

### **Native Title Conference 2004 Adelaide**

[Please note that at the time of going to print the Conference had already taken place]

The Australian Institute of Aboriginal and Torres Strait Islander Studies and the Aboriginal Legal Rights Movement are working to convene *The Native Title Conference 2004: Building Relationships* to be held in Adelaide, from **Wednesday 2 June to Friday 4 June 2004**.

This national conference is now in its fifth year having been previously held in Melbourne, Townsville, Geraldton, and Alice Springs. Participation has been capped at five hundred delegates and will include staff and council of the native title representative bodies, native title claimants and holders, their legal counsel, native title practitioners such as anthropologists, government institutions and departments, politicians, judges, academics and South Australian Indigenous community members.

The theme for Conference 2004 is *Building Relationships: It's the people that matter, It's the people that make it work*. It is an opportunity for networking and information sharing between the staff of representative bodies, academics, legal counsel and government. The conference is also a community capacity development opportunity for native title representative body staff, executive and practitioners and all who wish to remain informed of current practice, governance, law and policy development.

### **IFaMP Update**

#### IFaMP Web Site

Research has been progressing on the web site for the Indigenous Facilitation and Mediation Project (IFaMP). It will be launched at the Native Title Conference, July 2004. The web site will be available at: [www.aiatsis.gov.au/ifamp](http://www.aiatsis.gov.au/ifamp) and will provide comprehensive research materials on Indigenous Facilitation and Mediation.

### Survey of Native Title Mediation Practitioners

IFaMP has conducted a survey of mediation practitioners who work in native title. Over 40 practitioners were surveyed. Rich and comprehensive data was obtained and is still being analysed. A report will be presented by Rhiân Williams at the Native Title Conference, Adelaide and a final written report is in preparation.

### IFaMP Workshops

At the ATSIIS Leaders Forum of CEOs and Chairs of Native Title Representative Bodies (NTRBs) in March 2004 it was decided that workshops, to be funded by the National Native Title Tribunal (NNTT), on conflict management and decision-making should take place with the following NTRBs: Bundaberg (Gurang Land Council Aboriginal Corporation/Central Queensland Land Council Aboriginal Corporation); Cairns (North Queensland Land Council/Torres Strait Regional Authority); Kalgoorlie (Goldfields); Perth (Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation).

The workshops are aimed at assisting NTRBs to reflect upon decision-making and conflict management processes and identifying training needs.

A general summary of the issues raised will be presented to the CEOs at a one-day workshop in Adelaide on 1 June immediately prior to the 2004 Native Title Conference. These workshops will be reported on in the next NTRU Newsletter.

### **Issues Papers**

*Land, Rights, Laws: Issues of Native Title* is a series of occasional papers published by the Native Title Research Unit on issues relating to native title.

Publication in *Land, Rights, Laws: Issues of Native Title* is an excellent opportunity to showcase smaller, issue-directed papers relating to native

title. Mail-out circulation of the series is high and the papers are also available online through the AIATSIS website ([http://www.aiatsis.gov.au/rsrch/ntru/ntru\\_suespprs.htm](http://www.aiatsis.gov.au/rsrch/ntru/ntru_suespprs.htm)).

Previous issues papers include John Borrows' paper 'Practical Reconciliation, Practical Re-Colonisation?' which was also the Mabo lecture delivered at the Native Title Conference 2004.

## FEATURES

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### **Human Rights and Equal Opportunity Commission Native Title Report 2003**

Summary by Serica Mackay

The Native Title Report ('the Report') and the Social Justice Report 2003, prepared by the Human Rights and Equal Opportunity Commission, were tabled in Parliament on 10 March 2004.

Whereas the 2002 Native Title Report dealt with the repercussions of four significant native title decisions, *Yarmirr*, *Wilson v Anderson*, *Miriuwung Gajerrong* and *Yorta Yorta*, and their implications for native title law, this year's Report evaluates native title as a framework for economic and social development.

The Report is separated into four chapters advocating this approach – native title and international standards on development and sustainability, native title policies and practices of governments throughout Australia, evaluating native title policies as a framework for economic and social development, and a comparative study of legal and policy frameworks in Canada and the United States of America.

Generally speaking, the Report notes that 'the failure in Australia to perceive native title and land rights as the basis on which to address Indigenous economic and social development has been evident at legal, policy and administrative levels' (p.167)

Issues papers are peer reviewed and are between 8 and 12 pages in length. If you would like to submit a paper to the issues paper series, please contact Serica Mackay on [serica.mackay@aiatsis.gov.au](mailto:serica.mackay@aiatsis.gov.au) or 02 6246 1171. In particular, people who presented a paper at the Native Title Conference 2004 but have not yet forwarded a copy of their paper to the NTRU should do so.

Chapter 1 uses the international law principles of sustainable development and the Right to Development to provide a human rights 'framework' for the economic and social development of Indigenous people. The Report points out that native title has so far had a disproportionate impact on Indigenous people through the sacrificing of land and community structures to make way for growth and development. It suggests that 'where the State is sincere about transforming the economic and social conditions in which Indigenous peoples live in Australia, native title can provide an opportunity to lay the foundations for development within the framework of traditional laws and customs and consistently with international human rights principles.' (p.10)

Chapter 2 looks at the State, Territory and Commonwealth governments' native title policies and practices in reference to two questions - whether these policies contribute to the economic and social development of the group in accordance with international human rights principles, and whether these policies were formulated with the effective participation of Indigenous people.

Chapter 3 evaluates State and Commonwealth native title policies by reference to whether they direct the native title negotiation process towards the sustainable economic and social development of the claimant group. The Report identifies seven specific issues - the willingness of the government to negotiate rather than litigate; the relationship between native title policy and Indigenous policy; the frame-