The 'right to continue traditional hunting and food gathering sparked the Githabul's claim over northern NSW, which has been



settled by consent after more than 10 years in court'. NSW Environment Minister Bob Debus said that the process 'involved lengthy negotiation... it acknowledges Aboriginal people as traditional owners and gives them a greater say in how national parks are managed and conserved'. 'Historic win for Githabul people' *Northern Rivers Echo*, (11 January 2007), 2; for a comprehensive discussion see 'More to come? The fabric of culture' *Koori Mail*, (National, 17 January 2007), 1; 'Diving for turtles is back on' *The Australian* (National, 2 January 2007), 1; 'Massive land claim agreed: Githabul win rights to national parks' *The Australian*, (2 January 2007), 1; 'Githabul deal shows way on native title: negotiated settlements offer best prospects' *The Australian*, (National 2 January 2007), 11; 'Biggest native title deal nets 19 parks' *Daily Telegraph*, (Sydney, 2 January 2007), 4; 'Githabul get parks' *Coffs Coast Advocate*, (Coffs Harbour, 3 January 2007), 18; 'Githabul dream of mountain top' *The Australian*, (3 January 2007), 1; 'Native title deal landmark' *Illawarra Mercury*, (Illawarra, 3 January 2007), 14; 'Native Title deal' *Launceston Examiner*, (3 January 2007), 6; 'Historic native title deal hailed a victory' *Northern Star*, (3 January 2007), 9; 'Title defies lines' *Northern Territory News*, (Darwin, 3 January 2007), 8; 'Native title deal after 11 years' *Sydney Morning Herald*, (Sydney, 3 January 2007), 5; 'Title Agreement being finalised' *Western Advocate*, (3 January 2007), 5; 'Dealing not over yet' *Northern Star*, (6 January 2007), 2; 'Native title deal struck' *Port Macquarie Express*, (3 January 2007), 18; 'Government to finalise native title claim' *Richmond River Express Examiner*, (10 January 2007), 4; 'Native title rights to be recognised' *Beaudesert Times*, (10 January 2007), 8; 'Native title rights to be recognised' *Jimboomba Times*, (17 January 2007), 16.

31 January 2007 **Stockton Hand back** The NSW Government will handback Stockton Bight to local Aboriginal traditional owners. This follows 'talks with the Worimi Local Aboriginal Land Council and the Stockton Bight Aboriginal Negotiating Panel for the creation of a new national park' *Koori Mail*, (National, 31 January 2007), 7.


31 January 2007 **Aboriginal money not well spent** Indigenous Affairs Minister Mal Brough has said that 'the squandering of payments to indigenous communities without lasting benefits is a worse problem than the patchy fairness record of native title agreements'. The reports follow the release of a five year study carried out by Professor Ciaran O'Faircheallaigh, which found that 'they had produced few cultural and financial benefits for Indigenous people'. *Daily Advertiser*, (31 January 2007), 12; 'John Howard turning native title bodies into toothless tigers' *Media Release Jenny Macklin*, (30 January 2007), 27.

14 February 2007 **Land Rights Act changes praised** Amendments to the Aboriginal Land Rights Act 'has introduced a greater degree of rigour and discipline into the Aboriginal Lands Council (ALC) system'. NSWALC Chief Executive Geoff Scott said that 'the State land rights system has changed significantly as a result of the amendments'. The amendments have 'paved the way for a state council election in May' and 'there will now be nine councillors cut from 13'. *Daily Advertiser* (Wagga Wagga, 14 February 2007), 7.

15 February 2007 **Historic Day for the Bundjalung** The Bundjalung people have signed two land use agreements covering 245 hectares of Crown land and the Broken Head Caravan Park. Under the Byron Bay and Ti Tree Lake Indigenous Land Use Agreements '124 hectares will be added as new national parks and formal recognition will be given to the cultural significance and traditional ownership of these areas'. Premier Morris Iemma said 'the Bundjalung People have always been associated with these land and today they have been properly recognised through these agreements'. The area will be co managed with the local Aboriginal people with a Majority Aboriginal Committee. *Byron Shire Echo* (Byron Bay, 13 February 2007), 1; 'Bundjalung land deal welcomed' *Byron Bay News* (Byron Bay, 15 February 2007), 3; 'Bundjalung people in Byron Bay land victory' *Koori Mail* (National, 14 February 2007), 29; 'Striking accord: NSW signs off on a landmark Aboriginal park' *Bulletin with Newsweek* (National, 20 February 2007), 10.

18 February 2007 **Aboriginal land deal 'dead in the water'** The Macquarie Bank's Macquarie Indigenous Development Fund designed to 'create a series of funds to split the profits from development of Indigenous land with individual land councils' has 'failed to announce one project for the fund'. There are currently 120 Aboriginal land councils in NSW that 'control huge tracts of valuable property'. An 'insider' said that the project was 'dead on the water'. Metropolitan Land Council Chairman Rob Welsh said 'individual land councils were deeply insulted that the bank had announced the proposal without discussing it with them first'. *Sun Herald* (Sydney, 18 February 2007), 25.

23 February 2007 **Protecting Koori heritage** Aboriginal Affairs Victoria is working with Pacific Hydro and the Gunditjmarra Native Title Group to protect Aboriginal heritage at the wind farm development in Cape Bridgewater. A spokesperson from the Premier's department said that a cultural heritage management agreement has been agreed on. *Portland Observer* (Portland, 23 February 2007), 3.



23 February 2007 **Changes to Land Council boundaries** The electoral boundaries of the NSW Aboriginal Land Council has been redrawn in the 'lead up' to the May elections. Previously, 'NSW was divided into 13 electoral regions, but the passing of the Aboriginal Land Rights Act (ALRA) Amendment Bill through NSW Parliament has seen this reduced to nine'. Peter Smith of the Tumut Local Aboriginal Land Council said the 're-division is intended to simplify the councils running and coincides with several changes to its administration'. However the re-division also creates problems with voter enrolments. *Tumut and Adelong Times* (Tumut, 23 February 2007), 4.

26 February 2007 **Claim of bias on Tweed project** The head of the Tweed Byron Aboriginal Land Council, Russell Logan, has 'accused the State Government of giving favourable consideration to major developers he claims are donors to the Labor Party'. In a letter to the Premier Morris Iemma, Lands Minister Tony Kelly and Tweed MP Neville Newell, he points out that a number of groups are 'planning a submission to the Independent Commission Against Corruption about the Lot 490 tendering process'. Mr Logan said it 'appeared consultation with the Aboriginal Community would occur only after the successful tenderer has been decided'. *Northern Star* (Lismore, 26 February 2007), 9.

27 February 2007 **Moment of history, but not for Premier** The Githabul people of northern NSW get 'joint management control of World Heritage Listed national parks after securing the biggest native title deal struck on Australia's eastern seaboard'. The claim covers parts of the Githabul nation and includes more than 6000 sq kilometres of land. The Githabul nation straddles the boarder with Queensland but the 'Queensland Government has refused to grant native title to land on the northern side including Mount Lindsay which makes up 15 per cent of the area claimed'. Spokesman Trevor Close said that 'of 300 known Githabul descendents about 200 lived on the Queensland side'. *Sydney Morning Herald*, (Sydney, 27 February 2007), 7; 'Githabul people to receive heartland without heart' *Australian* (National, 28 February 2007), 3; 'Githabul People to benefit from indigenous land use agreement' *Media Release, National Native Title Tribunal*, (National 28 February 2007).

NORTHERN TERRITORY

1 January 2007 **NT opposed Canberra on native land rights** The release of 1976 Cabinet documents showed that the 'politicians in the Northern Territory tried to thwart Malcolm Fraser's push to grant indigenous land rights'. The documents 'show the Northern Territory Legislative Assembly and the


minister for the Northern Territory Evan Adermann opposed the legislation arguing that it would be resented by local residents.' In a submission to cabinet, Malcolm Fraser said: 'early action by the government in this matter will be interpreted...as an example of the government's good faith in implementing its Aboriginal affairs policy'. *The Australian*, (1 January 2007), 5; 'Land gesture taken up' *Courier Mail*, (National, 1 Jan 2007), 14; 'Handful of dirt on land rights' *Herald Sun*, (Melbourne, 1 January 2007), 22.

14 February 2007 **Property rights stoush** Federal Indigenous Affairs Minister Mal Brough said 'he was disappointed that Queensland Premier Peter Beattie would not meet him on Friday to discuss land tenure for Aboriginal communities'. Mr Brough said 'people in many remote communities were denied individual property rights and should have the same opportunities as other Australians to own their own homes and businesses'. He said that 'amendments to the Northern Territory's Land Rights Act could serve as a possible model'. *Northern Territory News* (Darwin, 14 February 2007), 14; 'Brough pushes Beattie to advance Aboriginal Land Tenure' *Townsville Bulletin* (Townsville, 14 February 2007), 4; 'Beattie refuses talks on land tenure: Brough' *National Indigenous Times* (National, 22 February 2007), 3.

15 February 2007 **Martin's 20 secret park deals under Native Title Act** The Northern Territory Government has 'entered into 20 secret agreements under the Native Title Act about national parks in Central Australia'. The Government is 'refusing to disclose who the various native title owners are and what deals the Indigenous Land Use Agreements (ILUAs) contain. There has been a 'long standing request by the NT Government for the scheduling of some or all of the parks in [Central Australia] under the Federal Aboriginal Land Rights Act, turning the parks into Aboriginal inalienable freehold' although this has not been complied with by the Federal Indigenous Affairs Minister Mal Brough. *Alice Springs News* (Alice Springs, 15 February 2007), 1.

19 February 2007 **Cultural centre talks hope** The Development of a Larrakia Cultural Centre may begin depending on negotiations for a site. Larrakia Development Corporation Chief Executive Greg Constantine said that the 'Larrakia were looking for a site that better suited their needs [and] in conjunction with the Northern Land Council negotiations were taking place with Planning Minister Delia Lawrie'. *Northern Territory News* (Darwin, 19 February 2007), 3.

23 February 2007 **Nuke dump fears** Traditional owners of Muckaty will meet in Tennant Creek to 'decide whether or not they are in favour of allowing



the Northern Land Council to nominate their land as a possible site for a nuclear waste repository'. Diane Stokes, a Yapayapa family group member 'believed that several traditional owners have been excluded from meetings to date' and that 'many of the traditional owners were against locating a nuclear facility on Muckaty'. Ms Stokes said 'we are here to care take the land for future generations so we have to make sensible and responsible decisions'. She said that 'at a meeting in Darwin late last year, NLC Chairman John Daly assured us that Muckaty would not be nominated as a possible site without our consent'. A petition will be 'delivered in the next sittings of the House of Representatives and the Senate' and state that 'should the NLC nominate Muckaty as a site for the waste facility it would be without the consent of traditional owners'. *Tennant and District Times* (Tennant Creek, 23 February 2007), 1; 'N-waste dump: owners decide' *Northern Territory News* (Darwin, 23 February 2007), 2.

26 February 2007 **Legal action over mine** The Northern Land Council (NLC) has mounted a legal challenge against the Northern Territory Government 'on behalf of traditional Aboriginal landowners'. It 'claims the Government should not have approved an application by Xstrata to divert the McArthur River' and is taking legal action against Senator Campbell who 'signed off on the project'. *North West Star* (Mount Isa, 26 February 2007), 7.

QUEENSLAND

10 January 2007 **Queensland's shame: the sunshine state has been slow to deal on native title** The 'Queensland government has yet to sign off on a native title claim covering land straddling the border' of the same claim in New South Wales. The Queensland Government 'is believed to have failed to act because of a rival claim from the Yugambeh people - but representative of the Yugambeh tribe have declared they are certainly not making an overlapping claim'. Sam Bonner, Githabul elder 'said that the New South Wales government had been very cooperative though their Queensland counterparts had proved less accommodating'. Warren Mundine Chief Executive of the NSW Native Title Services 'hoped an agreement could be also reached with the Queensland Government on sections of the Githabul nation on the other side of the state border'. Acting Premier Anna Bligh said that the 'Githabul people had not provided enough detail about the Queensland part of the claim'. The Queensland government has offered an Indigenous Land Use Agreement with correspondence showing that the Queensland Government 'did not recognise native title over the Queensland section' of the claim. *The Australian*, (National, 3 January 2007), 11; 'Githabul Native title on way to being granted in


NSW but not QLD' *Southern Free Times*, (10 January 2007), 3; 'Cross-border title on track' *Canberra Times*, (Canberra, 3 January 2007), 4; 'Bligh denies stalling on native title' *Courier Mail*, (3 January 2007), 9; 'Not true State won't talk title' *Townsville Bulletin*, (Townsville, 3 January 2007), 5; 'Lawyers hit back over delay on native title' *The Australian*, (5 January 2007), 2; 'Native title under cloud: Govt, Githabul lawyers at loggerheads' *Daily News*, (6 January 2007), 1; 'Githabul title claim denied, not delayed' *Weekend Australian*, (National, 6 January 2007), 7; 'Native title claim talks' *The Australian*, (10 January 2007); 'Queensland 'not slow' with native title' *The Australian*, (2 January 2007).

20 January 2007 **Land title handover** Freehold land at Mt Wheeler 'will be officially handed over to the Darumbal people'. Natural Resources and Mines Minister Craig Wallace 'will hand over the deed of grant of 137 hectares of state land'. *Morning Bulletin*, (20 January 2007), 6.

27 January 2007 **Aurukan bauxite boost** Chalco is signing two crucial agreements prior to gaining approval for its \$3 billion dollar project. Chalco will 'soon sign an agreement with the indigenous communities at the Cape and also sign off on key commercial issues with the Government to advance the project'. *Courier Mail*, (27 January 2007), 71.

7 February 2007 **Cape loses gas project** The Cape York Land Council has 'refused to accept that the decade old plans for a gas pipeline from Papua New Guinea will be scrapped within weeks'. Project managers Oil Search said 'other options to develop PNG's gas fields were more attractive'. Chairman Michael Ross said 'we got 14 tribes along the pipeline route to sign an Indigenous Land Use Agreement'. Cooke Shire Mayor said 'the loss of the pipeline was a blow to the Cape's economy'. *Cooktown Local News* (Cooktown, 7 February 2007), 5.

8 February 2007 **Protestors to swoop on Premier over river bill** Queensland Premier Peter Beattie will face a 'hostile reception' at a meeting with Aboriginal and agricultural groups concerning the Wild Rivers legislation. The Government was 'accused of arrogantly pushing through the legislation "to appease conservation groups at the expense of local land holders"'. Mayor of the Hopevale Aboriginal community, Greg Mc Lean said 'the Government [is] stripping away any possibility of local Indigenous people developing self-sustaining businesses'. However Natural Resources and Water Minister Craig Wallace said that 'there has been adequate consultation'. *The Australian* (National, 8 February 2007), 26.



8 February 2007 **Native Title on Woodgate land?** Woodgate beach is a part of a native title claim. The 'Isis Shire Council has agreed to handle all Native Title issues in relation to the property and has written to the Gurang Land Council as the representative aboriginal body seeking its view'. The Council is 'hopeful of securing up to a 50% discount on the purchase price of the premium ocean front land'. Council CEO Steve Johnston said 'the matter would progress to the Federal Court for determination and once a decision was made on ownership rights the issues of compensation, if necessary, would be addressed.' *Isis Town & Country Newspaper*, (Childers, 8 February 2007).

9 February 2007 **Deals and litigation** Jupiter's Limited has completed the 'finalisation of an Indigenous Land Use Agreement with two native title groups on the Gold Coast to facilitate development of the Gold Coast Convention and Exhibition Centre.' *Lawyers Weekly* (National, 9 December 2007), 37.

17 February 2007 **Native title compo sought** The Dingaal people are seeking compensation for the loss of native title rights over land in Cape York after the Queensland Government granted leases over Cape Flattery to the Ports Corporation of Queensland and the Cape Flattery Silica Mine. If the Federal Court decides in the groups favour then it will be the first successful claim of its kind in Australia. *Ballarat Courier* (Ballarat, 17 February 2007), 20; 'Cape native title claim' *Cairns Post* (Cairns, 17 February 2007), 17; 'Clan seeks native title compo over peninsula mine deal' *Courier Mail* (Brisbane, 17 February 2007), 25; 'Native title compensation claim could be a landmark case' *Daily Advertiser* (Wagga Wagga, 17 February 2007), 20; 'Cape York Title claim' *Northern Territory News* (Darwin, 17 February 2007), 29.

21 February 2007 **Aborigines in new Tooloom gold rush** Malachite Resources NL has signed a Memorandum of Understanding with the Githabul People in order to access the Tooloom mine. The MOU includes provisions to preserve and protect Indigenous cultural heritage, minimise the impact of its operations on the land, seek to fill vacancies with members of the Githabul community where possible and provide training to enhance the skills of employees. If gold is found in the mine, a more comprehensive agreement will be negotiated to 'recognise cultural heritage native title rights and a basis of providing further economic benefits to the Githabuls'. *Fassifern Guardian* (Boonah, 21 February 2007), 5.

28 February 2007 **Traditional fishing used to 'rape river'** Fish caught in the Fitzroy River has been sold illegally in Rockhampton by 'people abusing laws for traditional land owners'. The Darumbal people had their fishing rights recognised since the Yasso court


ruling in March 2006 'which set the precedent for Indigenous people to catch fish using traditional methods'. Traditional owner Lester Adams said that 'what is happening is disrespectful' and said that 'maybe there needs to be amendments to Native Title Law so only Darumbal people can fish this way'. *Morning Bulletin* (Rockhampton, 28 February 2007), 6.

SOUTH AUSTRALIA

7 January 2007 **Don't turn boom into a title fight** Parry Agius Executive Officer of the Aboriginal Legal Rights Movement has said that 'SA's Aboriginal people, through the Native Title Congress are keen to ensure certainty for everyone by settling Native Title claims across the state by 2009 and by facilitating shared access to land through negotiated Indigenous Land Use Agreements'. Mr Agius said that 'Aboriginal communities and the resources industry are working together' and but said that it was a 'pity that on the Government's side there hasn't been much progress towards these objectives last year'. He said that without adequate funding, litigation will replace negotiation an outcome which was 'ironic' for a 'government committed to facilitating the state's resources boom'. *Sunday Mail Advocate*, (7 January 2007), 44.

17 February 2007 **Native land mining deal** A conjunctive Indigenous Land Use Agreement has been signed by the State Government, the South Australia Chamber of Mines and the Yandruwandha and Yawarrawarrka people. The agreement includes jobs and royalties from oil and gas exploration and production projects. The State Government said 'this is an excellent outcome that manifests trust in the processes that protect native title and enable upstream petroleum operations in SA'. The agreement follows on from a land rights deal signed in 2001 which had established a right to negotiate. Barry Goldstein, Director of Petroleum and Geothermal in the Primary Industries and Resources Department said that the 'deal would save companies time and hundreds and thousands of dollars in legal fees'. Parry Agius from the Aboriginal Legal Rights Movement said that 'what you see here is a leadership group of the Aboriginal community in SA taking the initiative to settle their issues in something that is vital to the state's growth'. Similar negotiations are expected with the Dieri and the Wangkangurru-Yarluyandi native title groups. *Adelaide Advertiser* (Adelaide, 17 February 2007), 2, 81.

19 February 2007 **Proposal is 'nail in the coffin of Murray'** Indigenous groups and environmental organisations are protesting against the proposed weir at Wellington. Ngarrindjeri Native Title Management Committee chair Matt Rigney read a statement saying: 'we do not support any proposal to



build a weir on our traditional lands...the river, lakes and Coorong [are] a living breathing body and any proposal to slow down or stop the flow of blood to our body would be catastrophic'. *Adelaide Advertiser* (Adelaide, 19 February 2007), 7.

20 February 2007 **Fishers meet on native title issues** A 'native title update for commercial fishers and the aquaculture industry' was held in Port Lincoln. Native title matters are 'currently being negotiated between the Nauo and Barngarla people, the State Government and the commercial fishing and aquaculture industry'. This is a part of a 'move to create an Indigenous Land Use Agreement for Eyre Peninsula'. *Port Lincoln Times* (Port Lincoln, SA 20 February 2007), 3; 'Indigenous Land Use Meeting' *Port Lincoln Times* (Port Lincoln 22 February 2007), 9.

VICTORIA

3 January 2007 **Yet another delay prolongs 10-year bid for title** The determination of native title for the Gunditjmarra claim has been delayed. It was first lodged 10 years ago and was set to be finalised by December 19 but has been postponed to March 20. An in principle agreement has been reached with the State and Australian Governments, however the State Government's legal representative Mr Neal said that the 'Cabinet process that had to be put in place wouldn't allow a determination until well into 2007'. Justice Tony North said that 'there was an 'artificiality' about doing a consent determination on its own because there would probably be a 'whole package which goes well beyond native title'. *Casterton News*, (3 January 2007), 17; *Hamilton Spectator*, (2 January 2007), 5.

19 January 2007 **New hope for bridge: Weller** A change in Victorian Government ministers is 'good news in the stalemate over a second bridge crossing for Echuca-Moama' according to Member for Rodney Paul Weller. He said that they will be 'seeking a fresh application under the new Victorian Aboriginal Heritage Legislation so the Yorta Yorta decision to refuse consent to the western option can be appealed to the Victorian Civil Administrative Tribunal'. Yorta Yorta chairman Lee Joachim said 'we need to work on an outcome that has positives for the whole community'. *Riverine Herald*, (19 January 2007), 2; 'Bridge refusal queried' *Riverine Herald*, (26 January 2007), 2.

2 February 2007 **Native title claim area split in two** The long running Gunditjmarra land claim has been split in two. A 'strip of land from Dunkel in the north to the east of the original claim area, and as far west as Macarthur and to the seas in the south will go into mediation with the Framlingham Aboriginal Trust'. This part of the claim will be heard in September 2008. The majority of the claimed land will be heard

on March 30. *Portland Observer* (Portland, 2 February 2007), 5


12 February 2007 **Aboriginal groups urged to attend heritage workshop** The Aboriginal Heritage Council held an information session chaired by Ricky Mullet. Mr Mullet said that 'registered Aboriginal parties were being established as part of the implementation of the new *Aboriginal Heritage Act 2006* which would provide better protection for Victoria's Indigenous Cultural Heritage.' He said that the bodies will 'be involved in evaluating cultural heritage management plans for certain types of activities in identified places, advising on permit applications, entering into cultural heritage agreements and negotiating the repatriation of Aboriginal human remains'. *Sunraysia Daily* (Mildura, 12 February 2007), 3; 'Groups to play important role' *Riverine Herald* (Echuca, 12 February 2007), 6; 'Heritage council in city tomorrow' *Swan Hill Guardian* (Swan Hill, 12 February 2007), 4.

WESTERN AUSTRALIA

10 January 2007 **Rio stops \$140m sale of its US uranium mill** Rio Tinto has been 'taking another look at its large Kintyre deposit in Western Australia' even though the WA Government 'has banned all uranium mining in the state, Rio has been speaking to Aboriginal landowners'. *Sydney Morning Herald*, (Sydney, 10 January 2007), 23.

12 January 2007 **Ord scheme set to double in size under new plan** The Ord River irrigation scheme will expand and could be more than double in size. Acting Premier Eric Ripper 'said that expressions of interest gave him a degree of confidence that the expansion will go ahead but he stressed the proposals have to be economic to the Government'. He said: 'the project can't be one that is supported at any cost – there has to be a degree of commercial reality about the proposals that are put forward and I will be watching with very close interest to see what comes out of the expressions of interest process'. It is anticipated that 'the Government wants proponents to pay for infrastructure like roads and irrigation'. The expansion follows the settlement of 'native title issues with the Miriuwung Gajerrong people'. *West Australian*, (12 January 2007), 8; 'Stage II - strong interest' *Kimberly Echo*, (18 January 2007, pg 3.

18 January 2007 **South West native title tussle** Native title claimants affected by a proposed residential development in Gracetown have received formal notice 'of the WA Government's intention for the site'. Two claims exist in the area: the Harris Family and the South West Boorah Two. Glen Kelly Chief Executive of the South West Aboriginal Land and Sea Council said that 'both claims were



legitimate descendants of people alive in the claim area at the time of sovereignty'. The overlapping claims have complicated the issue but he said 'the Government was moving towards resolving one South West Native title claim in the next year.' *Busselton Margaret River Times*, (18 January 2007), 9.

20 January 2007 **Rock art outcry** The Wong-Goo-Tt-Oo native title claimants to the Burrup Peninsula 'say that they will not have anything to do with Woodside Energy's 'wanton destruction' of rock art. They have been asked to 'monitor the removal of rocks to enable site works for its Pluto liquefied natural gas project'. Wong-Goo-Tt-Oo spokesman Wilfred Hicks said that the 'community had fought too long and hard to save their cultural heritage to give into Woodside's 'vandalism of the rock art'. *Adelaide Advertiser*, (20 January 2007), 81; 'Mining company accused of rock art vandalism' *Barrier Daily Truth*, (20 January 2007), 8; 'Wanton Destruction of Rock Art' *Daily Advertiser*, (20 January 2007), 64; 'Native Title claimants boycott Woodside's Burrup 'vandalism' *National Indigenous Times*, (National, 25 January 2007), 7.

23 January 2007 **Government talks on native title proposals** The WA Government has given notice to native title claimants of its intentions for a proposed residential development in Grace town. The notice informs the claimants of the future act and how it might impact on the land. The future act affects the claim of the Harris Family and the South West Boorarah. *The Capes Herald*, (23 January 2007), 5.


24 January 2007 **Vista Gold officially takes over Mt Todd gold mine** Land will be leased to Vista Gold by the Jawoyn Association which would explore the area. The land covers an area in the Nitmiluk National Park. Jawoyn Association Lands and Infrastructure Manager Mick Pierce said that the 'Jawoyn Association expected a large number of local indigenous people could be employed at the mine'. Mr Pierce said that the 'Jawoyn people entered into the Mt Todd Agreement...with a view to economic development and opportunity'. *Katherine Times*, (24 January 2007), 3.

25 January 2007 **Maintaining cultural sites** The Kimberly Land Council could receive \$195 505 to 'implement the Saltwater Country Project for the communities of Unguu, Mayala, Balangarra and Dambimangari.' Local Member Carol Martin said 'traditional owners were able to articulate their values about the natural and cultural resources of this wonderful section of coastline'. The funding will also include capacity building. *Kimberley Echo*, (25 January 2007, 10).

6 February 2007 **Program offers industry skills** Members of the Yamatji Native Title Group 'will have the chance to be trained and work in the mining

industry thanks to a new partnership' with Mid West Iron Ore junior Midwest Corporation. Program offers industry skills' *Geraldton Guardian* (Geraldton, 5 February 2007), 2.

6 February 2007 **WA claims dismissed** Justice Kevin Lindgren has dismissed eight overlapping claims including the Wongatha claim covering 160 000 sq kilometres in the West Australian Goldfields. He ruled that the 'eight groups did not all have a similar cultural attachment to all the land, although they recognised each other's claim to an area'. Justice Lindgren said that it was not permissible for groups to be formed and to 'bring group claims in respect of a group since the group is not rooted in traditional (pre sovereignty) laws and customs'. However he left the 'door open for future claims in a different form, saying he believed some native title did exist, although it would probably be limited to individuals or a smaller group.' The judgment has 'caused consternation among Aboriginal government and commercial parties which have been seeking clarity on the vast expanses of mineral rich Spinifex country north of Kalgoorlie'. The conflicting claims has led to the unified Wongatha claim involving '100 court sitting days, 97 volumes of applications and 400 interested parties'. Goldfields Land and Sea Council executive director Brian Wyatt representing the Wongatha claimants said that 'they were disappointed because they had worked tirelessly to simplify and merge overlapping claims at the request of the National Native Title Tribunal'. In handing down his decision Justice Lindgren commented on the 'unsatisfactory state of affairs in the native title area' and that the process was reliant on 'the histories of each claimant and penalised Goldfields claimants who could not prove the existence of indigenous laws and customs.' *The Age* (Melbourne, 6 February 2007), 4; 'Wongatha devastated by federal court ruling' *National Indigenous Times* (Malua Bay NSW, 8 February 2007), 8; 'Failure of land title bid will start war' *The Australian* (National, 6 February 2007), 6; 'Claim dismissed' *Kalgoorlie Miner* (Kalgoorlie, 6 February 2007), 3; 'Goldfield claim doomed by native title system, says judge' *Sydney Morning Herald* (Sydney, 6 February 2007), 6; 'Set back for Aboriginals as judge throws out native title claim' *West Australian* (Perth, 6 February 2007), 11; 'Native Title uncertainty' *Kalgoorlie Miner* (Kalgoorlie 7 February 2007), 6; 'Native title tribunal hits back over judge's attack' *West Australian* (Perth, 7 February 2007), 18; 'Native Title Uncertainty' *Kalgoorlie Miner* (Kalgoorlie 7 February 2007), 1; 'Native title uncertainty must be remedied' *West Australian* (Perth, 7 February 2007); 'Decision 'unjust and puzzling' *Kalgoorlie Miner* (Kalgoorlie, 10 February 2007), 28; 'Native title claim dismissed in Federal Court sitting Kalgoorlie-Boulder' *Golden Mail* (Kalgoorlie, 9 February 2007), 4; 'Native title claim dismissed' *Esperance Express* (Esperance, 8 February 2007), 7; 'Title ruling means more



uncertainty' *Koori Mail* (National, 14 February 2007), 6.

7 February 2007 **No boom times for Aborigines in North West** Greens Senator for Western Australia Rachel Siewert said that 'poverty existed side by side in the North West with some of the most lucrative industrial projects in the world'. Senator Siewert's comments came after the study of Indigenous Land Use Agreements. She noted that 'no other members of the community are asked to sell out their cultural heritage in exchange for the kind of basic services the rest of us take for granted'. *Northern Guardian* (Carnarvon, 7 February 2007), 8.

8 February 2007 **Land agreements amongst best** Professor Ciaran O'Faircheallaigh 'said the Kimberley was amongst the best in terms of land use agreements'. Professor O'Faircheallaigh 'praised a strong Indigenous community and groups like the Kimberley Land Council which could provide support for those facing interest from mining companies'. He said 'if you are a small community or you are a small Aboriginal group and are having to deal on your own with government or with mining companies, it's a pretty difficult job.' *Land Agreements amongst the best* (Kununarra, 8 February 2007), 13; 'Title war of words' *Koori Mail* (National, 14 February 2007), 8.

13 February 2007 **Native title groups yet to decide on next step** The native title groups of the Wongatha native title claim are 'struggling to reach consensus on whether to appeal the dismissal of the Wongatha native title claim'. Goldfields Land and Sea Council director Brian Wyatt said that the groups will meet to 'get some sort of indication whether or not the groups want to appeal the decision and the best way to proceed'. The claim was lodged in 1999 and covers 160 000 sq km and 'includes Spinifex desert, pastoral stations and gold and nickel mines and was originally covered by 23 separate claims'. *Kalgoorlie Miner* (Kalgoorlie, 13 February 2007), 3; 'Title claim hits snag' *Geraldton Guardian* (Geraldton, 16 February 2007).

15 February 2007 **Council's new manager optimistic** Russel Simpson has been appointed as the new regional manager of Yamatji Land and Sea Council after working with ATSIC and as the Geraldton regional manager for the Department of Indigenous Affairs. *Mid West Times* (Geraldton, 15 February 2007), 13.

16 February 2007 **Title claim hits snag** The Wongatha native title claimants will 'request more time before Judge Kevin Lindren orders the registration of the decision he handed down two weeks ago dismissing their claim'. The Federal Court 'will be asked to grant an extension of the standard 21 day appeal period to 60 days and also an extension of the 14 day delay in notifying the

tribunal's registrar of the judgment'. Goldfields Land and Sea Council Director Brian Wyatt said 'we believe the requested extensions are reasonable under the circumstances...consulting with Aboriginal people across 160 000 sq km of remote country is logistically difficult and takes time'. *Kalgoorlie Miner* (Kalgoorlie, 16 February 2007), 7.

20 February 2007 **GLSC's new champion** The Goldfields Land and Sea Council has elected Brian Champion Jnr as its new Chairman after Dio Meredith was removed after failing to meet the requirement of having lived in the region for more than six months. Between 2002 - 2005 he was the chairman of the former ATSIC Mulgwa Mallee Regional Council and is the current manager of the local Emotional and Social Wellbeing centre. *Kalgoorlie Miner* (Kalgoorlie, 20 February 2007); 'New Chair for land council' *Goldfields Express* (Kalgoorlie, 23 February 2007), 5.

20 February 2007 **Meeting on native title claims** Local residents interested in learning about the effect of native title claims in the Swan Valley are being encouraged to attend a meeting at the Carilley Estate Winery. Speakers include members of the National Native Title Tribunal. *Midland Reporter* (Perth, 20 February 2007), 19.

21 February 2007 **Rock art decision looms** Federal Heritage Minister Malcolm Turnbull is 'set to decide the fate of the entire Burrup Peninsula'. Mineral Policy Institute director Robin Chapple said the 'Federal Government considered the rock art from a heritage standpoint but failed to recognise its indigenous significance'. Mr Chappel said: 'this is always a fundamental mistake because if they (the Federal and State Governments) had recognised that Indigenous people have rights too then it would never have got to this'. In a statement released by the Ngarluma Aboriginal Corporation Chairman Jill Churnside, she said that 'her people had not been consulted by Woodside bosses about their heritage and environmental concerns relating to Pluto'. *Pilbara News* (Pilbara, 21 February 2007), 7.

24 February 2007 **Mines Department to be focus of review** The Mines Department will be under review which Resources Minister Francis Logan said will be 'looking at the operations and determining if there's a smarter way to do it'. Mr Logan said that there are 'complaints about the delay in the processing of mining applications' which was 'caused by Native title agreements, environmental approvals and the backlog at DoIR'. *Kalgoorlie Miner* (Kalgoorlie, 24 February 2007), 5.

[Back to contents](#)

APPLICATIONS LODGED WITH THE FEDERAL COURT

DATE FILED	APPLICATION NAME	APPLICATION TYPE	STATUS	STATE/ TERRITORY	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.
8/12/2006	Ngurrulpa	CLAIMANT	ACTIVE	WA	WC06/5	WAD357/06
11/12/2006	Townsville City Council	NON-CLAIMANT	ACTIVE	QLD	QN06/2	QUD489/06
13/12/2006	Yirendali People Core Country Claim	CLAIMANT	ACTIVE	QLD	QC06/20	QUD495/06
21/12/2006	Mantjintjarra Ngalia #2	CLAIMANT	ACTIVE	WA	WC06/6	WAD372/06
9/01/2007	Bundambar Pty Ltd	NON-CLAIMANT	ACTIVE	NSW	NN07/1	NSD37/07
17/01/2007	Mardigan People	CLAIMANT	ACTIVE	QLD	QC07/1	QUD26/07
7/02/2007	NSW Minister for Lands #11	NON-CLAIMANT APPLICATION	ACTIVE	NSW	NN07/2	NSD158/07
19/02/2007	WAGYL KAIP - DILLON BAY	CLAIMANT APPLICATION	ACTIVE	WA	WC07/1	WAD33/07
20/02/2007	Budjiti People	CLAIMANT APPLICATION	ACTIVE	QLD	QC07/2	QUD53/07

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding Applications Lodged contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

NOTIFICATIONS

NOTIFICATION CLOSING DATE	APPLICATION NAME	APPLICATION TYPE	DATE FILED	STATE/ TERRITORY	TRIBUNAL FILE NO.	FEDERAL COURT FILE NO.
7/02/2007	Bond Springs	CLAIMANT	28/04/2006	NT	DC06/2DC06/2	NTD4/06
7/02/2007	Eraring Energy ABN 31 357 688 069	NON-CLAIMANT	4/09/2006	NSW	NN06/11NN06/11	NSD1685/06
7/02/2007	NSW Minister for Lands #9	NON-CLAIMANT	6/09/2006	NSW	NN06/12	NSD1708/06
21/02/2007	Deniliquin Local Aboriginal Land Council	NON-CLAIMANT	29/09/2006	NSW	NN06/13	NSD1931/06
19/03/2007	South West Boojarah #2	CLAIMANT	5/09/2006	WA	WC06/4	WAD253/06

19/03/2007	NSW Minister for Lands #10	NON-CLAIMANT	13/11/2006	NSW	NN06/14	NSD2240/06
28/05/2007	Bundambar Pty Ltd	NON-CLAIMANT	9/01/2007	NSW	NN07/1	NSD37/07
19/03/2007	NSW Minister for Lands #10	NON-CLAIMANT APPLICATION	13/11/2006	NSW	NN06/14	NSD2240/06
19/03/2007	South West Boojarah #2	CLAIMANT APPLICATION	5/09/2006	WA	WC06/4	WAD253/06
27/05/2007	Town of Batchelor No. 3	CLAIMANT APPLICATION	20/10/2006	NT	DC06/4	NTD18/06
28/05/2007	Bundambar Pty Ltd	NON-CLAIMANT APPLICATION	9/01/2007	NSW	NN07/1	NSD37/07
13/06/2007	Ngurrulpa	CLAIMANT APPLICATION	8/12/2006	WA	WC06/5	WAD357/06

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding Registration Test Decisions contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

REGISTRATION TEST DECISIONS

DECISION DATE	APPLICATION DATE	APPLICATION NAME	STATE/TERR.	DECISION	NNTT FILE NO.	FEDERAL COURT FILE NO.
4/12/2006	11/04/2006	Wiradjuri Mooka 2 Clan	NSW	NOT ACCEPTED	NC06/3-1	NSD690/06
5/12/2006	11/04/2006	Cowra Wiradjuri Clan	NSW	NOT ACCEPTED	NC06/4-1	NSD689/06
8/12/2006	28/10/1997	Mandandanji #2	QLD	NOT ACCEPTED	QC97/50-2	QUD6157/98
11/12/2006	27/11/1996	The Yaegl People	NSW	ACCEPTED	NC96/38-3	NSD6052/98
11/12/2006	13/01/2006	Kalkadoon People #5	QLD	ACCEPTED	QC06/2-2	QUD15/06
12/12/2006	14/10/1999	Ngadjon-Jii People #2	QLD	ACCEPTED	QC99/30-2	QUD6027/99
15/12/2006	24/07/2000	Toby Smirke and Others on behalf of the Jurruru People	WA	ACCEPTED	WC00/8-2	WAD6007/00

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding Registration Test Decisions contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

ILUAS

TRIBUNAL FILE NO.	NAME (NNTT HYPERLINK)	TYPE	STATE/TERR.	REGISTRATION DATE	SUBJECT MATTER
DI2006/002	Sandover Petroleum ILUA	AREA AGREEMENT	NORTHERN TERRITORY	31/01/2007	PETROLEUM/GAS
VI2005/006	Gournditch Mara and Essential Petroleum Resources Ltd	AREA AGREEMENT	VICTORIA	30/01/2007	PETROLEUM/GAS
QI2006/049	Muluridji People Small Scale Mining & Exploration Activities ILUA	AREA AGREEMENT	QLD	23/2/2007	MINING
QI2005/012	Enertrade - Darumbal CQGP Agreement	AREA AGREEMENT	QLD	13/2/2007	PIPELINE
QI2006/049	Muluridji People Small Scale Mining & Exploration Activities ILUA	AREA AGREEMENT	QLD	23/2/2007	MINING

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding ILUAs contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

DETERMINATIONS

SHORT NAME	CASE NAME	DATE	STATE/TE RR.	OUTCOME	LEGAL PROCESS
Ulladulla Local Aboriginal Land Council	Ulladulla Local Aboriginal Land Council v New South Wales	13/12/2006	NSW	NATIVE TITLE DOES NOT EXIST	UNOPPOSED DETERMINATION
Land Council	Native Title Services Limited (unreported, FCA, 13 December 2006, Jacobson J)				

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding Determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

FUTURE ACT DETERMINATIONS

DETERMINATION DATE	NNTT FILE NO. (NNTT HYPERLINK)	DECISION/ DETERMINATION	PARTIES
17/01/2007	WF06/85	Consent determination:	Eric Robert Brown (Applicant/grantee party)



		future act can be done	- and - The State of Western Australia (Government party) - and - Allan Bolton and Others on behalf of Southern Noongar (WC96/109) (Southern Noongar native title party) - and - Alan Bolton and Others on behalf Wagyl Kaip (WC98/70) (Wagyl Kaip native title party) Wilma Freddie and Others on behalf of Wiluna (WC99/24) (Applicant/native title party)
16/01/2007	WF06/84	Consent determination: future act can be done	- and - The State of Western Australia (Government party) - and - Newmont Wiluna Gold Pty Ltd (Grantee party) Aubrey Lynch and Others on behalf of the Wongatha People (WC99/1) (native title party)
16/01/2007	WF06/49	Consent determination: future act can be done	- and - The State of Western Australia (Government party) - and - Western Metals Copper Ltd (grantee party) Allan Bolton and Others on behalf of Southern Noongar (WC96/109) (Southern Noongar native title party)
2/02/2007	WF06/67	Consent determination: future act can be done	- and - Glen Colbung and Others on behalf of Wagyl Kaip (WC98/70) (Wagyl Kaip native title party) - and - Graham George Parker Ayres (grantee party)

Other Future Act determinations by determination date

DETERMINATION DATE	NNTT FILE NO. (NNTT HYPERLINK)	DECISION/ DETERMINATION	PARTIES
23/01/2007	WF06/21	Future Act - Can be done	Martha Borinelli Arnold Franks and others on behalf of the Yued People (first native title party) - and - Raymond Dann Barry Dodd Wayne Warner Ron Ronan Rod Little Clarrie Cameron Rob Ronan Betty Forsyth





			Donna Ronan and Colin Whitby on behalf of the Amangu People (second native title party) - and - State of Western Australia (government party) - and - Empire Oil Company (WA) Limited (grantee party)
19/01/2007	WO06/368	Future Act – Dismissed	Dora Sharpe and Others on behalf of the Gooniyandi (Combined #2) Native Title Claimants – (WC00/10) (native title party) - and - The State of Western Australia (Government party) - and - Kallenia Mines Pty Ltd (grantee party)
15/01/2007	WO06/263	Objection – Dismissed	Paddy Neowarra & Others on behalf of the Wanjina Wunggurr Wilinggin Native Title Claimants - (WC99/11) (native title party) - and - The State of Western Australia (Government party) - and - United Kimberley Diamonds NL (grantee party)
6/02/2007	WO05/896 WO05/897 WO05/898 WO05/899 WO05/900 WO05/901 WO05/902 WO05/903 WO05/905 WO05/906 WO05/907 WO05/908 WO05/909 and WO05/910	Objection – Dismissed	Leo Thomas & Others on behalf of the Wongatha People – (WC99/1) (native title party) - and - The State of Western Australia (Government party) - and - Peter Andrew Wiltshire (grantee party)

(This information has been extracted from the National Native Title Tribunal website www.nntt.gov.au) For further information regarding Determinations contact the National Native Title Tribunal on 1800 640 501 or visit www.nntt.gov.au

[Back to contents](#)

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.

The AIATSIS Library has been adding links to legislation cited in the 'Bringing them home' report. Check out the online exhibition from the AIATSIS website To Remove and Protect: Laws that changed Aboriginal Lives. This month all of the Acts from the Australian Capital Territory, the Northern Territory,

Queensland, South Australia and Tasmania have been made available online.

For digital access copies of early accounts of contact with Aboriginal people, check out the South Australian History and Exploration and Aboriginal Language & Culture site at the Library of the University of Adelaide: <http://www.library.adelaide.edu.au/digitised/SAhistory/sahistory.html>





The entries under Indexes, directories and guides list newly-accessioned resources on CDs. They are not available yet on-line but can be seen here at AIATSIS.

AIATSIS has subscribed to *Message stick: the newsletter of North Queensland Land Council: your way forward for native title*. We also hold copies of other newsletters from NTRBs.

Audiovisual material of interest to native title include recordings lodged by The Central Australian Aboriginal Media Association from their 'NT History', 'Traditional Stories' and 'Reading Black' radio series (CAAMA_19) (15 hours) and a recording of a seminar and discussion held at AIAS with Justice Berger on uranium mining and land rights, 15 September 1978 (AIAS_25). The Pilbara Aboriginal Language Centre has listed several audio collections dating from 1973-1992. There are also two collections of photographs taken by Ronald Rose from 1962-1966: one includes rock art from Oenpelli (ROSE.R5.BW) and the other, community portraits at Papunya (ROSE.R4.BW).

Agreements

Langton, Marcia, Mazel, Odette, Palmer, Lisa, Shain, Kathryn and Tehan, Maureen (eds) *Settling with indigenous people: modern treaty and agreement-making*, (2006).

Archaeology

Godwin, Luke 'Everyday archaeology': archaeological heritage management and its relationship to native title in development-related processes' (2005) 1 *Australian Aboriginal Studies* 74.

McCarron-Benson, Andrea A, 'Native title archaeology: a synopsis of the role of archaeology in litigated native title determinations in Australia' (2005) 1 *Australian Aboriginal Studies* 66.

Economics and policy

Altman, Jon C, Whitehead, Peter J and Australian National University, Centre for Aboriginal Economic Policy Research, *Caring for country and sustainable Indigenous development: opportunities, constraints and innovation* [electronic resource].

Jones, Annabel, Bryony Barnett, Barnett, Bryony, CRC Reef Research Centre and Cooperative Research Centre for Torres Strait. *Guidelines for ethical and effective communication for researchers working in Torres Strait*, (2006).

History

Galdeano, Dom Seraphim Sanz de *Memoirs of a Spanish missionary monk*, (2006).

Jensz, Felicity *The Moravian-run Ebenezer mission station in north-western Victoria : a German perspective* (Thesis MA, University of Melbourne, Department of German and Swedish studies, 2000).

Kerin, Sitarani *"Doctor Do-Good"? : Charles Duguid and Aboriginal politics, 1930-1970s* (Thesis PhD, History Program, Research School of Social Sciences, Australian National University, 2004).

Nicholls, Elizabeth and Tintinara Historical Society *Shut six gates: a history of Tintinara, Culburra and district* (2006).

Olive, Noel and Fremantle Arts Centre Press. *Enough is enough: a history of the Pilbara mob* (2007).

Sansom, Basil 'The brief reach of history and the limitation of recall in traditional Aboriginal societies and cultures.' (2006) 76 *Oceania*.

Indexes, directories and guides

Cobiac, A. L., South Australian Genealogy and Heraldry Society, and Macbeth Genealogical Services.

South Australian deaths registrations 1916 to 1972 (2006) [electronic resource].

Jaunay, Graham and Gould Genealogy. *South Australia pre-civil registration marriages* (2006) [electronic resource].

Kartinyeri, Doreen *Ngarrindjeri nation: genealogies of Ngarrindjeri families* (2006).

Tasmania, Registry of Births, Deaths & Marriages. Macbeth Genealogical Services, *Tasmanian federation index: births 1900-1919; deaths and marriages 1900-1930* (2006) [electronic resource].

Victorian Koorie Records Taskforce and Victoria. Department for Victorian Communities, *Wilam naling - Knowing who you are: improving access to records of the stolen generations: a report to the Victorian government from the Victorian Koorie Records Taskforce* (2006).

Indigenous Rights – Overseas

Henderson, James Youngblood, *First nations jurisprudence and Aboriginal rights: defining the just society*, (2006).

Linkhorn, Craig and Australian National University. Centre for Aboriginal Economic Policy Research, *Maori land and development finance* (2006).



Language Issues

Harvey, Mark Place names and land-language associations in the Western Top End (1999) 19(2) *Australian journal of linguistics* 161.

Leitner, Gerhard and Ian Malcolm *The habitat of Australia's aboriginal languages: past, present, and future* (2007).

Mühlhäusler, Peter and Greg Wilson. South Australia. Department of Education and Children's Services. *Ecological issues in language revival* (2004).

Land Rights

Foley, Gary and Anderson Tim 'Land rights and Aboriginal voices Australian Journal of Human Rights' *Special edition*. (2006) 12(1) *A Bill of Rights for Australia* 83.

Legal issues and land rights

Australia. Registrar of Aboriginal Corporations *The Bill and the ACA Act - some differences*. (2006).

Connor, Michael *The invention of Terra Nullius : historical and legal fictions on the foundation of Australia* (2005).

Healey, Justin, (ed) *Indigenous Australians and the law*. (2007).

Taxation, Trusts and the Distribution of Benefits

Western Australian Aboriginal Association 'Aboriginal People's claim: establishment of a national Aboriginal trust office' (1969) 21 *Rights and advancement* 18.

WHAT'S NEW WITH THE NTRU

Staffing

Ally Float joined the NTRU as a part of the Aurora Project's student internship program from January to February.

Craig Greene is now working as conference co-ordinator for 2007. Sarah McFarland is also working with him as conference organiser. Sarah Menz will also be assisting with the conference as the NTRU's media office.

Want faster access to information?

The Newsletter is also available in ELECTRONIC format. This will provide a FASTER service for you, and will make possible much greater distribution, is better for the environment and allows you to use the HYPERLINKS contained in each issue. If you would like to SUBSCRIBE to the Native Title Newsletter electronically, please send an email to ntru@aiatsis.gov.au and you will be helping us provide a better service. Electronic subscription will replace the postal service. Please include your postal address so we can cross check our records. The same service is also available for the Issues Papers series.

THE NATIVE TITLE RESEARCH UNIT

AIATSIS acknowledges the funding support of the Office of Indigenous Policy Coordination (OIPC) - Native Title and Land Rights Centre.

For previous editions of this Newsletter, click on the Native Title Research Unit link at www.aiatsis.gov.au or go to <http://ntru.aiatsis.gov.au/publications/newsletters.html>

Native Title Research Unit

Australian Institute of Aboriginal and Torres Strait Islander Studies

GPO Box 553

Canberra ACT 2601

Telephone 02 6246 1161

Facsimile 02 6249 7714

Email: ntru@aiatsis.gov.au