

The subject focuses on current issues in native title and will include the following: the 2007 amendments to the Native Title Act, claims process, evidentiary issues including expert reports, State Governments' connection requirements, negotiated, mediated and litigated native title and non-native title outcomes, future acts, the right to negotiate, heritage, ILUAs and agreement making, and PBCs .

The subject can be taken by both lawyers and non-lawyers and may be taken as a single subject with or without assessment or as part of a Graduate Diploma in Energy and Resources Law ; Master of Commercial Law ; Master of Laws by Coursework (LLM) .

More information is available from the Melbourne Law Masters office at <http://www.masters.law.unimelb.edu.au/go/about-us/melbourne-law-masters> ; telephone 03 8344 6190 or from Maureen Tehan [m.tehan@unimelb.edu.au](mailto:m.tehan@unimelb.edu.au)

## Native title in the News

### National

01-Jan-08 NATIONAL **Debate Relying on Sound Advice** The Charles Darwin University, CSIRO, Griffith University, Land and Water Australia the North Australia Indigenous land and Sea Management Alliance and the University of Western Australia have come together under a \$30 million dollar research initiative known as TRaCk. The program aims to explore traditional knowledge and custom in managing the natural fresh water resources in Northern Australia. *Irrigation and Water Resources* (National, 1 January 2008), 15.

08-Feb-08 NATIONAL **Internet saves court time and money** The Federal Court will extend an electronic trial system that allows the court to conduct live hearings over the internet. Judges sitting in remote areas, such as in native title cases, will also benefit from the system. *Australian* (8 February 2008), 39.

20-Feb-08 NATIONAL **Macklin signals review of leases** The new Labor Government will 'review the effectiveness of the controversial 99 year leases over communal Aboriginal land'. This announcement follows confirmation

from the Opposition that any laws to reverse the leases will be blocked by the Coalition. Indigenous Affairs Minister Jenny Macklin said that 'the Australian Government will work with state and territory governments and in close partnership with traditional owners and their representatives to streamline leasing options'. As a part of the changes the Land Rights Act will be 'changed to allow shorter leases on Aboriginal land'. *Australian* (National, 20 February 2008), 6; 'Let us own homes: Mundine' *Australian* (National, 21 February 2008), 1; 'Some 'not ready' for Aussie dream' *Australian* (National, 21 February 2008), 1; 'Macklin Guarantees 99-year leases' *Australian* (National, 22 February 2008), 6; 'All Australians have right to own a home: paternalism blocks black Australian dream' *Weekend Australian* (National, 23 February 2008), 18; 'Macklin to free up land rights' *Australian* (National, 28 February 2008), 4; 'Demand for change to Land Rights Act' *Australian* (National, 29 February 2008), 4.

### New South Wales

29-Jan-08 NSW **Darug left out of the picture** The Darug people have been offended by the 'Penrith council's refusal to help negotiate a long-running native title claim'. A native title application was original lodged over the Lower Portland area which was rejected by the Federal Court. Another claim was lodged in 1997 over the Sydney Metropolitan area and is currently in mediation. An indigenous land use agreement has been proposed between the Darug people and the State Lands Department. The Penrith council has opted against becoming a party to the agreement. *Penrith Press* (Sydney, 29 January 2008), 7.

09-Feb-08 NSW **Chinderah marina dead in the water** A native title case in the Federal Court has ended with parties withdrawing their applications for a declaration that no native title exists over the Tweed River bed. Plans to build a marina in the area have been halted until another case successfully extinguishes native title in the area. *Daily News* (Tweed Heads, 9 February 2008), 5; 'Marina plans still on hold' *Border Tweed Mail* (New South Wales, 14 February 2008), 26; 'Marina plans scuttled' *Tweed Sun* (Tweed Heads, 14 February 2008), 6.

### Northern Territory

02-Jan-08 NT **Call for a fair go** Former Northern Land Council Chairman Galarrwuy Yunupingu said that 'indigenous people didn't just fight for land rights in the

1970s - they also expected equal access to education, housing and health care'. *Northern Territory News* (2 January, 2008), 15; 'Now's our chance, urges Yunupingu' *Australian* (National, 1 January 2008), 8.

**18-Jan-08 NT Restrictions on access to Aboriginal land for fast track** Permits restricting public access to Aboriginal land in the Northern Territory will be reintroduced.

Journalists and contractors will be made exempt. The permit system is favoured by the present Federal Government, the Northern Territory Government and Police Force, most Indigenous leaders, the Arts and Media Alliance and independent experts. *Australian* (National, 18 January, 2008), 1; 'Bury the permit system, says Mundine' *Weekend Australian* (National, 26 January 2008), 1; 'Permit system protects land rights' *Byron Shire Echo* (Byron Bay, 22 January 2008), 10; 'A permit to their own land' *Northern Rivers Echo* (Lismore, 24 January 2008), 11; 'Permit system protects residents' *Australian* (National, 23 January 2008), 14; 'Press welcomed in permit system' *Centralian Advocate* (Alice Springs, 22 January 2008), 2.

**02-Feb-08 NT I personally see a hope** Wali

Wunungmurra, Chairman of the Northern Land Council has reflected on the recent changes affecting the organisation noting that there was a need to involve more 'outside people' and getting feedback from the community. This follows the tensions of created between the NLC and traditional owners over the Muckaty Nuclear waste despot proposal and the negative relationships between the former Chief Minister Claire Martin and NLC Chairman Norman Fry. *Northern Territory News* (Darwin, 2 February 2008), 220.

**02-Feb-08 NT Land rights champion dies, 87** Northern Territory Indigenous land rights campaigner Gerry Blitner has died. The former chairman of the Northern Land Council passed away on Sunday. *Weekend Australian* (Australia, 2 February 2008), 6.

**10-Feb-08 NT Anglers to discuss fishing** The Amateur Fishermen's Association (AFANT) will hold its annual meeting. New Northern Land Council Chief Executive John Christopherson is expected to attend and discuss 'the Federal Court's Blue Mud Bay decision'. *Sunday Territorian* (Darwin, 10 February 2008), 5.

**15-Feb-08 NT High Court puts challenge on hold** A High Court case challenging the intervention in the Northern Territory has been placed on hold by Justice Hayne and will now be heard in April or May. The claim was originally brought by Maningrida traditional owner Reggie Wurridjal and the Bawinunga Aboriginal Corporation. However according to Charles Darwin University Associate professor and head of law Matthew Storey,

under the constitution, Aboriginal communities that are part of the Territory may not be entitled to compensation because 'constitutional guarantees can be sidestepped if the Federal Government uses its Territories power to make laws'. *Northern Territory News* (Darwin, 15 February 2008), 9; 'Land grab claims to be tested in court' *Northern Territory News* (Darwin, 19 February 2008), 8.

**19-Feb-08 NT Keep applying for permits says CLC boss**

Permits are no longer required for the common areas of remote Aboriginal communities. However people travelling through Aboriginal land on the main roads are still required to have permits. The Central Land Council has urged people to continue to apply for the permits and respect Indigenous land. *Centralian Advocate* (Alice Springs, 19 February 2008), 5; 'Respect permit system' *Northern Territory News* (Darwin, 20 February 2008), 6; "Permit system on Aboriginal Land in the NT" *Media Release* (Minister for Families, Housing, Community Services and Indigenous Affairs, 17 February, 2008), 11; 'Visitors should still respect permit system in NT, land council says' *National Indigenous Times* (Malua Bay, 21 February 2008), 4.

**28-Feb-08 NT Troubles continue for land council** The Northern Land Council's chief executive John Christopherson has removed the principle legal officer Ron Levy. However he was reinstated in his position after Mr Levy won a supreme court injunction after successfully arguing that his dismissal was unlawful. *Northern Territory News* (Darwin, 28 February 2008), 9.

## Queensland

**01-Jan-08 QLD Major Step forward for Chalco** The Queensland Government has granted a 'mineral development license over a 40 000 hectare site on the west of the Cape to Chalco' providing the opportunity to start a feasibility study in the area. Chalco and the state government will 'work with the Wik and Wik Way people to preserve their cultural heritage and, at the same time, secure a prosperous future for the local community'. *Queensland Government Mining Journal* (National, January 2008), 16.

**01-Jan-08 QLD Attracting new players to north-west Queensland** The Queensland Government has repealed four Restricted areas in an attempt to 'provide opportunities for the mining industry to invest in exploration in prospective Greenfield areas'. The Four Restricted areas are over 'non-exclusive possession land and will require a native title process before an Exploration

Permit for Minerals can be granted'. *Queensland Government Mining Journal* (National, January 2008), 23.

01-Jan-08 QLD **Changes to land laws** Fifty year leases will be offered to farmers and graziers who 'conserve high value environmental areas and reach access agreements with local Indigenous people'. *Herbert River Times* (Ingham, 1 January, 2008), 2.

10-Jan-08 QLD **Native Title win crosses border** The Queensland Government has reversed its position 'on a contentions native title claim over Mt Lindesay...and is set to grant the claim to the Githabul people'. This follows the decision of the NSW Government to recognise the native title rights and interests of the Githabul people almost a year ago. *Australian* (National, 10 January, 2008), 5.

12-Jan-08 QLD **Native title could ground coal** Coal seam gas may not be used until the finalisation of native title negotiations over Maryborough Basin. *Fraser Coast Chronicle*, (12 January 2008), 7.

14-Jan-08 QLD **Elders call for consultation** Agnes Water Traditional owners are 'concerned about the environmental and cultural consequences a desalination plant will have' on the area. They said that 'the Miriam Vale Shire Council have pressed on with plans for a plant without proper consultation with the Aboriginal community'. *News Mail* (Bundaberg, 14 January 2008), 3; 'Elders not happy with consultation meeting' *News Mail* (Bundaberg, 16 January 2008), 4.

16-Jan-08 QLD **TSI Summit planned** A push for a summit has started 'to discuss regional governance in the Torres Strait'. The summit emerged as a recommendation from a meeting held on Thursday Island of Torres Strait Prescribed Bodies Corporate. *Koori Mail* (National, 16 January 2008), 17.

21-Jan-08 QLD **Land acquisitions clears path or vital coal rail line** The Queensland Government has acquired the land 'it needs to connect two major coal rail networks in central and northern Queensland'. Transport, Trade, Employment and Industrial Relations Minister John Mickel said that the Government was 'continuously working with Indigenous stakeholders to finalise cultural management plans'. *Gladstone Observer* (Gladstone, 21 January 2008), 6.

30-Jan-08 QLD **Native title deal in the pipeline** The Port Curtis Coral Coast people have 'applied to enter into an Indigenous land Use Agreement with the state government'. Indigenous Bundaberg Residents have been invited to attend a special Indigenous land Use Agreement meeting concerning the Tannum Sands and Boyne Island areas which will be held February 13. *News Mail* (Bundaberg, 30 January 2008), 5; 'Native Title Land Deal

with State' *Gladstone Observer* (Queensland, 31 January 2008), 6; 'Deal detail uncertain' *Morning Bulletin* (Rockhampton, 31 January 2008), 6

31-Jan-08 QLD **Indigenous agreement first for Queensland** An Indigenous Land Use Agreement has been signed between the Jagera, Ugarapul and Yuggera and the Ipswich City Council'. The agreement has been described as a 'practical step towards reconciliation and an agreement that other councils should take up'. *Queensland Times* (Ipswich, 31 January 2008), 5; 'Indigenous land use agreement signed over Ipswich' *Media Release* (National, 30 January 2008), 1.

02-Feb-08 QLD **Gas or hot air** An Indigenous Land Use Agreement has been registered with the National Native Title Tribunal by 13 traditional owner groups and a company called the Cape Yorke Pipeline. The agreement says that 'if the gas project is resurrected...potential operators will only have to negotiate with one group instead of 13 individuals'. *Cairns Post* (Cairns, 2 February 2008), 20; 'Aboriginal Groups Seek Best Gas deal' *Western Cape Bulletin* (Weipa, 13 February 2008), 7; 'PNG Gas Pipeline back on the boards' *Torres News* (13 February 2008), 16.

06-Feb-08 QLD **Deal on land use: negotiations lead to state first** An Indigenous Land Use Agreement has been signed between traditional owners and the Ipswich City Council which will deal with infrastructure development, cultural heritage issues and community relations in Ipswich. *South West News* (Brisbane, 6 February 2008), 5; 'Historic First with Indigenous agreement' *Satellite (Western Edition)* (Brisbane, 6 February 2008), 3; 'Land Use Pact' *Ipswich News* (Queensland, 7 February 2008), 5; 'Ipswich Update' *Gatton Lockyer Brisbane Valley Star* (Gatton, 6 February 2008), 14; 'Council Welcomes Land Use Agreement' *Ipswich Advertiser* (Ipswich, 6 February 2008), 4; 'Ipswich leads way in Land Use Agreement' *Ipswich Advertiser* (Ipswich, 6 February 2008), 6; 'ICC signs historic land use agreement' *City west News* (National, February 2008), 3.

08-Feb-08 QLD **Island's Court bid for Deeds** The Badu Island Council is 'taking supreme court action in a bid to transfer its land and businesses to a public company, ahead of council amalgamations'. The Island Council Chief is taking action to 'have Resources Minister Craig Wallace transfer the deed to a public company'. *Cairns Post* (Cairns, 8 February 2008), 9.

11-Feb-08 QLD **Moratorium on Torres Strait Mining Extended** Australian Foreign Minister Stephen Smith has extended indefinitely a moratorium on mining and drilling in the Torres Strait. The moratorium was established in

1985 with the Torres Strait treaty and prohibits mining and drilling of the seabed or subsoil in the Torres Strait Protected zone. *Dow Jones Newswire* (11 February 2008); 'Extension of Torres Strait mining moratorium' *Torres News* (Thursday Island, 20 February 2008), 5.

13-Feb-08 QLD **Future of the Torres Strait fishing industry at high risk of depletion** Traditional owners in the Torres Strait have warned that over fishing in the Torres Strait can lead to a depletion of stocks. The Kaurareg argue that 'the future of the Tones Strait fishing industry is at high risk of depletion which affects the Traditional Inhabitant Boat fishermen and or their families. *Torres News* (Torres Strait, 13 February 2008), 14.

28-Feb-08 QLD **Battle over as parties sign land agreement** Toowoomba's first Indigenous Land Use Agreement was signed yesterday covering an area 'of the Table Top Bushland Reserve'. The agreement was signed at a Picnic Point ceremony by Toowoomba City Council officials and representatives of the Jagera, Yuggera and Ugarapul people. The agreement will 'benefit the whole community as the Jagera, Yuggera and Ugarapul people work together to manage and protect the reserve'. As a part of the agreement the council 'will consult the traditional owners about the reserve'. *Toowoomba Chronicle* (Toowoomba, 28 February 2008), 9.

## South Australia

01-Jan-08 SA **Elders' silent protest at mining agreement** Kokatha Mula traditional owners 'observed the signing between Iluka resources and the Far West Coast Native Title Claimant group in silent protest, symbolising the voices that had not been heard or tabled through the Native Title Agreement process'. Kokatha Mula spokesperson, Sue Coleman said that she left the native title group 'after it became corrupt'. Ms Coleman said that 'the native title process was not effective in protecting Indigenous rights [and was] confusing and swaying traditional owners to sign agreements through financial benefits'. *Port Lincoln Times* (Port Lincoln, 1 January 2008), 6.

05-Feb-08 SA **Land Management: Guide shows way** A guide to 'working with Aboriginal people on natural resource management is the first of its kind in Australia'. The guide was produced in partnership with the Mount Lofty Ranges natural resources management Board and 'provides a foundation for integrated projects'. *Adelaide Advertiser* (Adelaide, 5 February 2008), 24.

31-Jan-08 SA **Infrastructure work underway for expansion** Premier Mike Rann has 'said that work is underway to provide essential infrastructure for the planned Olympic Dam expansion'. The government will also be involved to 'manage processes related to environmental, native title and aboriginal heritage matters'. *Roxby Downs Sun* (Port Augusta, 31 January 2008), 4

## Victoria

09-Jan-08 VIC **Native title claim seeks broad rights** The Federal Court has heard submissions of the Gunai/Kurnai people's native title claim. If the claim is successful 'it could potentially turn many of Gippsland;s rivers and lakes into permit only zones for recreational use'. The case was heard over two weeks at Lake Tyers and presided over by Justice North. *East Gippsland News* (East Gippsland, 9 January 2008), 3.

21-Jan-08 VIC **Yorta Yorta welcomes project** A 'use and occupancy mapping pilot project has been developed between the Murray Darling Basin Indigenous Nations and the Murray Darling Basin Commission and the Yorta Yorta Nation'. The Yorta Yorta people will be 'managing the recruitment of people to be involved in the project and view it as a significant step in becoming more involved in environmental management of their country'. *Country News insert*, (Shepparton, 21 January 2008), 11.

29-Jan-08 VIC **Nillumbik Council signs up to indigenous reconciliation charter** The Nillumbik Shire Council has adopted a Reconciliation Charter which was created 'in conjunctim with the Wurundjeri Elders, the traditional owners of the land'. The charter has 'three main objectives, recognising cultural spirit, strengthening communities and encouraging community engagement'. *Heidelberg and Diamond Valley Weekly* (Melbourne, 29 January 2008), 6.

06-Feb-08 VIC **Race claims ready to roll** Indigenous groups are planning to make claims on large areas of Victoria 'in the wake of moves to revert national parks back to Indigenous ownership'. The scheme involves mainly red gum forests but has the potential to include other national parks. The parks will then be leased back to the government 'so that it could continue being used as national parks under boards of management made up predominantly of members of local Aboriginal groups'. *Weekly Times* (Victoria, 6 February 2008), 11; 'Red gum park will prove to be the great divider' *Weekly Times* (Victoria, 13 February 2008), 17.

## Western Australia

### 01-Jan-08 WA Northern Development Taskforce launches in Broome

The Northern Development Taskforce has been established. The Taskforce is a 'cross government initiative led by the Department of Industry and Resources and includes representatives from the Department of Environment and Conservation, Indigenous Affairs, Planning and Infrastructure, Office of Native Title, Kimberley Development Commission, Tourism WA and the Heritage Council.' The purpose of the taskforce is to balance gas development with the attractions of the Kimberley. *Prospect Magazine* (National, 1 January 2008), 6.

02-Jan-08 WA **WA fine welcomed** The Magistrate's Court has fined the Western Australia Airports Corporation for 'damaging a heritage site on airport land'. The decision was welcomed by Indigenous Affairs Minister Michelle Roberts after it was found that the corporation was 'excavating on a significant Aboriginal site without getting permission'. *Eastern Suburbs Reporter* (Perth, 2 January, 2008), 2.

04-Jan-08 WA **Tucker returns as GLSC chairman** Former Chairman Ian Tucker has returned to the GLSC. *Golden Mail* (Kalgoorlie, 4 January 2008), 3.

16-Jan-08 WA **Developments in native title on the agenda** Developments in native title case law and anthropological matters were the topics explored at a recent connection workshop convened by the native title office in Perth. *Koori Mail* (National, 16 January 2008), 36.

23-Jan-08 WA **New company formed** A partnership between 'traditional land owners in the Pilbara and Rio Tinto Iron Ore has resulted in the formation of a new company that will ensure that local interests are best represented'. The company, Marnda Mia Central Negotiating Committee Pty Ltd has opened its offices in Roeburn. *Pilbara News* (Pilbara, 23 January 2008), 15.

31-Jan-08 WA **Rio pushes along with Kintyre sale** Rio Tinto has planned a sale of the Kintyre uranium deposit in Western Australia. The 'Martu were awarded native title in 2002 and they have a commitment from Rio that Kintyre would not be developed without their consent'. *Age* (Melbourne, 21 January 2008), 1; 'Rio tells Kintyre suitors: get bids ready' *West Australian* (Perth, 31 January 2008), 48.

04-Feb-08 WA **Funding boost to native title work** The Department of Families, Housing, Community Services

and Indigenous Affairs has provided \$5.5 Million dollars worth of additional funding to 'fast track native title work in the resource rich Pilbara region of WA'. The additional resources will 'allow claim representatives, Pilbara Native Title Service to progress the Pilbara Connection Project at a much faster rate than previous funding allowed'. *Geraldton Guardian* (4 February 2008), 3; 'Money to speed up Pilbara claims' *Koori Mail* (13 February 2008), 46.

05-Feb-08 WA **Traditional owners must have their say on the future of Kimberley Lands** The Kimberley Land Council (KLC) will begin 'formal consultation with Traditional Owners supported by the Western Australian Government to decide the future of gas development in the Kimberley'. This follows a statement by the WA Government that 'no development will occur without the informed consent of Traditional Owners'. KLC Executive Director Wayne Bergmann said that 'as traditional owners of the land, Traditional Owners will only accept resource development that is environmentally responsible and culturally appropriate'. *Media Release*, (Kimberley Land Council, 5 February 2008).

07-Feb-08 WA **Base metals exploration at Warburton** Native Title access agreements with the Ngaanyatjarra people are in place which will 'enable the commencement of active exploration programs in the 2008 field Season'. This includes the base metals project at Warburton. *Kalgoorlie Miner* (Kalgoorlie, 7 February 2008), 14.

07-Feb-08 WA **Guidelines needed for Pilbara Native Title Claims** The Pastoralists and Graziers' Association 'has welcomed any Federal Government initiative to speed native title process in the Pilbara provided that there are guidelines for an outcome'. The PGA said that the 'government had to also ensure that respondents were given the resources to cope with more legal proceedings'. *Farm Weekly* (Western Australia, 7 February 2008), 19.

20-Feb-08 WA **Yamatji Progress Land Claims** Roy Belloti has been elected chairperson of the Yamatji Land and Sea Council committee and the board of the Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation. The organisation is also currently reviewing its constitution. *Northern Guardian* (Carnarvon, 20 February 2008), 4.