



AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES

Native Title Research Unit

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NATIVE TITLE NEWSLETTER

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(Note: Where an item also appears in other newspapers, etc, an asterisk () will be used. People are invited to contact the Native Title Research Unit at AIATSIS if they want the additional references. As usual, NTRU will try to provide people with copies of particular newspaper articles on request.)*

Ad = Advertiser (SA)
Age = The Age
Aus = Australian
CM = Courier Mail (QLD)
CP = Cairns Post
CT = Canberra Times
FinR = Financial Review
HS = Herald Sun (VIC)
IM = Illawarra Mercury
LE = Launceston Examiner

Mer = Hobart Mercury
NNTT = National Native Title Tribunal
NTA = *Native Title Act 1993*
NTN = Northern Territory News
QNT = Queensland Native Title News
SC = Sunshine Coast Daily
SMH = Sydney Morning Herald
Tel M = Telegraph Mirror (NSW)
WA = West Australian
WAus = Weekend Australian

News from the Native Title Research Unit

Launch of Native Title Guide

The Council of the Australian Institute of Aboriginal and Torres Strait Islander Studies will be hosting the launch of our latest publication *A Guide to Overseas Precedents of Relevance to Native Title*. The Guide was prepared for the NTRU by Shaunnagh Dorsett and Lee Godden who summarised it in this way:

In an era of increasing complexity of native title issues, this Guide provides a comprehensive and easily understandable analysis of common law precedent from Canada, the United States and New Zealand, as well as of the context in which these decisions were made. As is evident from recent native title decisions, Australian courts continue to look to their overseas counterparts for guidance with respect to new native title issues. The Guide covers a number of general areas, such as recognition and extinguishment of native title, as well as examining more

specific topics such as the offshore, evolution of rights and compensation. In each section a breakdown of the case law is provided, as well as commentary as to its possible application in Australia. This Guide is designed for use by both non-legal and legal audiences.

Mr Geoff Clark, ATSIC Commissioner responsible for native title, will launch the Guide at AIATSIS, 3.30pm, Thursday 11 February.

CLAIMS

New South Wales

North-West Sydney

A native title application covering the Darling Mills State Forest and Excelsior Reserve in north-west Sydney, has been withdrawn. The application was lodged with the NNTT in 1995. In an agreement between the local council and Indigenous people, the parkland will be renamed Bidjigal Reserve and the Aboriginal people will have a say in how the reserve is managed. (*DT, 19 Dec, p3*)

Victoria

Dja Dja Wurung People

The first native title application in Australia to be subjected to rigorous checks under new Federal native title laws has been unsuccessful in gaining negotiating rights over developments. The application, lodged on behalf of the Dja Dja Wurung people on 29 October 1998, asserted native title rights and interests in three parcels of land and waters totaling 63 hectares near Dunolly, Bealiba and Rushworth, Victoria.

Tribunal Registrar Chris Doepel said under new laws, which took effect on September 30, all new and most existing native title applications throughout Australia were required to be assessed against detailed criteria, known as the registration test. Mr Doepel said applicants had to satisfy several important conditions to attract the right to negotiate and other procedural rights. Conditions included:

- clearly identifying the extent of the claim group;
- demonstrating that the application was lodged with the authority of the group or clan from whom the native title rights were derived; and
- showing evidence of continuous association with the land.

Mr Doepel said in this particular case, on the basis of the information provided, the application has not met the criteria in full. Detailed reasons will be provided to the applicant shortly.

The applicants are entitled to appeal the decision and will still be able to pursue their application - either through mediation or litigation - towards a formal recognition of native title. If they are ultimately successful in being recognised as the native title holders, then they would win the right to negotiate and may be able to pursue compensation if they can demonstrate that earlier developments impacted adversely on their rights and interests.

Mr Doepel said the application of the registration test was accelerated by the Victorian Government's notice of intention to grant mineral tenements to Mining Trust and Talager Pty Ltd in central Victoria. (*NNTT Media Release, 7 Dec*)*