

## NTRU Project Report

### National Native Title Conference 2007

The annual national Native Title Conference is the pre-eminent Indigenous policy conference in Australia. The Conference is held every year to bring together people who are involved in native title in Australia from Indigenous communities, government and the private sector. This year, AIATSIS was invited by the Gimuy Walubara Yidinji



Clockwise: Professor Mick Dodson delivering the Mabo lecture, conference organisers Craig Green and Amanda Fyfe and Gimuy Dancers.



people to hold the Native Title Conference on Gimuy country. The relationship established between the conference conveners, the North Queensland Land Council, and the Gimuy Walubara Yidinji people provided many opportunities for Gimuy Walubara Yidinji and local land council collaboration and input into the conference program and cultural events.

The central theme of the Cairns 2007 conference – 'Tides of Native Title' focused on the ebb and flow of native title law, policy and practice since the High Court decision in *Mabo* 15 years ago and centred around the relationship between native title, Indigenous communities and the environment. The theme was also reflective of the hard work and

achievements of Eddie Mabo and the other Meriam applicants some 15 years ago. The conference celebrated the achievements of the Wik and Thayorre peoples, the Miriuwung and Gajerrong peoples, the peoples of Croker Island, Blue Mud Bay mob, the Noongars, and the Yawarru people, among many others. The conference recognised that these great nations have struggled and won recognition as native title holders, and that there are many others continuing to struggle within the native title system to gain acknowledgement of their rights.



For the annual Mabo lecture, Mick Dodson, Chair of the AIATSIS Council, Professor and Director of the National Centre for

Indigenous Studies, Australian National University, and Rapporteur for the United Nations Permanent Forum on Indigenous Issues, emphasised how Aboriginal and Torres Strait Islander peoples are getting slaughtered by the colonial imperative to steal their land, to strip their culture, and to demoralise them as peoples and nations. Prof Dodson believes that native title is about self defence – defending Indigenous peoples' identity and inheritance in the land and sea.

It is estimated that Indigenous people comprised around 50 percent of the conference delegates. Sponsorship funds were used to increase the number of Indigenous delegates who would otherwise have been unable to attend. Indigenous people also presented at least 50 percent of the sessions, workshops, and panels, as well as chairing these sessions. The program also included Indigenous only talking circles and sessions, including a women only session which proved to be a huge success.

The full conference program and details of speakers is available at the conference website: <http://ntru.aiatsis.gov.au/conf2007/conference2007.html>



## Prescribed Bodies Corporate

As part of our PBC research project, the NTRU has created new resources providing information about and for prescribed bodies corporate or registered native title bodies corporate (RNTBCs). The NTRU hopes that these resources will be useful to native title holders, staff of native title representative bodies and native title service delivery agencies, as well as staff from government and non-government organisations working with native title holders. There are three different types of resources:

### [National Overview of Registered Native Title Bodies Corporate](#)

The NTRU has compiled information about registered native title bodies corporate as at **30 May 2007** to provide a national overview of claimant determinations recognising native title and the corporations arising from these determinations. The national overview includes hyperlinks providing access to:

- determination summaries and determination map on the [National Native Title Tribunal \(NNTT\)](#) website;
- relevant case law on the [Australasian Legal Information Institute \(Austlii\)](#) website;
- determination information on the [Office of Native Title Western Australia \(ONT\)](#) website (for determinations in WA only);
- determination & corporation information on the [Agreements, Treaties and Negotiated Settlements \(ATNS\)](#) website;
- corporation information on the [Office of the Registrar of Aboriginal Corporations \(ORAC\)](#) website; and
- native title representative body and native title service delivery agency websites.

This document includes a list of claimant determinations recognising native title, information about these determinations, a list of RNTBCs and information about these organisations.

**Download** national overview from the NTRU website:

[http://ntru.aiatsis.gov.au/major\\_projects/pbc\\_rntbc.html](http://ntru.aiatsis.gov.au/major_projects/pbc_rntbc.html)

### [Registered Native Title Bodies Corporate National Overview \(May 2007\) - PDF FORMAT](#)

### [Registered Native Title Bodies Corporate National Toolkit](#)

The NTRU has compiled the Registered Native Title Bodies Corporate National Toolkit in response to needs expressed by native title holders for better access to information and resources that may assist them in exercising their native title rights and interests. The toolkit provides information and access to resources about:

- establishing a RNTBC, including accessing assistance from the Office of the Registrar of Aboriginal Corporations;
- potential Australian Government and other funding sources (including a quick reference funding guide sorted by subject);
- accessing training;
- Australian Government and other national or multi-jurisdictional networks, programs and organisations that may be useful to RNTBCs; and
- links to relevant legislation, organisations and publications.

Download toolkit:

### [Registered Native Title Bodies Corporate National Toolkit \(June 2007\) - PDF FORMAT](#)

## Registered Native Title Bodies Corporate State & Territory Toolkits

The Native Title Research Unit is in the process of finalising State and Territory Toolkits. These toolkits will provide state and territory specific information about:


- claimant determinations recognising native title;
- registered native title bodies corporate;
- potential state or territory funding sources;
- state or territory training providers;
- networks, organisations and programs operating in the state or territory that may be useful to RNTBCs; and
- links to relevant legislation, organisations and publications.

These are available at:

[http://ntru.aiatsis.gov.au/major\\_projects/pbc\\_rntbc.html](http://ntru.aiatsis.gov.au/major_projects/pbc_rntbc.html).

## Request for assistance

The NTRU invites users of these resources to provide us with comments or suggestions about additional information that could be included or how they might otherwise be improved. The NTRU would also welcome advice from government and non-



government organisations about any funding, training or programs that should be added to the Toolkits. Please contact us on 02 6246 1161 or email [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au).

### Workshop Reports

The Reports detailing the workshops held at AIATSIS for NTRBs from 5-6 December 2006 and PBCs 11-13 April 2007 will be available online at [http://ntru.aiatsis.gov.au/major\\_projects/psc\\_rntbc.html](http://ntru.aiatsis.gov.au/major_projects/psc_rntbc.html)

## Tax, Trusts and the Distribution of Benefits

At the Senior Professional Officers Workshop conducted at the University of New South Wales in September 2006, representatives from the national Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs) network met and discussed the problems that have emerged, the legal options available to claimants and the

outcomes this has produced. The outcomes and key themes of the workshop have been summarised in a research report.

The report is available online:

[http://ntru.aiatsis.gov.au/major\\_projects/taxation\\_trusts.html](http://ntru.aiatsis.gov.au/major_projects/taxation_trusts.html)

### Staffing

Tony Lee has joined NTRU as a Visiting Research Fellow and will be working on the Prescribed Bodies Corporate Project. He is a Yawuru man from Broome and is the first Indigenous Member of the National Native Title Tribunal.

Corina O'Dowd and Thao Pham have joined the unit for six weeks as a part of the Aurora Project's student placement program. They are working on the NTRU's native title in the news service, case notes and updating the resource guide.

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## WHAT'S NEW

### Recent Cases

#### ***Re Australian Jade Exploration Pty Limited & Ors* [2006] QLRT 78**

This case was heard by the Queensland Land and Resource Tribunal and concerns a mining lease application lodged by Australian Jade Exploration Pty Limited and native title groups, the Barada Barna and Kabalbara Yetimarla People, Durambal People #2, and the Koinjmal People. The State of Queensland is also a party.

#### ***Re Carpentaria Gold Pty Ltd & Ors* [2006] QLRT 107**

This case concerns whether compensation should be paid under s 709 of the Mineral Resources Act 1989 by Carpentaria Gold Pty Ltd to the Birri People. It was noted by the Tribunal that an appropriate figure is reached having regard to the evidence that is adduced. It was found that since no evidence on the point was adduced, compensation could not be awarded.

#### ***Lansen & Ors v NT Minister for Mines and Energy & Ors* [2007] NTSC 28**

The plaintiffs are registered Native Title Claimants to land and waters affected by the McArthur River Project. The court found that the defendants conceded the plaintiffs' had standing to bring the proceedings and that the first defendant, the Minister for Mines and Energy for the Northern Territory is and was at all material times responsible for the administration of the Mining Management Act 2001 (NT), the Mining Act 1980 (NT) and the McArthur River Project Agreement Ratification Act 1992 (NT). It was found that authorisation given by the Minister did not authorise the proposal for open cut mining. As a consequence, the proposed open cut mining operation is statutorily prohibited in the absence of an Authorisation: s 35(1) Mining Management Act 2001 (NT).

#### ***Chapman on behalf of the Wakka Wakka People 2 v State of Queensland* [2007] FCA 597 (27 April 2007)**

Considered whether a person named as 'the applicant' unable or unwilling to act can continue to be authorised and consequently whether they are a proper or necessary party to the proceedings under O 6 r 9 FCR. The court also considered whether the