

## LIST OF ABBREVIATIONS

**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. The NTRU will try to provide people with copies of recent newspaper articles upon request.

Ad = Advertiser (SA)	LRO = Land Rights Queensland
Age = The Age	Mer = Hobart Mercury
Aus = Australian	NNTT = National Native Title Tribunal
CM = Courier Mail (QLD)	NTA = <i>Native Title Act 1993</i>
CP = Cairns Post	NTRB = Native Title Representative Body
CT = Canberra Times	NTN = Native Title News (State editions)
DT = Daily Telegraph	SC = Sunshine Coast Daily
FinR = Financial Review	SMH = Sydney Morning Herald
HS = Herald Sun (VIC)	TelM = Telegraph Mirror (NSW)
KM = Kalgoorlie Miner	WA = West Australian
I LUA = Indigenous Land Use Agreement	WAus = Weekend Australian
I M = Illawarra Mercury	
LE = Launceston Examiner	
LR News = Land Rights News	

## NEWS FROM THE NATIVE TITLE RESEARCH UNIT

### New Staff Member

The Unit has been joined by Paul Sheiner who will be with us for several months and is working on an Issues Paper on consent determinations and on a larger project on framework agreements. He was most recently on the legal staff of the Kimberley Land Council.

### Treaty Research at AIATSIS

The AIATSIS Treaty Research Project is affiliated with the Unit as many issues overlap. We will keep you posted on research of relevance. Hannah McGlade has been appointed as a Visiting Research Fellow on treaty issues. Papers from the first semester of the Research Section's Seminar Series *The Limits and Possibilities of a Treaty Process in Australia* have been posted on the Institute's website. These include discussions of the central issues by Mick Dodson and Geoff Clark, and historical, political and comparative papers by Tim Rowse, Judith Brett, Paul Patton, Carol Johnson and Larissa Behrendt. We will begin posting the papers in the second series shortly.

For a schedule and links to the papers, consult:

<http://www.aiatsis.gov.au/rsrch/seminars.htm>

For more information on the treaty process and an opportunity to be part of the discussions on line, a related website can be found at <http://www.treatynow.org/>

## **The Past and Future of Land Rights and Native Title**

This year's Native Title Representative Bodies Legal Conference has been hailed as a success. Over 200 people registered and nearly 60 papers were given. We are currently working on arrangements to make the papers available. We will keep you posted.

### **Research Workshop held by CQLCAC at Mackay Qld 28 August 2001**

On 28 August the Central Queensland Land Council organised a research workshop in Mackay for its staff and consultant anthropologists who are currently working, or who have worked on their native title cases. One of the motivations for the workshop was to explore the notion and the practice of regional research on broad regional patterns of laws and customs. To date, the focus has often been on small application areas and associated groups of people, within the time constraints of future acts and the demands of the Federal Court. In so-called 'settled Australia' where there has often been little if any prior ethnographic research, there is a need to rationalise research and maximize research efforts in order to avoid duplication of archival, linguistic, anthropological and archaeological research and to arrive at more meaningful and comprehensive understandings.

It was acknowledged that there is an urgent need to arrive at sophisticated arguments which represent the reality on the ground and which cannot be misinterpreted by opposing lawyers in attempts to demonstrate that claimants in so-called 'settled Australia' no longer have native title. However, given that consultants typically have little time to engage in classical in-depth ethnography, there is little opportunity for researchers to arrive at such arguments.

A major concern of the workshop was to find ways of talking about laws and customs in 'settled Australia' which do not speak of 'lack' and which do not approach 'culture' and laws and customs as 'things' or 'objects' which can be lost. There are few if any theoretical tools to deal with 'laws and customs' in areas with a long history of white settlement. At the very least, connection or mediation reports should commence with descriptions of claimants and their laws and customs today as opposed to commencing with historical or archaeological descriptions or discussions of earlier ethnographies against which change is often measured negatively. There is also a need to find a way of speaking about the contemporary use by applicants of documents such as Tindale's as an integral part of the ongoing dynamics of laws and customs.

The workshop weighed up the usefulness of terms such as 'primary and secondary' and 'core' and 'contingent' in representing the differentiation of 'rights and interests' across particular areas, while still recognising exclusive possession.

Participants argued that we might utilise a range of ethnographic evidence which emerges from our contact with applicants, focussing on the processes of negotiation between Indigenous groups and individuals inherent in native title claims. This could include detailed analysis of spontaneous remarks and actions,

regional patterns of discourse and ways of talking, and the many meetings which have become key fieldwork experiences in the region. Some argued that the latter provide a context in which sanctions can be observed, where we can observe how people construct themselves in relation to each other, and where moral obligations, authority and representation are evident. That is, meetings provide a context in which 'laws and customs' and 'rights and interests' might be recorded. Others thought that this kind of evidence might be discounted in courts as purely the outcome of native title related matters and therefore less valid and that meetings were artificial situations where attendance might be seen as a matter of circumstance and resources of the Native Title Representative Body. This approach to gathering ethnographic evidence might also run counter to legal procedure in obtaining witness statements with a strongly focussed question and answer format. Given that this type of evidence may not be recognised by lawyers, it was agreed that we need to have some examples of this approach published in order that researchers who are acting as 'expert witnesses' have a body of literature to which to refer.

From our point of view the most urgent needs arising from this workshop were for the writing and publication of:

- a paper showing how notions of 'laws and customs' can be applied in regions where there is a long and disruptive history of colonisation; and
- a paper showing how analysis of talk and action in meetings and similar gatherings can be used as a source of evidence in native title about regional concepts and procedures of land law.

Regional research often takes a back-seat to more pressing demands and it is good to see that CQLC is still pushing ahead with it. Best practice must be rationalised regional practice. Anthropologists, historians, archivists, ethnographers, linguists, archaeologists and other researchers should work cooperatively across applications which are often made in direct response to s.29 notices and without the benefit of previous regional research.

Toni Bauman and Patrick McConvell

### **Conference 2001**

AIATIS has hosted a conference in celebration of its 40th anniversary. Among a diverse range of speakers and topics, native title is represented in a session entitled 'Self-government on Aboriginal lands; Economic independence and commercial development'. Abstracts of papers in the session by Jon Altman, Larissa Behrendt, Kado Muir, Lisa Strelein and David Watts are available on the AIATIS website. Selected papers were made available for distribution on the web and will remain posted until 20 October 2001.

### **Issues Papers**

We have recently published an Issues Paper on 'Anthropology and Connection Reports in Native Title Claim Applications' by Julie Finlayson. Those of you on our distribution list will receive a copy shortly. The paper has been posted on our

web-site as well. Should you wish to receive a copy, but are not on our mailing list, simply contact us.

We are actively seeking Issues Papers from our readers. They are usually 3,500 to 4,500 words long on a topic of interest to native title researchers and claimants. If you have a suggestion for a topic or, better yet, have a paper you would like us to consider for publication please contact the Unit.

## **NATIVE TITLE IN THE NEWS - July & August 2001**

### **National**

ATSIC Commissioner Geoff Clarke's criticism of the way the native title system is working has received support from Labor Aboriginal Affairs spokesman, Mr Bob McMullan who said, 'Geoff's criticism of the way native title works is right, but I think his solution is wrong...it's true there is too much emphasis on litigation and that native title representative bodies are not adequately funded...but we shouldn't throw out the whole native title system because it's not being properly run by the Howard Government.' Mr Clarke had criticised native title legislation after NSW Aboriginal Land Council objected to the creation of 85 national parks without the consent of traditional owners. (*Sydney Morning Herald 6 August 2001*)

### **New South Wales**

The Federal Court has dismissed an application to remove Dorothy and Phillip Lawson as Barkandji 'Pooncarie' representatives whose agent is Mark Dengate. Judge Stone handed down the decision almost two months after the hearing on 17 May. It is seen as a disappointment for both the NSW government and the NSW Aboriginal Land Council. (*Mildura Independent Star*)

### **Applications**

Native title applications by the Bandjalang, Yaegl, Bundjalung and Gumbaynggirr Peoples (NC96/16, NC98/19, NC96/38) have prompted NSW Farmers Association to remind the farmers affected by two important claims on the state north coast that the cut off date is approaching for registering with the Federal Court. If they register as a party to the claim it will ensure lease and licence holders have their say in the native title process. (*Daily Examiner 18 June 2001*)

Native title claims in the Yarrowlumla area by the Ngunnawal People (NC00/1) have prompted the Yarrowlumla Shire Council to assist local residents to be more informed about the claims. Shire Mayor Ian Marjason said that the Council had been advised by the NNTT that the Ngunnawal People have asked the Federal Court to recognize their traditional rights and interest over the Southern Tablelands area. (*Queenbeyan Age 9 July 2001*)

The Ngyabul People, who have a native title claim over areas in Lake Ainworth, Broken Head Nature Reserve and Seven Mile Beach (NC98/1) are moving toward