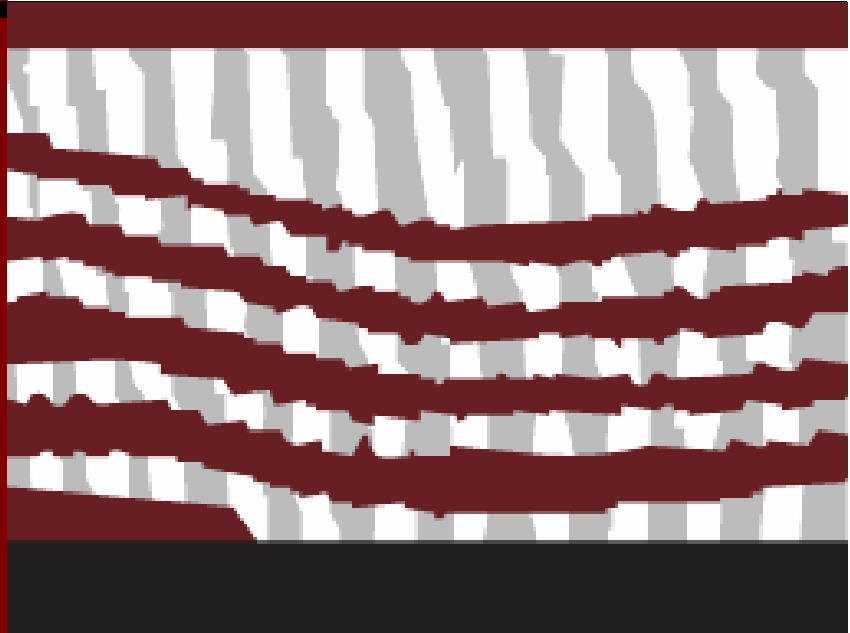


AIATSIS
Native Title Research Unit
Activity Plan 2007-08



**Native Title Research
and Policy Advice
2006-09**



2007-08 Activity Plan

The AIATSIS 2007-08 Native Title Research Unit (NTRU) Activity Plan looks at key activities and deliverable for the second year of a three year contract with the Department of Families and Community Services and Indigenous Affairs (FaCSIA) for the provision of research and professional development resources for the native title sector.

The NTRU is in its 14th year, as a collaboration between AIATSIS and the Commonwealth native title program, now managed through the Land Branch in FaCSIA. The Native Title Research Unit (NTRU) is located in the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) in Canberra and provides high quality independent research and policy advice in order to promote the recognition and protection of the native title of Aboriginal and Torres Strait Islander Peoples.

The NTRU is in a unique position to assist the Australian Government, the native title representative body system, native title claimants and holders in developing, analysing and evaluating policy and practice in an Indigenous context and coordinating information and resources throughout the native title system.

The NTRU works directly with native title representative bodies (NTRBs), native title service delivery agencies (NTSDAs), native title claimants and native title holders. The NTRU also continues to expand its research partnerships, with new project partners and sponsors from the academic, industry and government sectors.

Activity Group: Information, Resources and Professional Development

Coordination of effort, sharing of resources, building and retaining corporate knowledge within the NTRB system are high priorities for achieving more efficient use of limited resources. The NTRU necessarily plays a direct role in meeting these policy ends through the monitoring, collection and dissemination of information and development of resources. The NTRU is also pivotal in improving the quality, quantity and accessibility of information by developing resources that bring together existing information into accessible forms. The NTRU convenes workshops and the annual Native Title Conference, which bring together key stakeholders, prioritising native title claimants and their representatives, to share information and improve native title research, policy and practice.

Activities under this group are ongoing for the duration of the three year agreement.

Activity 1: Information Services

The mode of delivery of information services has been revised for 2007-08 in line with the needs of NTRU's identified stakeholders to promote accessibility, ensure timeliness and enhance relevance. The NTRU website has been added to this listing of information services as twice yearly reviews of the website content are undertaken to update links and content.

[Native Title in the News](#)

- The news service provides **monthly** summaries of native title news items and is delivered to NTRBs, OIPC, practitioners and claimant communities electronically.

[What's New](#)

- New information about recent cases, determinations, indigenous land use agreements, publications, events, legislation, reviews and reforms will be linked directly onto a modified What's New web page (removing the need for web users to access a pdf document).

[Native Title Newsletter](#)

- Combining native title news items and developments with claimant comments and features, the Newsletter is published **6 times each year** and distributed both electronically and in hard copy to a wide audience.

[Native Title Resource Guide \(NTRG\)](#)

- This web-based information resource portal provides jurisdictional analysis of native title policy, law and outcomes. The NTRG involves information sharing agreements with key stakeholders (NNTT, FCA, ILC, ORATSIC & Austlii).
- The resource guide statistics will be updated once a year (to 31 December) but information and links relating to determinations, registered ILUAs and native title law and policy will be updated more regularly.

[NTRU website](#)

- The NTRU website will be regularly updated and content reviewed to ensure that resources are visible and accessible. This also involves a twice yearly review of broken hyperlinks.

Activity 2: Native Title Resources

[ILUA summary](#)

- Regularly updated summary of ILUAs showing jurisdiction, date, type and subject matter providing links to information on the NNTT and ATNS websites.

[Determinations summary](#)

- Regularly updated summary of determinations showing jurisdiction, date, case names, legal process and outcome providing links to the NNTT, Austlii & ATNS websites.

[RNTBC summary](#)

- Regularly updated summary of RNTBsC showing type, jurisdiction, case names, legal process and native title determination date providing links to information on the ORATSIC, ATNS, NNTT and Austlii websites.

[Rights and interest](#)

- The rights and interests database provides a national overview of the rights and interests identified by the Court

database

in successful determinations of native title, this resource will be annually updated by the NTRU.

Annotated case list

- This resource on native title cases since the *Mabo* decision will be made available online and updated annually.

Research resources pages

- The Research resource pages provide background to an issue or brief summary of cases, a selected bibliography, links to resources and materials available online, related cases, legislation and additional resources. These pages are reviewed annually to repair broken hyperlinks.

Activity 3: Publications

This activity area has been revised to provide an overview of the wide range of publications produced through NTRU research activities. Publications arising from these activities may include the following:

Issues papers

- Multidisciplinary papers by researchers and practitioners on topical issues of importance to native title policy and practice. Issues papers are generally between 3,500-5,000 words in length, peer reviewed and published by the NTRU as part of the *Land, Rights Laws, Issues of Native Title* Issues Paper Series.

Case summaries

- Timely analysis of determinations and procedural cases of precedential value. These may be prepared in response to a direct request from FaCSIA or NTRB staff and depending on length and complexity may be published in the *Native Title Newsletter* or as an Issues Paper.

Practice papers

- Aim to provide practical advice on emerging or problem areas of native title law specific to native title practitioners. The format of publication is dependent upon audience, content, complexity and length of advice.

Discussion papers

- Multidisciplinary papers by researchers and practitioners on topical issues of importance to native title policy and practice. Discussion papers are generally between 6,000-12,000 words in length, peer reviewed and published by the NTRU as part of the AIATSIS Research Discussion Paper Series.

Research reports

- The NTRU publishes a research report series including: workshop and research reports. These reports are often subject to peer review or review by participants involved in workshops and are generally between 6,000-12,000 words in length.

Conference & seminar papers

- Presentations delivered at conferences, seminars workshops or other forums will be published on the NTRU website where possible and may also be published in other formats.

External publications

- NTRU research fellows may be invited to contribute, or may submit papers to be published as books, book chapters, journal articles or edited volumes.

Other publications

- Publications not otherwise outlined in this list may be required to communicate research outcomes such as CD-roms, community reports, oral histories, etc; or policy related products such as guidelines, briefing papers or policy advice

Activity 4: Access to AIATSIS collections

[Access services](#)

- The Native Title Research and Access Officer facilitates access to the AIATSIS collections for native title purposes.

[Collections development](#)

- Acquisition of materials, promotion of the deposit of materials into the AIATSIS collections and enhancement of records.

[Future of connection material project](#)

- The NTRU will work with NTRB research and information managers to establish standards and develop skills for the authorship/ownership, proper documentation and secure storage of connection material and other original documents generated by the native title process
 - Practice advice to claimants and NTRB/NTSs on the collection and conservation of materials.
 - Recommendations arising from a project on creating a template for access procedures.
 - Investigating training possibilities for NTRBs for digitising their material in-house.
- An interim report from this project will be prepared and distributed.

Publications audit and listing

- An NTRU A-Z publications listing will be created (in collaboration with the AIATSIS library). This will include, not only published material such as books, issues papers and discussion papers, but also project reports, workshop reports and submissions to inquiries.

Activity 5: Technical workshops

Technical workshops and forums provide opportunities for claimants and NTRB/NTSDA staff to discuss emergent policy and practice issues. In some instances such forums may be closed to NTRB/NTSDA participants only where matters are sensitive or strategic. In other circumstances, coordination of communication across the system is desirable. Forums may be coordinated with OIPC sponsored forums. Additional sponsorship or support may be required for certain workshops where participants are unsupported (e.g. PBCs/claimant groups).

AIATSIS has agreed to convene/coordinate up to **three (3) forums** each year. Planned forums for 2007-08 include:

Connection reports and requirements

Getting Better Outcomes: A workshop on native title connection, 24-26 July 2007, Adelaide.

Getting Outcomes Sooner is a joint action by the National Native Title Tribunal (NNTT) and the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS) to improve the practices we apply to settling native title connection. It will focus on solutions and explore the options for reaching agreement on native title connection faster and more efficiently, without compromising common law standards.

Agreement Benchmarking

Mining, Petroleum & Gas Symposium, 9-10 July 2007, Broome.

AIATSIS is a partner in the 'The Implementation of Agreements and Treaties with Indigenous Peoples from Postcolonial States', funded by FaCSIA, Rio Tinto and the Australian Research Council. The workshop aims to examine legal, governance, economic development, land access, heritage protection and environmental management issues in agreement implementation, negotiation and consultation contexts.

Tax & Trusts

Aurora NTRB Legal Master Class – legal issues, 29-31 July 2007, Sydney

Dr Strelein is a co facilitator for the Aurora Masterclass and will be the discussion leader for a half day session on taxation as well as contribute to sessions on trusts, commercial arrangements, resources law and recent native title developments.

A second Tax forum will be held in partnership with the University of Melbourne in early 2008.

Other forums

FaCSIA Forums

AIATSIS will liaise with FaCSIA and Aurora to coordinate forums and provide special workshops or sessions at FaCSIA sponsored Senior Professional Officer Forums, Field Officers Forums or other forums where possible

Activity 6: [Native Title Conference](#)

The Conference is the primary professional development and capacity building opportunity for staff working in the native title system and there is evidence to support a direct correlation between attendance at the conference and staff retention in NTRBs. This activity requires three main outputs:

- National Native title Conference – public program
- NTRB pre-conference program
- Distribution of papers

Student internships and NTRB fellows/visitors

AIATSIS will provide occasional short term visiting fellowships, including for NTRB staff, as opportunities for practitioners to critically analyse an issue and reflect on their experience. This program will be pursued during 07-08 as opportunities/funding arises. The NTRU also hosts students involved in the Aurora project and other student internship programs.

Activity Group: Best practice and system analysis – priority projects

AIATSIS is the recognised leader in the conduct of research and analysis of direct relevance to practice and policy in the native title sphere. The activities under this group require:

- Identification of trends and priorities for research and analysis emerging from the recognition and protection of native title.
- Independent assessment of the impact of practice, policy and legal developments.
- Recommendations for policy development and improved practice.
- Collection of data and case study research designed to inform policy development.
- Solicited research and analysis from native title practitioners and experts.
- Publication and dissemination of a range of publications to improve knowledge and understanding of native title.

The Best Practice and System Analysis activity group is ongoing for the duration of the agreement, but the details of the priority projects will be determined in accordance with the topical issues most in need of systemic analysis.

Four priority projects were identified to begin in 2006-07:

- Prescribed Bodies Corporate
- Taxation, Trusts and the Distribution of Benefits
- The role of applicants, authorisation and Indigenous decision-making
- Connection requirements

In 2007-08 these projects will be continued.

The 2006-09 business plan identified projects that, while meriting examination could not be prioritised in the first year. The following projects have been earmarked for discrete investigation in 2007-08, or incorporation into existing projects:

- Native title and joint management national parks
New activity - native title and land and water management
- Claims management practices - Land summits and resolution of overlaps
Incorporated into Activity 9 - authorisation and decision making

Activity 7: Prescribed Bodies Corporate

This research project will be continued during 07-08 building on the research base established in 06-07 through workshops and meetings with NTRBs, native title holders (RNTBC representatives) and Australian, State and Territory Government representatives. This second phase of the project will focus on:

- . Initiating case studies/action research partnerships, with up to 5 PBCs, to examine key aspirations, potential partnerships and other strategic issues relating to the sustainability of the PBCs. This activity is also supported by the Minerals Council of Australia. The case studies may incorporate issues relevant to other research projects, for example Activities 9 & 11;
- . Ongoing engagement with Australian, State & Territory government agencies, including the convening of a quarterly meeting of Commonwealth agencies; and
- . Further development of resources including resources relating to the implementation of the CATSI Act, in partnership with the Office of the Registrar of Aboriginal and Torres Strait Islander Corporations.

Activity 8: Taxation, Trusts and the Distribution of Benefits

The research project will be continued during 07-08 building on the research base established in 06-07. The second phase of this project will focus on promoting awareness of tax and corporate issues, improving practice within NTRBs in this area and where possible develop solutions to tax, trusts and distribution questions. In partnership with the Aurora project, specific tax issues will be canvassed with a panel of pro bono experts. Two workshops will be undertaken in partnership with university law schools (see Activity 5 above). Also, building on the outcomes from workshops held last year, additional work will begin on corporate structures surrounding native title groups.

Activity 9: The role of applicants, authorisation and Indigenous decision-making

This project will take advantage of work on one of the PBC case studies to examine some of the difficulties that have arisen in the exercise of applicants' powers, including complaints, challenges to authorisation, the sustainability of agreements, the role of applicants in the PBC, and the relationship between authorisation processes and the success of the PBC. The project aims to identify the meanings of 'traditional' and 'contemporary' decision-making processes through the identification of sustainable decision-making structures that have led to successful outcomes in authorisation/claim management, agreement making and implementation, and intra-Indigenous dispute resolution.

This project will also incorporate elements of claims management practices (deferred and discretionary project 06-07), investigating the implementation of Queensland South Native Title Services LTD Legal Services Strategic Plan,

and its Western Division Land Summit land summit in particular, and issues arising from the Plan including the resolution of overlapping claims and claim authorisation. AIATSIS will also continue its involvement with a broader project in partnership with the Federal Court to examine Indigenous Alternative Dispute Resolution, and ongoing issues arising from the Indigenous Facilitation and Mediation project undertaken in 2003-06

Activity 10: Connection requirements

The project undertaken in 2005-06 to investigate available policy material and gather qualitative information from the diversity of perspectives affected by the state connection requirements revealed significant issues for policy and practice. The confidential report arising from this research was circulated to stakeholders during 06-07 and has led to a partnership between the NTRU and the National Native Title Tribunal (NNTT) to continue this project in 07-08. *Getting Better Outcomes: A workshop on native title connection* will be held in July 2007, it will focus on solutions and explore the options for reaching agreement on native title connection faster and more efficiently, without compromising common law standards. The goal of the workshop is to develop more inventive and constructive models for settling matters of native title proof within mediation. Outcomes from the workshop will be reported and published.

Activity 11: Native title and land and water management

Native title recognises the unique relationship between native title holders and their lands and waters, and the importance of land and water management on the growing native title estate is gaining increasing recognition in government programs and policies. This project has three elements: native title and rivers; native title and ecology; and, native title and the joint-management of national parks. A manuscript will be finalised on the rapidly evolving area of water management and planning, as part of a research partnership with the Murray Lower Darling Rivers Indigenous Nations. The NTRU is working with NTRBs and academic networks to bring together a collection of papers on native title and ecology, natural resources and sustainability. The NTRU is also involved in the development of indicators and other evaluation and monitoring procedures of the joint management of Parks in the Northern Territory which were the subject of native title negotiations. This work will be carried out in association with Charles Darwin University, the Northern Territory Parks and Wildlife Service, and the Northern Land Council. The NTRU will also investigate research partnerships with the Department of Environment and Water Resources for funding for further work in this area.