



Chronology of events in native title 1 July 2004 – 30 June 2005

This table includes summaries of every native title determination that occurred during this period, and notable or interesting agreements; it does not include every Indigenous Land Use Agreement (ILUA) registered or other native title agreements made over this period, due to the large volume. A snapshot of applications, determinations and ILUAs from this period is provided at the end of this table.

Date	Event/summary of issue
<p>27 August 2004 <i>Native title determination</i></p>	<p>Wanjina-Wunggurr Wilinggin Native Title Determination No 1 <i>Neowarra v State of Western Australia</i> [2004] FCA 1092 – Native title exists in parts of the determination area – litigated determination. Native title is held by the Wanjina-Wunggurr Community, including rights of exclusive possession in some areas and non-exclusive rights including the right to: camp, use traditional resources, manufacture traditional items and hunt and fish for the purpose of satisfying their personal, domestic or non-commercial communal needs.</p>
<p>7 September 2004 <i>Native title determination</i></p>	<p>Darug People <i>Gale on behalf of the Darug People v Minister for Lands</i> (Unreported, FCA 2 September 2004, Madgwick J) – Native title does not exist – litigated determination.</p>
<p>8 September 2004 <i>Native title determination</i></p>	<p>Karajarri (Area B) <i>Nangkiriny v State of Western Australia</i> [2004] FCA 1156 – Native title exists in parts of the determination area – Consent determination.</p>



Date	Event/summary of issue
<p>8 September 2004 <i>Native title determination (continued)</i></p>	<p>The Federal Court makes the 'consent determination' of native title in the terms agreed to by the parties.¹</p>
<p>11 October 2004 <i>Australian Agricultural Company reaches agreement over native title interests through MOU</i></p>	<p>MOU achieved over 'Headingly' property Australia's largest beef producer, Australian Agricultural Company (AACo) and the Waluwarra/Georgina River people sign an agreement settling access and traditional activities on AACo's north-western Queensland flagship property, 'Headingly'. The memorandum of understanding (MOU) acknowledges the Waluwarra/Georgina River People as the traditional owners of the area. The MOU provides for protection of the Waluwarra/Georgina River people's significant sites on the pastoral land and their access to country to pass on culture to younger generations.²</p>
<p>29 October 2004 <i>Native title agreement to allow for residential development</i></p>	<p>Rubibi agreement enables residential development near Broome A native title agreement is signed between the Western Australian Government and the Rubibi community allows for the residential development of 33 hectares of prime land near Cable Beach and allow for the creation of an aged care facility. Under the agreement, the Rubibi native title claimants are compensated for extinguishment of native title over the area by cultural, economic and social benefits.³</p>
<p>30 October 2004 <i>WA Connection Guidelines released</i></p>	<p>Western Australian 'connection guidelines' released The Western Australian Office of Native Title releases revised guidelines for 'connection reports'. Connection reports are prepared by native title claimants to present evidentiary material to the state to encourage negotiation of a consent determination. They are not statutory requirements of the NTA.⁴</p>

- 1 The NTA enables the Court to make an order in the terms agreed between the parties without holding a hearing if it is appropriate to do so (s.87). The preconditions to the exercise of the Court's discretion are:
 - the terms of the agreement must be in writing and signed by or on behalf of the parties;
 - the agreement must be filed with the court; and
 - the court must be satisfied that the order in those terms would be within its power.
 In considering whether it is 'appropriate' to make the consent determination, the court will consider factors including: the scope and purpose of the NTA; whether or not the parties had independent and competent legal advice; and whether or not there is suggestion that the agreement had not been freely entered into. For example, see *Mervyn v Western Australia* [2005] FCA 831 per Black CJ, [8]-[12].
- 2 National Native Title Tribunal: Media Release: *AACo and native title group agree on access to north QLD pastoral property*. 11 October 2004.
- 3 AIATSIS Native Title Research Unit, *Native Title Newsletter*, Mar/Apr 2005, No. 2/2005, p12.
- 4 For further information visit: <www.nativetitle.dpc.wa.gov.au/index.cfm?event=aboutKeyEvents>.



Date	Event/summary of issue
<p>6 November 2004 <i>National Indigenous Council (NIC) appointed</i></p>	<p>National Indigenous Council (NIC) appointed The federal Minister for Immigration and Multicultural and Indigenous Affairs announces the membership of the Government-appointed advisory body, the National Indigenous Council (NIC). It is composed of twelve Indigenous Advisers. Members of the Council will provide advice on policy and service delivery to the Ministerial Taskforce on Indigenous Affairs.⁵</p>
<p>12 November 2004 <i>MOU signed recognising native title rights near Kununurra</i></p>	<p>MOU signed between WA Government and Miriuwung Gajerrong traditional owners in East Kimberley The Western Australian Government and the Miriuwung Gajerrong Traditional Owners signed a Memorandum of Understanding (MOU) to deal with land issues in the Kununurra area. The MOU recognises the rights of the traditional owners, and provides mechanism to ensure they have a role in the development of the area and the land in and around Kununurra.</p>
<p>3 December 2004 <i>South Australian native title local government agreement</i></p>	<p>South Australian native title local government agreement Representatives of the Narungga Nations Aboriginal Corporation, the District Council of Yorke Peninsula, Wakefield Regional Council, District Council of Copper Coast, District Council of Barunga West, Aboriginal Legal Rights Movement (ALRM), and the State Government sign an ILUA after 20 months of negotiation. This is the first native title agreement to be negotiated by local government and an Indigenous group in South Australia. The agreement sets out an Aboriginal heritage protection protocol that requires developers to notify the Narungga Nations Aboriginal Corporation of when and where they plan to develop infrastructure so that the Narungga people can take steps to protect their cultural heritage sites. The agreement also recognises the Narungga people as the traditional owners of the Yorke Peninsula and provides a compensation package. Under the agreement a committee comprising members of all parties will be established to resolve any native title and cultural heritage issues that may arise.⁶</p>

5 Minister for Immigration and Multicultural and Indigenous Affairs. Media Release, *National Indigenous Council Appointed*. ATSI/A website: <www.atsia.gov.au/media/media04/v04064.htm>, accessed 11 August 2005.

6 National Native Title Tribunal: Media Release: *South Australian groups finalise first native title local government agreement*, 3 December 2004.



Date	Event/summary of issue
<p>8-9 December 2004 <i>Inaugural National Indigenous Council meeting</i></p>	<p>The inaugural meeting of the National Indigenous Council (NIC) is held in Canberra. The Council meet with the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs and the Ministerial Taskforce on Indigenous Affairs.</p> <p>The Terms of Reference for the NIC are agreed. The NIC identify its three priority areas as:</p> <ul style="list-style-type: none"> • early childhood intervention and improving primary health and early education outcomes; • safer communities; and • overcoming passive welfare with improvements in employment outcomes and economic development for Indigenous Australians.⁷
<p>7-14 December 2004 <i>Native title determinations</i></p>	<p>Torres Strait Native Title Determinations</p> <p>7 December – Kulkalgal People: <i>Warria on behalf of the Kulkalgal v State of Queensland</i> [2004] FCA 1577 – Native title exists in the entire determination area – Consent determination.⁸</p> <p>13 December – Gebara Islanders #1: <i>Newie on behalf of the Gebaralgal v State of Queensland</i> [2004] FCA 1577 – Native title exists in the entire determination area – Consent determination.⁹</p>
<p>22 December 2004 <i>Fishing principles released by National Indigenous Fishing Technical Working Group</i></p>	<p>Fishing principles to guide Indigenous involvement in marine management</p> <p>The National Indigenous Fishing Technical Working Group (NIFTWG) releases principles to guide policy and strategy in relation to Indigenous fishing-related issues. The principles, which are not legally binding, encourage the recognition of traditional fishing practices and greater Indigenous involvement in commercial fisheries, charter fishing and eco-tourism activities. For the principles to have effect they must be adopted by relevant fisheries jurisdictions at the federal, state and territory level. Formal endorsement of the principles is currently being progressed through bodies responsible for fisheries and natural resources management, including governments.¹⁰</p>

7 Gordon, S., *First meeting of the National Indigenous Council: A very good beginning*, Media Statement, 9 December 2004.

8 For further information on consent determinations, see footnote 2 above.

9 *ibid.*

10 National Native Title Tribunal: Media Release: *Fishing principles to guide Indigenous involvement in marine management*, 22 December 2004; and National Native Title Tribunal, *Indigenous Fishing Bulletin*, 1st edition, January 2005.



Date	Event/summary of issue
<p>7 February 2005 <i>Native title determination</i></p>	<p>Blue Mud Bay #2 proposed native title determination</p> <p><i>Gumana v Northern Territory</i> (with Corrigendum dated 22 February 2005) [2005] FCA 50 – litigated determination.</p> <p>The decision is set out in the form of a proposed determination: that the native title claimants (members of the Yolngu people) have a native title right of exclusive possession over land in the claim area apart from the inter-tidal zone (the area of the foreshore between the low and high water mark and to the area of rivers and estuaries affected by the ebb and flow of the tides). These land and waters are already held by the Arnhem Land Aboriginal Trust under the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i> (Cth).</p> <p>Selway J also finds that this determination is bound by the High Court’s decision in <i>Croker Island</i> to hold that native title rights to exclude those exercising public rights to fish or navigate in the sea or the inter-tidal zone cannot be recognised.¹¹ Rejecting the applicants’ argument that a native title right to exclude people permanently from small areas or to exclude temporarily from areas in the sea according to Yolngu traditional laws and customs is not inconsistent with the public right to fish and navigate.¹² Parties are invited to make submissions on the proposed determination.</p>
<p>17-18 February 2005 <i>The second National Indigenous Council (NIC) meeting</i></p>	<p>Second meeting of the National Indigenous Council considered draft principles for Indigenous land tenure</p> <p>The National Indigenous Council holds its second meeting in Canberra. Feedback was provided to the Ministerial Task Force on the previously identified priority areas of early childhood intervention, primary health and early education, safer communities and land use and economic development.</p> <p>The NIC considered a paper tabled by one of their members, the paper focused on the issue of communally owned Indigenous land being used to further the economic development of Indigenous people (see Annexure 2 for details). The NIC discussed the potential consequences and possible benefits of adjustments to the forms of land tenure held under the various existing Land Rights legislation and Native Title legislation.</p>

11 National Native Title Tribunal, 'Proposed determination of native title', *Gumana v Northern Territory* [2005] FCA 50, *Native Title Hot Spots*, No.14, April 2005, p1.

12 P. Hetheron, Solicitor, Northern Land Council, *Gumana v Northern Territory* [2005] FCA 50, Selway J, 7 February 2005 (Update on Blue Mud Bay Case) in AIATSIS Native Title Research Unit, *Native Title Newsletter*, Mar/Apr 2005, No.2/2005, p6.



Date	Event/summary of issue
<p>17-18 February 2005 <i>Traditional owners in Victoria call for land justice</i></p>	<p>Traditional owners of Victoria endorse statement calling on the Victorian government to consider land justice measures</p> <p>A historic meeting of Traditional Owners of Victoria was convened with the meeting endorsing a statement calling on the State Government to consider a raft of land justice measures. The statement calls on the State Government to commit to a process of negotiation with the Traditional Owners of Victoria; consider traditional owners preferred model for cultural heritage and engage in a process of negotiation for land justice settlement in Victoria.</p> <p>The Statement, supported by delegates from 20 traditional owner groups, was presented in person to the Attorney-General, Rob Hulls, and the Minister for Aboriginal Affairs, Gavin Jennings, at the conclusion of the traditional owners meeting. At the meeting, Mr Hulls agreed to meet further with a delegation of traditional owners to take the discussion forward.</p>
<p>23 February 2005 <i>Minister for Indigenous Affairs addresses National Press Club</i></p>	<p>Minister for Indigenous Affairs addresses Press Club on future of Indigenous affairs and intended changes to Indigenous land interests</p> <p>During the Minister's address, the following comments were made in relation to Indigenous land interests: 'We do need to ask ourselves why, when Indigenous Australia theoretically controls such a large proportion of the Australian land mass, they are themselves so poor. Being land-rich, but dirt-poor, isn't good enough. We have to find ways to change that.'¹³</p>
<p>10 March 2005 <i>The CERD makes concluding observations on Australia's 13th and 14th periodic reports</i></p>	<p>United Nations Committee on Elimination of Racial Discrimination concluding observations on Australia released</p> <p>The United Nations Committee on the Elimination of Racial Discrimination (CERD) issues its Concluding Observations on Australia following consideration of Australia's 13th and 14th periodic reports.</p>

13 Senator Amanda Vanstone, Minister for Indigenous affairs, National Press Club Speech 23 February 2005. Available online at: <www.atsia.gov.au/media/speeches/23_02_2005_pressclub.htm>, accessed 5 December 2005.



Date	Event/summary of issue
<p>10 March 2005 <i>The CERD makes concluding observations on Australia's 13th and 14th periodic reports</i> (continued)</p>	<p>Among other issues (see Appendix 1, <i>Social Justice Report 2005</i>) the Committee re-iterated concerns about the 1998 amendments to the <i>Native Title Act 1993</i>. The Committee also expressed concern in relation to the high standard of connection proof required to establish native title recognition. This standard is reported to have the consequence that many Indigenous people are unable to obtain recognition of their relationship with their traditional lands.¹⁴ See the Introduction and Chapter 4 of this report for further details.</p>
<p>16 March 2005 <i>Local government ILUA in WA</i></p>	<p>Western Australian Wheatbelt ILUA</p> <p>A coalition of 16 local government councils sign an Indigenous Land Use Agreement (ILUA) with the Noongar native title claimants, covering over 40,000 sq km in Western Australia's wheatbelt region. The ILUA provides for benefits for the native title claimants including significant protection of cultural heritage sites, cross-cultural training, employment, training and contracting opportunities and consultation with the State, Councils and other land developers.¹⁵</p>
<p>24 March 2005 <i>Native title determination</i></p>	<p>Wik and Wik Way Native Title Determination No. 2 and 3</p> <p><i>Wik Peoples v State of Queensland</i> [2004] FCA 1306 – Native title exists in the entire determination area – Consent determination.¹⁶</p> <p>These consent determinations are the first native title consent determinations to be made over pastoral leases in Queensland. The determinations were reached through negotiation between the Wik and Wik Way peoples and other groups with interests in this area, including Commonwealth, State and local governments.¹⁷</p>

14 Consideration of Reports Submitted by State Parties Under Article 9 of the Convention: *Concluding observations of the Committee on Australia*. United Nations International Committee on the Elimination of All Forms of Racial Discrimination. Available online at: <www.hreoc.gov.au/CERD/REPORT.HTML>, accessed 20 September 2005.

15 AIATSIS Native Title Research Unit, *Native Title Newsletter*, Mar/Apr 2005, No. 2/2005, p12.

16 For further information on consent determinations, see footnote 2 above.

17 For further information visit the National Native Title Tribunal Website at: <www.nntt.gov.au/media/1097628223_3072.html>.



Date	Event/summary of issue
<p>6 April 2005 <i>Bilateral agreement</i></p>	<p>Bilateral agreement between Commonwealth and Northern Territory governments signed</p> <p>The Prime Minister and the Chief Minister of the Northern Territory sign the <i>Overarching Agreement on Indigenous Affairs Between the Commonwealth of Australia and the Northern Territory of Australia</i>.¹⁸ This is the first bilateral agreement to come out of the June 2004 Council of Australian Governments' (COAG) commitment to improve services to Indigenous Australians.</p> <p>The Agreement sets out five priority areas:</p> <ul style="list-style-type: none"> • improving outcomes for young Indigenous Territorians; • building safer communities; • strengthening governance and developing community capacity; • building Indigenous wealth, employment and entrepreneurial culture; and • improving service delivery and infrastructure.
<p>6-7 April 2005 <i>Private land ownership in Indigenous communities</i></p>	<p>Prime Minister opens discussion on private home ownership on Indigenous land</p> <p>The Prime Minister visits Wadeye, Northern Territory and announces there is a case for reviewing the issue of Aboriginal land title, with a focus on private recognition of land. The Prime Minister states that Aboriginal people should be able to aspire to own their own homes.¹⁹</p> <p>In Wadeye, the Northern Land Council was already discussing with the community ways of introducing leasing arrangements. Following the Prime Minister statement, Wadeye traditional owners issued a statement calling for a "public and private housing scheme" without amending the <i>Aboriginal Land Rights (Northern Territory) Act 1976</i>.²⁰</p>
<p>8 April 2005 <i>Social Justice Report 2004 and Native Title Report 2004 tabled in Parliament</i></p>	<p>The Federal Attorney-General tables the <i>Social Justice Report 2004</i> and the <i>Native Title Report 2004</i> in Parliament</p> <p>The <i>Social Justice Report 2004</i> outlines the key challenges raised by the abolition of the Aboriginal and Torres Strait Islander Commission</p>

18 Prime Minister of Australia. *Better Indigenous Service Delivery, 5 Year Bilateral Agreement with Northern Territory*. Media Release, 6 April 2000.

19 ABC News Online. *Land council casts doubt on home ownership plan*. Available online at: <www.abc.net.au/news/newsitems/200504/s1339873.htm>, accessed 23 August 2005.

20 ANTaR's national website, Issues. *Land rights under threat*. Available online at: <www.antar.org.au/land_rights_nt.html>, accessed 23 August 2005.



Date	Event/summary of issue
<p>8 April 2005 <i>Social Justice Report 2004 and Native Title Report 2004 tabled in Parliament (continued)</i></p>	<p>(ATSIC) and Aboriginal and Torres Strait Islander Services (ATSIS) and the transfer of all Indigenous specific programs to mainstream government departments and the movement to new arrangements for administering Indigenous programs. The Report also examines support programs for Indigenous women exiting prison.</p> <p>The <i>Native Title Report 2004</i> considers options for promoting economic and social development through the native title system. The report examines a set of principles for promoting economic and social development through Native Title. The principles are based on strategies for sustainable development and capacity building and have been developed in consultation with NTRB's and other native title stakeholders.</p>
<p>2 May 2005 <i>Native title determination</i></p>	<p>Ngarluma/Yindjibarndi determination</p> <p><i>Daniel v State of Western Australia</i> [2005] FCA 536 – Native title exists in part of the determination area – Consent determination.²¹</p> <p>Although a single claim was lodged on behalf of the Ngarluma and Yindjibarndi Peoples, the Court found that each group has separate but overlapping native title rights in the claim area. Both groups have non-exclusive native title rights in their respective parts of the claim area, totalling 24,247 sq km, including the right to: access; camp and build shelters; fish, forage and hunt in areas landwards of the low water mark; take ochre; take water for drinking and domestic use; cook and protect sacred sites. More limited rights of rights to access, fish and hunt for fauna apply to the intertidal zone.</p> <p>The Court found that there are no native title rights over the Burrup Peninsula, in minerals or petroleum, or subterranean waters.</p> <p>The Ngarluma and Yindjinbarndi parts of the claim area overlap in one area. Consistent with NTA, the determination provides for two separate but overlapping PBCs for the claim area.²²</p> <p>The Ngarluma Yindjibarndi, Wong-goo-tt-oo and Commonwealth Government have filed appeals in relation to certain aspects of the determination. The State of Western Australia has cross-appealed a number of points.²³</p>

21 For further information on consent determinations, see footnote 2 above.

22 Office of Native Title (Western Australia Government), *E-Newsletter*, Edition 5 June 2005, p2.

23 *ibid.*, p1.



Date	Event/summary of issue
<p>10 May 2005 <i>Handing back of reserved Crown land to Aboriginal community in Cape Barron Tasmania</i></p>	<p>Cape Barren Land Hand Back The <i>Aboriginal Lands Amendment Bill 2004</i> (Tas) provides for the cessation of the reserved status of certain Crown land in Tasmania, in order to return title to the Tasmanian Aboriginal community. These areas include the Clarke Island Nature Reserve, an area of land on Goose Island, and areas of land on Cape Barren Island. These are all located in the Bass Strait. The amending legislation approving the transfer was passed by the Tasmanian State Parliament in March 2005 by a majority of one vote.²⁴</p> <p>The hand back of title to the Tasmanian Aboriginal Community of Cape Barren and Clarke Islands was made by the Tasmanian Premier on 10 May 2005. It includes 45,000 hectares of Cape Barren and 11,000 hectares of Clarke Island. The Aboriginal community has sought communal ownership of Cape Barren Island since 1866. Aboriginal survivors of the colonial era congregated on the Island which by 1920 had a population of approximately 300 people. Subsequent Government policy, which included the forcible removal of children, however, ultimately forced people to the Tasmanian mainland.²⁵</p>
<p>17 May 2005 <i>Agreement reached over National Parks in the Northern Territory following on from Miriuwung Gajerrong native title case</i></p>	<p>Agreements over Northern Territory national parks Following the High Court's decision in <i>Miriuwung Gajerrong</i> which put in doubt the valid declaration of a number of national parks in the Northern Territory, native title and land rights issues were settled over 27 national parks and reserves in the Territory through 31 Indigenous Land Use Agreements (ILUAs). The ILUAs address cooperative planning and co-management between the Territory Government and local Indigenous people, and were made by Northern Territory Chief Minister and representatives of the Northern Land Council (NLC) and Central Land Council (CLC).²⁶</p>

24 Agreements, Treaties and Negotiated Settlements website: Agreements Database: *Aboriginal Lands Amendment Act 2004 (Tas)*. Available online at: <www.atns.net.au/biogs/A002271b.htm>, accessed 8 September 2005.

25 Agreements, Treaties and Negotiated Settlements website: Agreements Database: *Cape Barren Land Transfer (2005-)*. Available online at: <www.atns.net.au/biogs/A002272b.htm>, accessed 8 September 2005.

26 National Native Title Tribunal: Media Release: *Agreements over NT national parks an Australian first*, 17 May 2005.



Date	Event/summary of issue
<p>24 May 2005 <i>Native title determinations</i></p>	<p>Torres Strait Native Title Determinations</p> <p>Badu Islanders #1: <i>Nona on behalf of the Badulgal v State of Queensland</i> [2004] FCA 1578 – Native title exists in the entire determination area – Consent determination.²⁷</p> <p>Erubam Le (Darnley Islanders) #1: <i>Mye on behalf of the Erubam Le v State of Queensland</i> [2004] FCA 1573 – Native title exists in the entire determination area – Consent determination.²⁸</p> <p>Ugar (Stephens Islanders) #1: <i>Stephen on behalf of the Ugar People v State of Queensland</i> [2004] FCA 157 – Native title exists in the entire determination area – Consent determination.²⁹</p> <p>People of Boigu Island #2: <i>Gibuma on behalf of the Boigu People v State of Queensland</i> [2004] FCA 1575 – Native title exists in the entire determination area – Consent determination.³⁰</p> <p>Yam Islanders/Tudulaig: <i>David on behalf of the lama People and Tudulaig v State of Queensland</i> [2004] FCA 1576 – Native title exists in the entire determination area – Consent determination.³¹</p> <p>The other two native title consent determinations over the Torres Strait Islands made by the Federal Court sitting at Thursday Island from 7-14 December 2004 took effect immediately (see above).</p>
<p>25 & 26 May 2005 <i>Second Indigenous Economic Development Forum held in Darwin</i></p>	<p>The second Indigenous Economic Development Forum is held in Darwin³²</p> <p>The Chief Minister of the Northern Territory launches the Northern Territory Government's new Indigenous Economic Development Strategy at the forum.</p> <p>The Strategy covers 13 industry sectors and identifies specific opportunities for development in construction, tourism, community services, mining and production, retail and services, pastoral, horticultural, natural resources management, government, forestry and agri-business, arts, knowledge and culture, and aquaculture and fisheries.</p>

27 For further information on consent determinations, see footnote 2 above.

28 *ibid.*

29 *ibid.*

30 *ibid.*

31 *ibid.*

32 Clare Martin Chief Minister, Minister for Indigenous Affairs, *Strategy for More Jobs For Indigenous Territorians*, Media Release, 25 May 2005.



Date	Event/summary of issue
<p>30-31 May 2005 <i>National Reconciliation Planning Workshop</i></p>	<p>The National Reconciliation Planning Workshop organised by Reconciliation Australia is held in Canberra</p> <p>The Workshop goals had three main aims:</p> <ul style="list-style-type: none"> • to clarify any major areas that need to be addressed, so as to advance reconciliation; • to foster the building of relationships, understanding, commitment and the capacity to work together between the various participants of the workshop and members of the broader community; and • to establish a path forward for the reconciliation process. <p>Two hundred invited people attend the workshop, 45% of whom are Indigenous. Representation was spread across all levels of government, non-government organisations, education, business, the media and faith groups.</p>
<p>30 May 2005 <i>Prime Minister addresses Reconciliation Workshop and discusses the prospect of changes to Indigenous land interests to support home ownership</i></p>	<p>Prime Minister addresses Reconciliation Workshop and discusses the need to make changes to land rights and native title</p> <p>The Prime Minister lent his support to the view that land rights and native title need to be changed at the National Reconciliation Planning Workshop. The Prime Minister informed participants that the role that Indigenous land could play in supporting home and business ownership for Indigenous families and individuals was under consideration by the Attorney-General and the Minister for Immigration and Multicultural and Indigenous Affairs:³³</p> <p>And as somebody who believes devoutly and passionately in individual aspiration as a driving force for progress and a driving force for progress in all sections in the Australian community, I want to see greater progress in relation to land. We support very strongly the notion of indigenous Australians desiring to turn their land into wealth for the benefit of their families. We recognise the cultural importance of communal ownership of land, and we are committed to protecting the rights of communal ownership and to ensure that indigenous land is preserved for future generations.</p>

33 Transcript of the Prime Minister the Hon John Howard MP: Address at the National Reconciliation Planning Workshop 30 May 2005, Old Parliament House, Canberra. Available online at: <www.pm.gov.au/news/speeches/speech1406.html>, accessed 19 August 2005.



Date	Event/summary of issue
<p>31 May 2005 <i>Minister for Indigenous Affairs addresses Reconciliation Workshop and discusses changes to land rights and native title</i></p>	<p>Minister for Indigenous Affairs addresses Reconciliation Workshop discussing changes to land rights and native title</p> <p>The Prime Minister's view that land rights and native title changes was needed was echoed by the Minister for Indigenous Affairs at the National Reconciliation Planning Workshop:³⁴</p> <p>Most Australians achieve economic independence through having a regular job and hopefully owning their own home. In urban and regional centres, it is a matter of assisting Indigenous Australians to capture opportunities in the local economy. Many have already done so. But we can do more. It is more problematic in remote areas. There are opportunities for business development in these places, but not as many and not as obvious. We need to remove impediments to business development and ensure that Aboriginal-owned land can generate economic returns should the community chose to do so. I assure you that the nature of Indigenous land tenure is not up for grabs – inalienability and native title will remain the core.</p>
<p>1 June 2005 <i>Minerals Council of Australia forms partnership with Indigenous people through MOU</i></p>	<p>Minerals Council of Australia – Memorandum of Understanding</p> <p>A Memorandum of Agreement (MOU) between the Mineral Council of Australia (MCA) and the Commonwealth Government is launched. The purpose of the MOU is to formalise a partnership between the Commonwealth and the MCA to work together with Indigenous people to build sustainable, prosperous communities in which individuals can create and take up social, employment and business opportunities in mining regions. The partnership will operate for five years. Actions under the MOU will focus on Indigenous communities in mining regions where MCA member companies operate. They will be applied on a local and regional basis, within agreed regional frameworks. Each party to this agreement will contribute within the scope of its responsibilities and operations.³⁵</p>

34 Senator, the Hon Amanda Vanstone, Minister for Immigration, Multicultural and Indigenous Affairs, Speech to Reconciliation Australia Planning Workshop, 31 May 2005.

35 *Memorandum of Understanding between the Commonwealth of Australia and The Mineral Council of Australia*. June 2005.



Date	Event/summary of issue
<p>3 June 2005 <i>NIC release draft 'Indigenous land tenure principles'</i></p>	<p>NIC release draft 'Indigenous Land Tenure Principles'</p> <p>The first communiqué is released by the National Indigenous Council, presenting a draft set of 'Indigenous land tenure principles' for discussion at the annual Native Title Conference on 3 June 2005.³⁶ These are reproduced at Annexure 2.</p>
<p>1-3 June 2005 <i>National Native Title Conference</i></p>	<p>Annual Native Title Conference</p> <p>The annual, National Native Title Conference was held over three days in Coffs Harbour. The Conference addressed a broad range of issues including Federal Court requirements; recent determinations; economic development and native title; and native title in the context of the New Arrangements for Indigenous Affairs.</p> <p>The National Indigenous Council (NIC) also met with Chief Executive Officers from both Land Councils and Native Title Representative Bodies (NTRBs) to discuss possible Indigenous land tenure principles that the Council has developed.³⁷ The majority of NTRBs and Land Councils reject the NIC's draft principles.³⁸</p>
<p>8 June 2005 <i>Native title determination</i></p>	<p>De Rose Hill native title determination</p> <p><i>De Rose v State of South Australia (No 2)</i> [2005] FCAFC 110 – Native title exists in parts of the determination area – Litigated determination.</p> <p>This is the first finding of native title in the state of South Australia.³⁹ The full Court of the Federal Court (Wilcox, Sackville and Merkel J) find that non-exclusive native title exists over the De Rose Hill pastoral station in the far north of South Australia, except in the area of improvements built in accordance with the pastoral leases (eg houses, sheds, airstrips and constructed dams). The respondent parties were the State of South Australia and the Fullers (and their private company) as holders of the pastoral lease.</p>

36 NIC communiqué 3 June 2005. Available online at: <www.oipc.gov.au/NIC/communique/default.asp>, accessed 19 August 2005.

37 National Indigenous Council, *Indigenous Land Tenure Principles*, Media Release, 3 July 2005

38 National Indigenous Times, *Confusion reigns*, Thursday, 4 August 2005.

39 National Native Title Tribunal, *De Rose marks native title first for SA*, Media Release, 8 June 2005.



Date	Event/summary of issue
<p>8 June 2005 <i>Native title determination</i> <i>(continued)</i></p>	<p>The full Court holds that the NTA (ss.223(1))⁴⁰ does not require that every member of the native title claimant community must acknowledge and observe the relevant traditional laws and customs, nor that the claimants must necessarily establish they have <i>continuously</i> discharged their responsibilities under traditional law and custom. For example, the failure by persons holding certain religious beliefs in the wider Australian community to live up to those beliefs did not necessarily mean that those beliefs had been abandoned. The Court also notes that the requirement to demonstrate 'connection' in ss.223(1)(a) does not require the claimants to prove a continuing <i>physical</i> connection.⁴¹</p>
<p>10 June 2005 <i>Native title determination</i></p>	<p>Bardi Jawi proposed native title determination <i>Sampi v State of Western Australia</i> [2005] FCA 777 – Native title exists in part of the determination area – Litigated determination.</p> <p>The court held that native title is communal and is held by the Bardi society into which the Jawi people had been integrated. The Court recognised exclusive possession native title over approximately 1037 square kilometres of land at the northern end of the Dampier Peninsula, and non-exclusive possession native title over the inter-tidal zone. The court also found that native title rights and interests were not extinguished by the grant of expired pearl oyster farm leases.⁴²</p>
<p>15 June 2005 <i>Native title determination</i></p>	<p>Nowra Local Aboriginal Land Council <i>Nowra Aboriginal Land Council v New South Wales Native Title Services Ltd</i> (Unreported, FCA, 15 June 2005, Wilcox J) – Native title does not exist – Unopposed determination.</p>

40 *Native Title Act 1993* (Cth), ss.223(1) The expression native title or native title rights and interests means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:

- (a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders;
- (b) the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and
- (c) the rights and interests are recognised by the common law of Australia.

41 M. Dore, *De Rose v State of South Australia (no 2)* [2005] FCAFC 110 (case note) in Australian Institute of Aboriginal and Torres Strait Islander Studies, *Native Title Newsletter*, Jul/Aug 2005, pp3-5.

42 For further information see *Native Title Hot Spots*, National Native Title Tribunal, No 15, July 2005, p16.



Date	Event/summary of issue
<p>15-16 June 2005 <i>Third NIC meeting and second joint meeting with the Ministerial Taskforce on Indigenous Affairs</i></p>	<p>'Indigenous Land Tenure Principles' presented by NIC to Ministerial Taskforce on Indigenous affairs</p> <p>The third National Indigenous Council (NIC) meeting and second joint meeting with the Ministerial Taskforce (MTF) on Indigenous Affairs is held. The primary areas of discussion at this meeting are land tenure and economic development.⁴³</p>
<p>23 June 2005 <i>De-recognition of NTRB QSRB</i></p>	<p>De-recognition of Queensland South Representative Body</p> <p>The Minister for Immigration and Multicultural and Indigenous Affairs announces the withdrawal of Native Title Representative Body (NTRB) recognition from Queensland South Representative Body (QSRB). This means that QSRB is no longer able to exercise powers and functions under the NTA, nor receive any funding for such purposes.</p> <p>The Minister announces that recognition was based on a 'fundamental failure of corporate governance...for example, that it had drawn \$1.7m in cash cheques over four financial years and had made unauthorised withdrawals of monies from client Trust Accounts.' The Minister's decision comes after the appointment of a Funding Controller to QSRB in February 2004, due to concerns about its financial management. In November 2004, following detailed examination of the organisation's conduct, the Minister asked QSRB to show cause why it should not lose recognition. The Minister said QSRB's response did not convince her that recognition should not be withdrawn.⁴⁴</p>
<p>28 June 2005 <i>Establishment of new body to perform NTRB functions in Queensland South region</i></p>	<p>Establishment of Queensland South Native Title Service</p> <p>The Minister for Immigration and Multicultural and Indigenous Affairs announces that the Australian Government is funding a new body for six months, Queensland South Native Title Services Ltd (QSNTS), to provide native title</p>

43 Third meeting of the National Indigenous Council 15-16 June 2005 – communiqué. Available online at: <www.oipc.gov.au/NIC/communique/PDFs/ThirdMeetingNIC.pdf>, accessed 16 August 2005.

44 Minister for Immigration and Multicultural and Indigenous Affairs, 'Queensland South Representative Body'; Media Release, 23 June 2005.



Date	Event/summary of issue
<p>28 June 2005 <i>Establishment of new body to perform NTRB functions in Queensland South region</i></p>	<p>services to claimants in the South Queensland region. The decision follows the Minister's decision on 23 June 2005 to withdraw recognition of QSRB as the NTRB for the Queensland South Area (see above).</p> <p>QSNTS is a body incorporated under the <i>Corporations Act 2001</i> (Cth). The Minister announces that funding to QSNTS is subject to the conditions imposed on funding to NTRBs.⁴⁵</p>
<p>29 June 2005 <i>Native title determination</i></p>	<p>Ngaanyatjarra Lands determination <i>Stanley Mervyn, Adrian Young, and Livingston West and Ors on behalf of the Peoples of the Ngaanyatjarra Lands v The State of Western Australia and Ors</i> [2005] FCA 831 – Native title exists in parts of the determination area – Consent determination.⁴⁶</p> <p>This is determination of native title cover the largest area of land to date. In an area originally comprising six claims which was amalgamated into a single claim. Agreement was reached in principle by all the parties within 12 months of negotiations.</p> <p>The Peoples of the Ngaanyatjarra Lands hold exclusive native title rights over most of the claimed area – approximately 187,000 sq km in Western Australia, stretching from the Gibson Desert Nature Reserve to the South Australian border.⁴⁷ The Peoples of the Ngaanyatjarra Lands also hold non-exclusive rights over an unvested reserve in the claim area including rights to: enter and remain on reserved land; take flora and fauna; take water for personal, domestic or non-commercial communal purposes; take other natural resources such as ochre, stones, soils, wood and resin; and care for and protect sites of significance.</p> <p>The Yarnangu Ngaanyatjarraku Parna (Aboriginal Corporation) is to hold the native title rights on trust for the native title holders.⁴⁸</p>

45 Minister for Immigration and Multicultural and Indigenous Affairs, 'Queensland South Native Title Services Ltd', Media Release, 29 June 2005.

46 For further information on consent determinations, see footnote 2 above.

47 Aboriginal and Torres Strait Islander Social Justice Commissioner, 'Largest ever determination of native title', Media Release, 30 June 2005. Available online at: <www.humanrights.gov.au/media_releases/2005/23_05.html>.

48 National Native Title Tribunal, 'Determination of native title – Ngaanyatjarra Lands' *Native Title Hot Spots*, No. 15, July 2005, p1-2.



Native Title Statistics (as at 30 June 2005)⁴⁹

Determinations of Native Title

Total number of registered native title determinations in Australia:	66
Determinations that native title exists in the entire determination area or in parts of the area:	47 (71.2%)
Determination that native title does not exist in the determination area:	19 (28.8%)
Consent determinations:	39 (59.1%)
Litigated determinations:	15 (22.7%)
Unopposed determinations:	12 (18.2%)
Determinations registered in 2004/05 financial year:	16 (up from 6 in 2003/04)

Claimant Applications

Active claimant applications by State/Territory

Australian Capital Territory:	1 (0.2%)
New South Wales:	37 (6.3%)
Northern Territory:	192 (32.9%)
Queensland:	184 (31.5%)
South Australia:	25 (4.3%)
Victoria:	19 (3.2%)
Western Australia:	126 (21.6%)
<i>Total active claimant applications:</i>	584 (100%)
Registered claimant applications:	488 (83.6%)
Unregistered claimant applications:	96 (16.4%)
Active claimant applications where notification complete:	532 (91.1%)
Claimant applications in mediation:	346 (59.2%)
Claimant applications lodged in 2004/05 financial year:	32 (down from 35 in 2003/04)

Non-Claimant Applications

Active non-claimant applications by State/Territory

New South Wales:	25 (89.3%)
Queensland:	1 (3.6%)
Western Australia:	2 (7.1%)
<i>Total active non-claimant applications:</i>	28 (100%)
Non-claimant applications lodged in 2004/05 financial year:	18 (up from 9 in 2003/04)

⁴⁹ Courtesy of the National Native Title Tribunal.



Compensation Applications

Active compensation applications by State/Territory

New South Wales:	4 (25%)
Northern Territory:	5 (31.2%)
Queensland:	3 (18.8%)
Victoria:	1 (6.2%)
Western Australia:	3 (18.8%)
<i>Total active compensation applications:</i>	16 (100%)
Compensation applications lodged in 2004/05 financial year:	0

Indigenous Land Use Agreements (ILUAs)

Registered ILUAs by State/Territory

New South Wales:	4 (2.2%)
Northern Territory:	44 (24.2%)
Queensland:	112 (61.6%)
South Australia:	5 (2.7%)
Victoria:	14 (7.7%)
Western Australia:	3 (1.6%)
<i>Total ILUAs registered:</i>	182 (100%)

ILUAs registered by type

Area agreements:	163 (89.6%)
Body corporate agreements:	19 (10.4%)
ILUAs registered in 2004/05:	52 (up from 46 in 03/04)

Future Act Applications

Number of active future act determination applications by State/Territory

Queensland:	2 (25%)
Western Australia:	6 (75%)
<i>Total:</i>	8 (100%)

Number of active future act mediation requests by State/Territory

New South Wales:	1 (1.9%)
Northern Territory:	1 (1.9%)
Queensland:	16 (30.2%)
Victoria:	2 (3.8%)
Western Australia:	33 (62.2%)
<i>Total:</i>	53 (100%)

Number of active objections to the expedited procedure by State/Territory

Northern Territory:	4 (0.5%)
Queensland:	94 (10.5%)
Western Australia:	794 (89%)
<i>Total:</i>	892 (100%)
