

Native Title Research: 'Connection to Country' and Other Land Use Issues¹

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This article provides some practical suggestions for law librarians on how to find information to answer research queries, particularly in relation to 'connection to country' and to issues arising in framing indigenous land use and other agreements. It will focus on key library collections and potential sources of information and also provide a list of useful Internet addresses. As the writer is Regional Librarian Queensland for the National Native Title Tribunal (NNTT), the article has a Queensland bias. However the approaches and suggestions provided here can be used in similar ways in other states. Internet addresses for all sites mentioned are provided at the end of the article.

NNTT LIBRARIES & WEB SITE INFORMATION

The library collection of the NNTT is a dispersed national collection, with staffed libraries in Perth (head office), Sydney and Brisbane, and smaller collections in Cairns, Melbourne, Adelaide and Darwin. The main role of library staff is to support the information needs of members and staff of the Tribunal. Libraries can borrow materials on interlibrary loan. The NNTT library is a member of Kinetica with all monograph and thesis holdings coded as WNNT. There is also a large journal collection only partially catalogued.

The libraries are not open to the public although access by appointment can be made in certain circumstances. The collection includes materials on native title

Disclaimer: This paper represents the views of the writer and not of the Tribunal.

¹ Legal research has been covered previously in this journal by Simon Young and Carmel O'Sullivan 1998, 'Researching native title in Australia: looking for a needle in a pastoral lease', *Australian Law Librarian*, vol. 6, no. 2, pp. 100-10.

² Thanks to my colleagues in Perth and Sydney for their contributions to this article.

(Australian and overseas), mediation, law, anthropology, linguistics, archaeology, history, indigenous issues, and resource and land management

The NNTT web site provides an excellent information base for straightforward reference and research queries in native title. Some of the more recent additions are:

- *Native title facts.* Twenty-seven fact sheets about different aspects of native title. This is a good place to start if you are new to native title.
- *Agreements.* This section includes templates and sample agreements to assist those involved in negotiating co-operative land use and access agreements. A point to remember is that most native title agreements are confidential legal documents and are not available from the Tribunal. Libraries and other interested parties must negotiate directly with the parties concerned if they wish to obtain copies of particular native title agreements. Parties may or may not agree to provide access.
- *Indigenous Land Use Agreements (ILUAs)* This includes links to facts about ILUAs, application forms and guidelines, and speeches by NNTT personnel.
- *Registration test information.* All applications to which the registration test has been applied with reasons for decisions have been included.
- *Research.* The Tribunal Research Unit prepares bibliographies as a ready reference for anyone wanting to locate published material that is generally available about Aboriginal or Torres Strait Islander people within a particular region or locality. There is also a research exchange with details of research about native title.
- *News.* Some states produce a native title newsletter on a regular basis and full text versions are available on the web site under the publications link, as are details for being on the distribution list. The Tribunal also produces a bulletin which gives an annual overview of determinations and agreements reached in the previous twelve months.

STATE LIBRARY COLLECTIONS

The State Library collections are a valuable source of local information. In Queensland, the collections of the State Library of Queensland and the John Oxley Library (Queensland history) are useful when retrieving Queensland

historical material relevant to Aboriginal or Torres Strait Islander groups and local histories. Catalogues of these collections are available on the Internet (telnet) at www.slq.qld.gov.au

A library may register as a borrower at the State Library of Queensland and electronically request an item on interlibrary loan by accessing their catalogue.

AIATSIS – LIBRARY AND OTHER SERVICES

A major collection for those seeking native title research material is that of the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) in Canberra. The catalogue of this collection is available on the web at www.aiatsis.gov.au. It is a productive starting point when seeking information about an Aboriginal or Torres Strait Islander group or the work of a particular researcher such as an anthropologist, linguist or historian. The value of this collection lies in the ability to search by geographical area, group or language name. It also intensively indexes book chapters not normally able to be identified from other sources. The materials, however, may be of a culturally sensitive nature with access restricted to various groups or families.

AIATSIS also has a Native Title Research Unit which conducts research for applicant groups and researchers undertaking native title work. This unit manages a high volume of work with limited resources, so it is advisable to plan ahead and place requests as early as possible.

AIATSIS publishes a native title newsletter providing information about current events in native title. It is available on their web site. They also produce a useful series of papers, *Land, Rights, Laws: issues of native title*, which are also available in full-text on their web site. These publications provide the most up-to-date information available in this area and are essential tools to keep up with native title and related issues.

AIATSIS publications are an excellent source of native title information, as are the monographs produced by their publishing arm, Aboriginal Studies Press. The

Institute is to be congratulated on the valuable services it provides on an extremely limited budget.

GOVERNMENT LIBRARIES AND RELATED ORGANISATIONS

It is vital to know your way around federal, state and local government web sites. There is a wealth of information (or identification of information sources) on these sites. It is becoming more apparent that a large amount of published material no longer finds its way onto Kinetica, particularly government publications or publications produced for governments. Use of the Internet is therefore essential to locate such information.

In Queensland the libraries of the Department of Natural Resources, Department of Mines and Energy, the Justice and Attorney-General's Department and the Parliamentary Library have all provided information and/or materials to the NNTT library. In addition, Native Title Services (a unit within the Premier's Department) has a team of lawyers, historians and anthropologists dedicated to dealing with state government responsibilities in relation to native title applications. In 1999, this unit published the *Guide to compiling a connection report*³ which offers practical tips to researchers on the types of evidence applicants need, and where to find it, to prove traditional connection to the land.

The ATSIC library has some material relevant to native title. ATSIC library holdings are added to Kinetica and most are available through interlibrary loan. State ATSIC offices may have native title units which may hold local information about native title.

Continual reference is made to the reports of the Aboriginal Land Commissioner (Northern Territory) and the Queensland Land Tribunal, as little precedent has been established in native title. These are particularly useful when dealing with issues of culturally sensitive evidence required to prove land rights or native title. In Queensland however, applicants have in some cases vetoed the release of culturally sensitive information. The ALC reports can be obtained in hardcopy

³ Queensland. Native Title Services 1999, *Guide to compiling a connection report*, Native Title Services, Dept of Premier and Cabinet, Brisbane.

from ATSIIC and on CD-ROM from Transcript Australia. The Queensland Land Tribunal Reports are available in hardcopy only from the Department of Natural Resources.

ACADEMIC AND LAW LIBRARIES

Universities with law schools, indigenous studies courses, and courses in anthropology, history, linguistics and sociology will have materials on native title to support these areas of study.

The Centre for Aboriginal Economic Policy Research at the Australian National University is an example of a research organisation offering current, relatively cheap publications of major importance in native title. See their web site at <http://www.anu.edu.au/caepr/>

REPRESENTATIVE BODIES

Indigenous representative bodies, such as land councils, are also potential sources of information because they have native title units which employ anthropologists, historians and others to manage this work. The gathering of materials that provide evidence of traditional connection to the land is part of the work of these units. These materials may be organised into collections and may be available as interlibrary loans. It needs to be kept in mind that this material is owned by the particular Aboriginal or Torres Strait Islander group, and if it is culturally or politically sensitive will not be available for loan.

NETWORKING

Because native title crosses the boundaries of many disciplines, the native title librarian/researcher needs the capacity to work across a wide network of collections and sources. It is invaluable to establish reciprocal professional relationships with staff in organisations like those mentioned above so that information can be located and exchanged in a timely and efficient manner.

Joining organisations like the Aboriginal and Torres Strait Islander Library and Information Resource Network (ATSILIRN) will help if you are regularly

involved in reference and research in indigenous areas. ATSILIRN aims to support Aboriginal and Torres Strait Islander peoples working in libraries, archives and information or resource services, and also to support people providing such services to Aboriginal and Torres Strait Islander peoples. It runs an annual conference, which will be held in Cairns in 2001.

CONCLUSION

It should be remembered that the sources to which I have drawn your attention will usually lead you to observations and research recorded by non-indigenous people about Aboriginal and Torres Strait Islander peoples. Some of these writings are the work of anthropologists, historians, linguists and other professionals. Some are the work of interested observers such as Edward Curr. He was a pastoralist in Central Victoria who took up land in the 1840s and later wrote extensively about Aboriginal people ⁴

There is also considerable recorded and unrecorded Aboriginal and Torres Strait Islander history and law (both oral and written) which is not known to us, but may be held by individuals or indigenous communities or organisations. We need to acknowledge that the people themselves are custodians of their history and law, and this body of knowledge sits adjacent to, but is not part of the public record.

WEB SITES FOR NATIVE TITLE

ABC Rural Dept.

<http://abc.net.au/rural>

Aboriginal and Torres Strait Islander Commission (ATSIC)

<http://www.atsic.gov.au>

Aboriginal and Torres Strait Islander Library and Information Resource Network (ATSILIRN)

<http://home.vicnet.net.au/%7Eatsilirn/AboutUs.htm>

AustLII

<http://www.austlii.edu.au>

Legislation, court decisions etc. Search facility

⁴ Curr, E. 1886, *The Australian race: its origin, languages, customs, place of landing in Australia, and the routes by which it spread itself over the continent*. John Farnes, Govt. Printer, Melbourne.

Australian Capital Territory Parliament – available via AustLII legislation.
<http://www.austlii.edu.au/databases.html#act>

Australian Indigenous Peoples and the Law – Australia NTU Faculty of Law List of Web Resources
<http://www.ntu.edu.au/faculties/law/martin/aust.htm>

Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)
<http://www.aiatsis.gov.au>
Newsletters and issues papers on native title, AIATSIS library catalogue

Australian Local Government Association
<http://www.alga.com.au/>
Indigenous issues, Native title, position papers

Australian Minerals and Energy Environment Foundation
<http://www.ameef.com.au>

Australians for Native Title and Reconciliation
<http://www.antar.org.au>

Cape York Land Council
<http://www.cycl.org.au>

Central Land Council
<http://www/clc.org.au>

Centre for Aboriginal Economic Policy Research (CAEPR)
<http://www.anu.edu.au/caepr>

Council for Aboriginal Reconciliation
<http://www.austlii.edu.au/au/orgs/car>

Department of Prime Minister and Cabinet
<http://www.dpmc.gov.au>
Office of Indigenous Policy, Search facility.

Federal Court
<http://www.fedcourt.gov.au>
Native Title Proceedings – Includes procedures for lodging claims, forms etc. Full text judgments, *Native Title Act 1993*. This site is linked to AustLII for legislation and caselaw.

Guide to the papers of Edward Koiki Mabo
<http://www.nla.gov.au/ms/findaids/8822.html>

Indigenous Land Corporation
<http://www.ilc.gov.au>

Infarmation
<http://www.infarmation.com.au>
Includes diary of events.

Land and Resources Tribunal (Qld)
<http://www.lrt.qld.gov.au>

**Library and Information Service of Western Australia (LISWA) – J S Battye
Library of Western Australian history**
<http://www.liswa.wa.gov.au/battye.html>

Minerals Council of Australia
<http://www.minerals.org.au>

National Farmers Federation
<http://farmwide.com.au/nff>

National Indigenous Working Group on Native Title
<http://www.faira.org.au/niwg>

National Library of Australia
<http://www.nla.gov.au/>

National Native Title Tribunal
<http://www.nntt.gov.au>
Includes fact sheets about native title, a timeline of all current claims, publications and speeches.

Native Title Services (Dept. of Premier and Cabinet, Queensland)
<http://www.premiers.qld.gov.au/about/nativetitle>

New South Wales Aboriginal Land Council
<http://www.alc.org.au>

Northern Land Council
<http://www.alc.org.au>

Northern Territory Archive Service
<http://www.nt.gov.au/nta/>

Northern Territory legislation
<http://www.nt.gov.au/lant/hansard/>

NSW – Mitchell and Dixson Libraries – NSW history
<http://www.slsw.gov.au/ml/welcome.htm>

NSW Government
<http://www.nsw.gov.au>
Links to NSW Acts, *Native Title Act*.

NSW Premier's Department
<http://www.premiers.nsw.gov.au>

Parliament of NSW
<http://www.parliament.nsw.gov.au>
Hansard, Business Papers, Bills List.

Parliament of the Commonwealth of Australia
<http://www.aph.gov.au>
Senate, House of Representatives – Hansard, Bills, Legislation

Queensland Dept. of Primary Industries

<http://www.dpi.qld.gov.au>

Queensland legislation

<http://www.legislation.qld.gov.au>

SCALEplus

<http://scaleplus.law.gov.au>

Legislation, court decisions, etc. Search facility.

South Australian legislation

http://www.parliament.sa.gov.au/legislation/5_legislation.shtm

State Library of South Australia

<http://www.catalog.slsa.sa.gov.au/screens/opacmenu.html>

State Library of Tasmania

<http://www.tased.edu.au/library/library.htm>

State Library of Victoria

<http://www.slv.vic.gov.au/slv.catalogue/>

Tasmanian Farmers and Graziers Association

<http://www.farmwide.com.au/nff/tfga>

Tasmanian legislation

<http://www.thelaw.tas.gov.au/>

Victorian Farmers Federation

<http://www.vff.org.au>

Victorian legislation

<http://www.dms.dpc.vic.gov.au/>

Western Australian Farmers Federation

<http://www.waff.org.au>

Western Australian legislation

<http://www.parliament.wa.gov.au/parliament/home.nsf>