

# Native Title – fact or fiction

## A view from a Native Title Applicant

By Margaret Hornagold

I have been an applicant on our Native Title claim since 1998. That's eleven long and frustrating years for all concerned. What has been achieved in that time?

Our claim is located in Central Queensland and is impacted upon by the mining activities of the Bowen Basin and the frenzy to open more and more mines. What have Native Title claimants gotten out of these lucrative ventures? In our case, next to nothing.

In that time, anthropologists have come and gone and we are yet to see a Connection Report. Overlaps created difficulties for the NTRB as to whom they represented and remain unresolved.

At times we wondered if someone had changed the goalposts for what Native Title was about as it seemed to be moving further and further away from identifying the people who could speak for country and who could assert traditional rights and interests. The focus has been on negotiations with mining companies rather than allowing time for issues of caring for country and maintaining cultural practices.



Margaret's Uncle Alick Smith Jr,  
photo taken at Apis Creek in Central Qld



Margaret's Grandfather and Grandmother,  
Alick Smith Snr, a Kabalbara man and  
Topsy Smith, a Barada woman

There are a number of elderly people on our claim who are well into their 70s and 80s and the stress that it has placed on them is incredible. But they have a simple response and that is that they know who they are and where they come from; they know who they were born as and who they will die as and no court or other structure will take that from them.

We are now with a new NTRB as the former one was disbanded. No doubt there will be teething problems.

I believe that a hard look needs to be taken at what Native Title was originally meant to be and talk with claimants and applicants about what we believed it to be and how it has evolved to be something else.

Aboriginal people are being forced into a convoluted system. The approach taken is that since there is no written anthropological or other records of what our Elders are saying, their word is negated. They feel powerless and belittled as the word of someone they have never met is believed because it was written down by a non-Indigenous person. Names of groups recorded in the 1940s are apparently insufficient to prove that groups' existence from colonisation. There are Elders who were born in the 1920s who assert and have signed statutory declarations that their mothers or fathers and grandparents told them that is who they are. But this is not good enough apparently.

I don't know where it will end but the frustrations and the waste of time, peoples' energy, passion and commitment in fighting to prove who we are within a western legal system is taking far too long and another way has to be found.

*Post script from Margaret:* Since writing this article, our Native Title Claim was dismissed in the Federal Court on the 20 February 2009. It was a real kick in the guts and has upset my Elders greatly. Don't know where to go from here.