

The Attorney-General's Department will be developing a revised interest test to determinate eligibility for respondent funding in native title matters. Current funding arrangements for native title officers will also be reviewed. The Attorney-General's Department has engaged an independent consultant to conduct a review of native title respondent and native title officer funding. Please see the [terms of reference](#) for the consultancy for further detail. For further information on the review, please refer to the [frequently asked questions document](#). There is an opportunity to provide written input by email to NTRFSreview@ag.gov.au. The deadline for written submissions is 30 September 2011. For further information see the Attorney-General's Department website: http://www.ag.gov.au/www/agd/agd.nsf/Page/Legal_aid_FinancialassistancebytheAttorney-Generalinnativetitlecases

Native Title Amendment (Reform) Bill 2011

On 12 May 2011 the Senate referred the Native Title Amendment (Reform) Bill 2011 for inquiry and report. Submissions closed on 29 July 2011. Twenty-seven public submissions have been received by the Legal and Constitutional Affairs Legislation Committee. The Committee reporting date is 3 November 2011. Visit the Legal and Constitutional Affairs Legislation Committee website to download these submissions: http://www.aph.gov.au/Senate/committee/legcon_cte/native_title_three/submissions.htm.

Native Title Publications

AIATSIS Publications:

- Williams G, '[Recognising Indigenous peoples in the Australian Constitution: What the Constitution should say and how the referendum can be won](#)', Vol. 5, No. 1, Native Title Research Unit, AIATSIS, 2011, p. 1-16.

Abstract:

The Commonwealth government has made a commitment to a referendum on constitutional recognition of Australia's first peoples. In a series of two papers, *Land, Rights, Laws: Issues of Native Title* will explore where native title might fit into this debate. In the first paper, senior constitutional scholar George Williams provides an overview of the challenges facing constitutional change and the options for reform, and assesses what is required to achieve change, such as bipartisanship, popular

education, and popular ownership. In the paper to follow, native title specialist Sean Brennan will outline five possible areas of constitutional change and discuss their practical implications for native title.

- Bauman T & Macdonald G (Eds.), '[Unsettling anthropology: the demands of native title on worn concepts and changing lives](#)', Native Title Research Unit, AIATSIS, Canberra, 2011.

Abstract:

This collection arose from a workshop for anthropologists in July 2010, Turning the Tide: Anthropology for Native Title in South-East Australia. Held at Sydney University and co-convened by the University of Sydney and the Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, the workshop addressed issues of native title anthropology in what is often referred to as 'settled' Australia. In these areas, native title — as a form of justice and recognition for Indigenous peoples — has proven a particularly frustrating experience. The title of the workshop recalled the various Yorta Yorta native title decisions in Victoria, and Olney J's quoting of Justice Brennan in *Mabo (No 2)* (1992, at [60]): 'when the tide of history has washed away any real acknowledgement of traditional law and any real observance of traditional customs, the foundation of native title has disappeared'.

Modelling the connection of native title claimants to their land in ways that are acceptable to the adversarial native title context is a challenge for native title anthropologists. They are faced with embedded and static notions of tradition thafly in the face of at least half a century of national and international anthropological debates and theory, but which have received little attention in the native title sector. The book includes issues such as naming of groups, the significance of descent from deceased forebears, the constitution of society, ways of approaching Aboriginal land tenure, processes of group exclusion and inclusion, changing laws and customs, and the scale of native title groups

Other Publications:

- Amnesty International, '[The land holds us': Aboriginal peoples' right to traditional homelands in the Northern Territory](#)', Amnesty International, August 2011.

- Keon-Cohen QC, B, 'Mabo in the Courts: Islander Tradition to Native Title: a memoir', Australian Scholarly Publishing, North Melbourne, 2011.
- National Native Title Tribunal, [Developing Indigenous land use agreements: A guide for local government](#), NNTT, July 2011.
- National Native Title Tribunal, [National Report: Native Title](#), NNTT, August 2011.
- North Australian Indigenous Land & Sea Management Alliance (NAILSMA), ['Indigenous rights in water in northern Australia'](#), NAILSMA, August 2011.
- O'Faircheallaigh, C, ['Use and Management of Revenues from Indigenous - Mining Company Agreements: Theoretical Perspectives'](#), ATNS Working Paper Series, No.1 / 2011
- Steering Committee for the Review of Government Service Provision, ['Overcoming Indigenous Disadvantage: Key Indicators 2011 Report'](#), Productivity Commission, Canberra, 2011.

Native Title in the News

National

06/07/2011

Native title guide for local government

The National Native Title Tribunal and Australian Local Government Association (ALGA) launched 'Developing Indigenous land use agreements: A guide for local government'. The guide is focused on Indigenous land use agreements (ILUAs), as they are primarily used by local governments to ensure that their actions in relation to land use that affect native title are done validly under the *Native Title Act 1993* (Cth). [Click here to download the Developing Indigenous land use agreements: A guide for local government](#). *Torres News* (Thursday Island QLD, 6 July 2011), 22.

19/08/11

Review of Attorney-General's portfolio

The Department of Finance and Deregulation is undertaking a review of the Courts and Tribunals under the Attorney-General's portfolio including the National Native Title Tribunal, Federal Court, Family Court, Federal Magistrates Court and the Administrative Appeals Tribunal, but not the High Court. Cabinet documents show that the Federal government is seeking to reduce cost in the

administration of Federal Tribunals and Courts by increasing shared services. *Australian Financial Review* (Australia, 19th August 2011), 21.

New South Wales

25/07/2011

Native title claim registered

The Yaegl people's second native title claim in the Clarence Valley, covering 1400sqkm, has been registered with the National Native Title Tribunal. The claim covers land from the Wooli River to Yamba and also extends 3km out to sea. The claim was made by the Yaegl Aboriginal Land Council. The rights given to the Yaegl people from a successful native title claim will be negotiated as part of the native title process, a spokeswoman for the National Native Title Tribunal said. *Daily Examiner* (Grafton NSW, 25 July 2011), 6. *Advocate* (Coffs Harbour NSW, 25 July 2011), 8. *Coastal Views* (Macleay NSW, 29 July 2011), 10.

09/08/11

Dunghutti Elders Council may appeal to High Court

On 11 February 2011, the Office of the Registrar of Indigenous Corporations (ORIC) issued the Dunghutti Elders Council (DEC) with a show cause notice amid concerns about the governance of the DEC and its use of native title monies held in trust. On 24 February 2011 the DEC applied to the Federal Court for an injunction to prevent the Registrar from placing the corporation under special administration. On 21 July 2011 the Full Court of the Federal Court dismissed a Dunghutti Elders Council (DEC) appeal against the show cause notice issued by the ORIC. The DEC then lodged another appeal against the 21 July decision, arguing there was a defect in the judgment handed down by the Full Court. Legal representatives for the DEC have asked that the Court reopen or vacate the decision it made on 21 July and indicated that if the appeal is dismissed, they may seek special leave to appeal to the High Court of Australia.

This appeal has subsequently been dismissed. See [Dunghutti Elders Council \(Aboriginal Corporation\) RNTBC v Registrar of Aboriginal and Torres Strait Islander Corporations \(No 2\) \[2011\] FCAFC 110](#) or the [August 2011 edition of 'What's New'](#) for a case summary. *Macleay Argus* (Kempsey NSW, 9th August 2011), 2. *Macleay Argus* (Kempsey NSW, 23rd August 2011), 5. *Macleay Argus* (Kempsey NSW, 19th August 2011), 2.