



AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES

Native Title Research Unit

GPO BOX 553
CANBERRA ACT 2601
Phone 02 6246 1161
Fax 02 6249 1046
E-mail: ntru@aiatsis.gov.au
Website: <http://www.aiatsis.gov.au/>

NATIVE TITLE NEWSLETTER

No. 2/99

NATIVE TITLE IN THE NEWS - February 1999

(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
DT = Daily Telegraph
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

Mura: Internet access to the catalogue of the Institute's collections

The AIATSIS Library's online catalogue, Mura, was launched on the internet on 12 February 1999. Those clients with an internet connection may now search the databases of the Library, and Film and Video, Pictorial, and Recorded Sound Archives from their own workplace or home.

For those people undertaking native title research, searches may still be requested from the Native Title Specialist. Searches dealing with other areas of Indigenous studies should be requested from the Reference Desk on phone: 02 6246 1182, or email: ref@aiatsis.gov.au

The shadow catalogue, which contains items from the Archives which are restricted and/or have not yet been fully documented, may only be accessed by the Native Title Specialist. If you wish to have comprehensive listings of our holdings for your claims research, you should request a search of the shadow catalogue.

For more information and assistance contact:

Rebecca Hall
Native Title Specialist
AIATSIS Native Title Research Unit

GPO Box 553
Canberra ACT 2601

ph: 02 6246 1103

fax: 02 6249 1046

email: rebecca@aiatsis.gov.au

The catalogue and website can be accessed through: <http://www.aiatsis.gov.au>

History Workshop, 10 – 11 May 1999

The NTRU is holding a workshop for native title practitioners examining **the use of history in native title processes**. The workshop will be co-convened by Dr Lisa Strelein, Visiting Research Fellow – Native Title, and Dr Geoff Gray, Research Fellow - History.

The workshop will be targetted at historians who have been or are becoming more involved in native title processes. As well as looking at the use of history in evidence, we will examine the issues raised by native title for history as a discipline and as a profession. The role of historians as expert witnesses will also be discussed.

As always we encourage all NTRBs to be represented as part of our commitment to continued skills development. Workshop numbers will, however, be limited.

The workshop will be held at University House, close to AIATSIS, on 10 – 11 May 1999.

Contact Ros Percival for registration. You can contact Ros via phone 02 6246 1161, fax 02 6249 1046, or email: ros@aiatsis.gov.au

Linguistics Workshop, 2 October 1999

The NTRU will co-sponsor a one-day workshop in Perth with the Australian Linguist Society on **linguistic issues in native title processes**. The workshop will consider the implications of linguistic evidence in native title processes and should be of interest to applicants, language centers, anthropologists, lawyers and others involved in native title claims.

Current Issues

Registration Test

It appears the registration test will be a key issue for the first half of this year. I have been discussing the implications of the test with some Native Title Representative Bodies (NTRBs). The most obvious implication is that the test has placed NTRBs under considerable pressure and time constraints in attempting to deal with the requirements of the test. In most cases NTRBs are under resourced and simply do not have the staff to perform the functions

required of them. In addition many NTRBs are required to undergo a formal re-recognition of their Representative Body status, this injects considerable uncertainty into the process.

Aboriginal communities engaged in the native title process are also placed under considerable pressure. They are required to respond to changes to their applications, often within very short timeframes and can only respond without proper community debate and consideration. This is proving to be a very stressful period for the claimant groups and their representatives.

Another issue highlighted to me in discussions is that some people feel they are being asked by the NNTT to provide information and material suited for a judicial process, not an administrative one. There is a lack of guidance or precedents for the registration test and the full implications of these concerns will only become apparent as decisions are made. However, I am particularly concerned that administrative interpretations of statutory requirements don't force applicant groups into a situation where their social structure as a native title holding group is modified to reflect an administrative model developed for implementing the registration test. We must not lose sight of the fact that each applicant group already holds native title according to their laws and customs and are only seeking recognition of this fact from the Crown.

I will be keeping a close watch on the registration test process and invite people to call me on 02 6146 1153 if you have any comments and suggestions about this or other native title issues.

.....*Kado Muir, Visiting Research Fellow, NTRU, February 1999*

Evaluating the Reeves Report: Cross-Disciplinary Perspectives A Two Day Conference

The Centre for Aboriginal Economic Policy Research, and the Department of Archaeology and Anthropology at the Australian National University are holding a conference focusing on the Reeves Report. Papers at the conference will address two main themes:

1. the use made of evidence, particularly the work of anthropologists, in the Report; and
2. the political and administrative implications of the Report's recommendations.

The conference will be held on Friday 26 and Saturday 27 March at Fenner Hall, Northbourne Avenue, Canberra. The registration fee is \$75.00 and \$30.00 for students/unwaged. The fee includes morning and afternoon tea and lunch.

If you are interested in attending the conference, please contact any of the people below for a registration form.

Frances Morphy (co-convenor)
Tel: 02 6253 0361
Fax: 02 6253 0900
email: bookmorph@ozemail.com.au

Tim Rowse (co-convenor)
Tel: 02 6249 4776
Fax: 02 6249 2711
email: timothy.rowse@anu.edu.au

Sue Fraser
Archaeology and Anthropology, The Faculties
The Australian National University, Canberra ACT 0200

CLAIMS

Queensland

Gungarri People [NNTT Ref#QC96/1]

Correction

In the last edition of the newsletter (1/99), a sentence in relation to the Gungarri people's native title application was incorrect. In relation to the Gungarri people's connection report, the sentence says "Mr Neate said the report provides information from the Gungarri people, proving their links to the land". This sentence should read: "Mr Neate said the report provides information which the Gungarri state proves their links to the land". We apologise for any misunderstanding this may have caused.

Mualgal People [NNTT Ref#QC96/20], and Saibai Island Community [NNTT Ref#QC95/13]

In a special sitting in Cairns, the Federal Court has formally recognised native title in two separate determinations covering Moa and Sabai Islands in the Torres Strait. Moa and Sabai are the first (and second) determinations of native title in the Torres Strait under the *Native Title Act 1993*, and the first two of 67 applications in the area to be resolved.

The agreed determinations are the result of nearly two and a half years mediation by the National Native Title Tribunal. The Federal Court issued a consent order, ratifying agreements reached between the parties after nearly two and a half years of mediation by the National Native Title Tribunal. The agreements formally recognised the traditional rights and interests of the Mualgal and Sabai people to the land and inland waters of Moa and Sabai Islands in Australian law.

Incoming Tribunal President Mr Graeme Neate said the determinations showed again that native title issues could be resolved through negotiation, and provided a framework for the resolution of other native title matters in the region. Mr Neate acknowledged the contribution of former Tribunal President Justice Robert French who personally led the mediation on both agreements ratified today by the Federal Court. He also acknowledged former Tribunal Member Mr Rick Farley for his role in mediating the Moa application. Mr Neate also praised the Queensland Government, saying it set an example for other governments around Australia with its constructive approach to the resolution of native title issues by mediation.

Mr Neate said a native title determination reached through mediation can include more than a recognition of native title rights in Australian law. It may also include agreements about how those rights can be exercised concurrently with the rights of others - including the rights of other Indigenous people who may not be the native title holders but who have historical links to the area.

The native title determinations include a number of land use agreements between the native title holders and other parties such as service providers like Telstra, the Island Community Councils and, on Moa Island, the residents of the St Pauls' Community, many of whom descend from South Sea Islanders. Both agreements also recognise the traditional access