

Federal Court of Australia

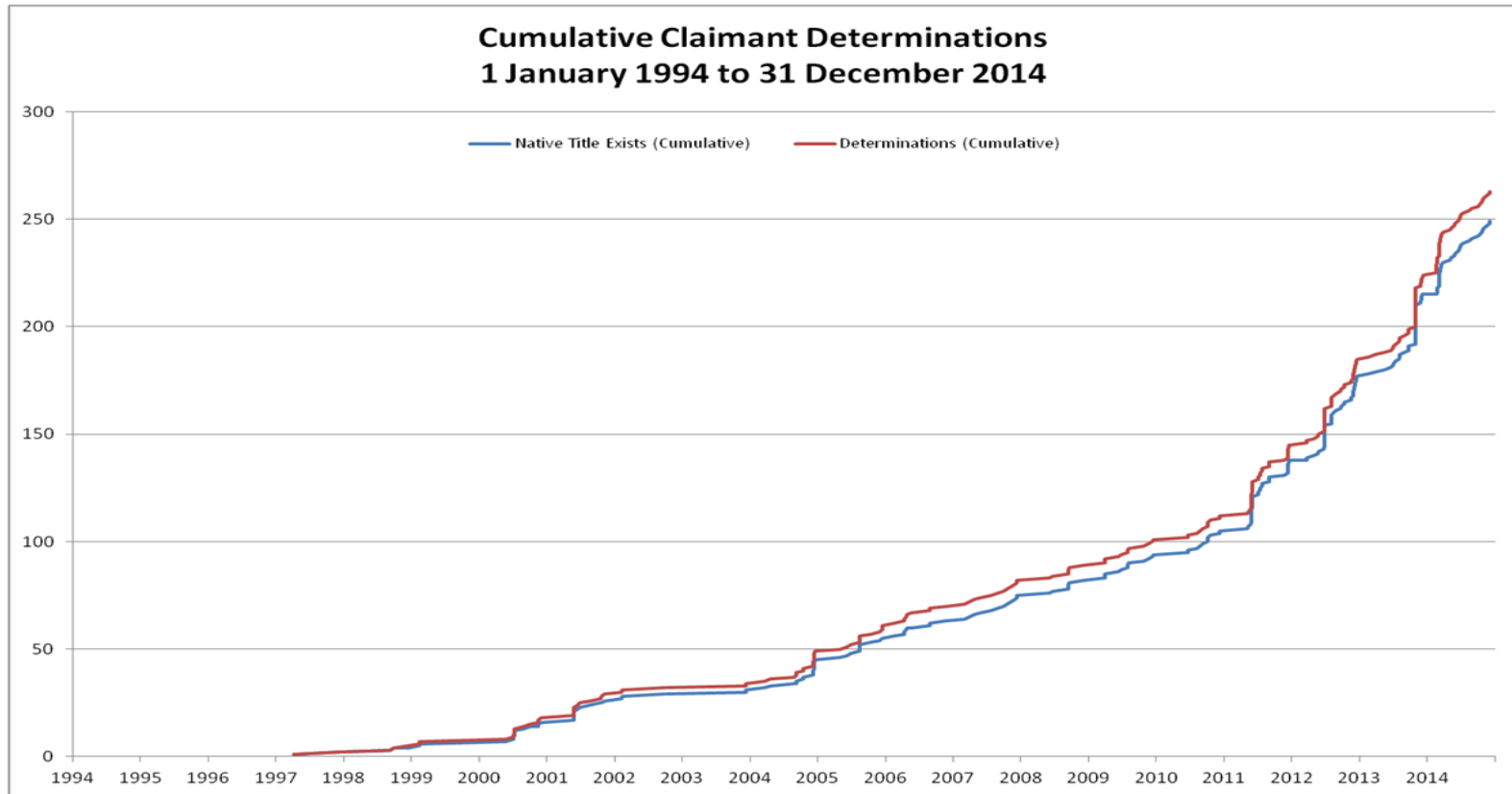
***Zen and the Art of
Native Title Negotiation***

By The Hon. Justice Michael Barker



**The Federal
Court
of Australia**

Cumulative Claimant Determinations 1994-2015



Updated Summary (as at 1 April 2015):

308 Determinations

- 234 consent
- 38 Litigated
- 36 unopposed



Anticipated Resolutions

Anticipated Resolutions	Litigated	Consent	Other (including dismissal or discontinuance)	Total
Next 12 months	21	64	64	149
Next 24 months	8	46	17	71
Total	29	110	81	220



Challenges

- Resources available to the parties – money and experts
- Tenure
- Government policy – changes to NTRB/SP funding model
- Intra-Indigenous Disputes



Queensland Applications and Determinations as at 2015



Queensland Native Title Matters 2015

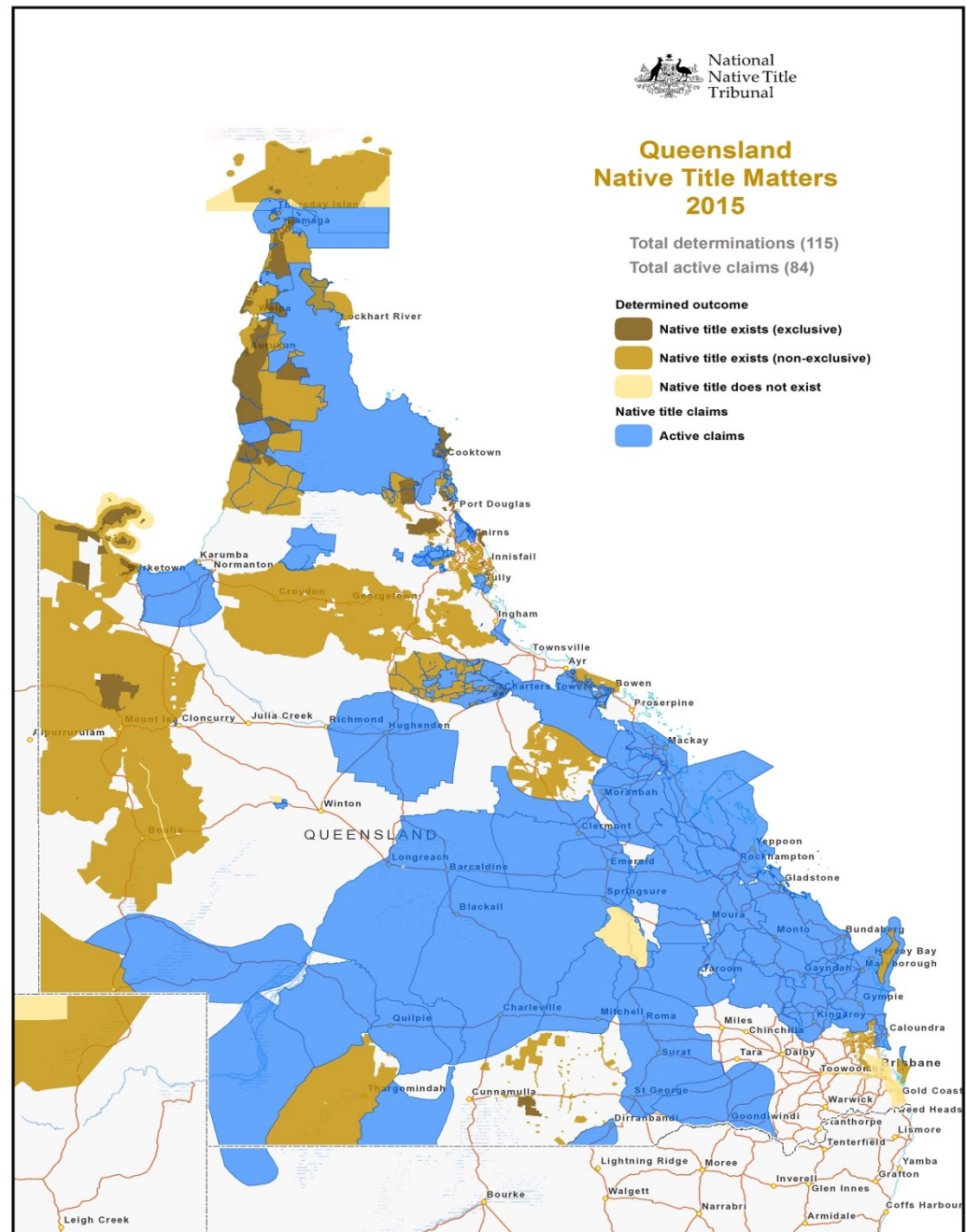
Total determinations (115)
Total active claims (84)

Determined outcome

- Native title exists (exclusive)
- Native title exists (non-exclusive)
- Native title does not exist

Native title claims

- Active claims



Current Applications in Queensland as at May 2015

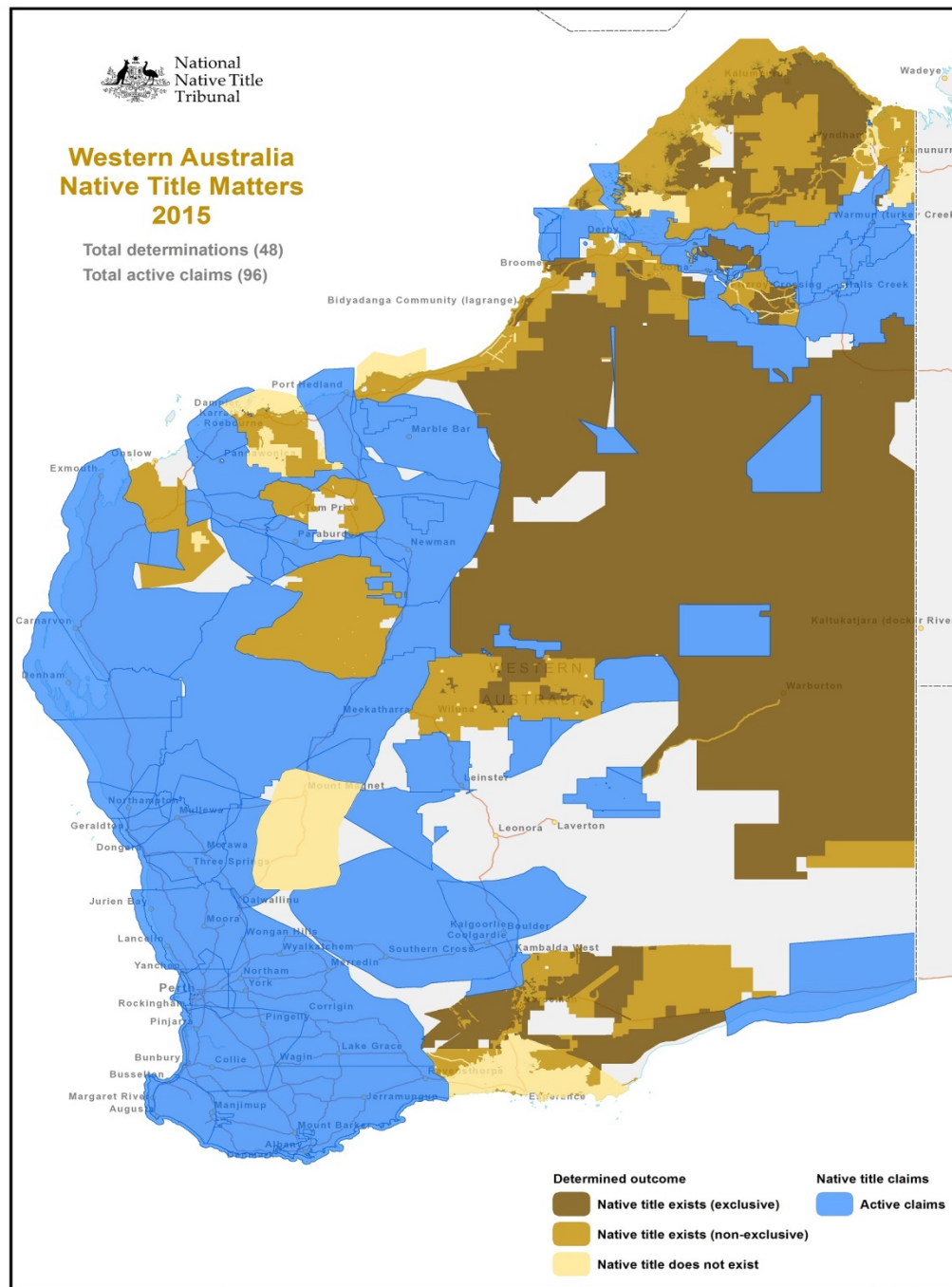
	Jan 2010	May 2015
Claimant Applications	123	63
Non-Claimant Applications	1	17
Compensation Applications	3	0
TOTAL	127	80

- 76 New applications filed between January 2010 and May 2015



Western Australia

Applications and Determinations as at 2015



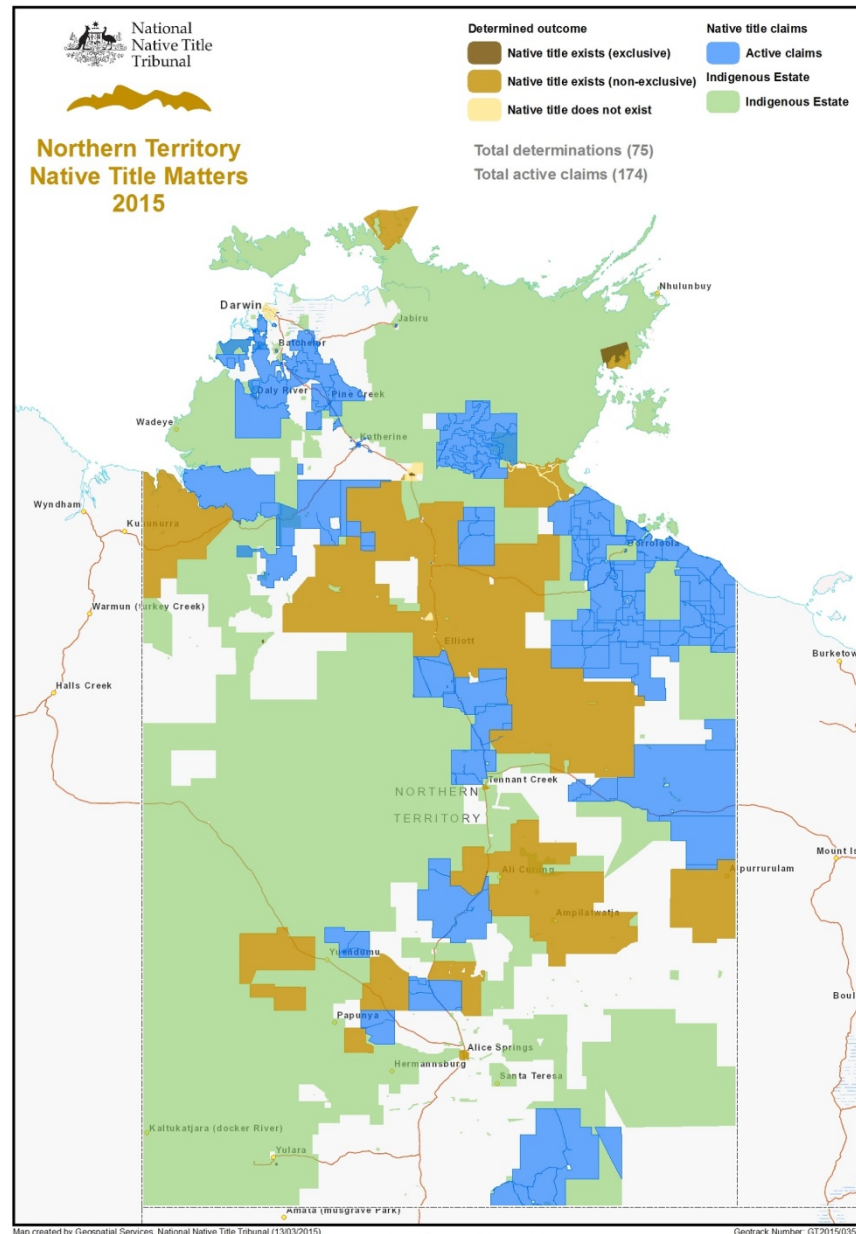
Current Applications as at May 2015

	Jan 2010	March 2015
Claimant Applications	91	90
Non-Claimant Applications	0	0
Compensation Applications	3	4
TOTAL	94	94

- 48 New applications filed between January 2010 and May 2015



Applications and Determinations as at March 2015



Map created by Geospatial Services, National Native Title Tribunal (13/03/2015)
 Filepath: P:\GEO_INFO\Products\NationalJurisdiction_Overview\GT2015_0358_Federal_Court_maps\2015_FC_NT_Overview_map_A3P_v2.mxd
 Geotrack Number: GT2015/0358



Current Applications in Northern Territory as at May 2015

	Jan 2010	May 2015
Claimant Applications	150	120
Non-claimant Applications	0	3
Compensation Applications	1	1
TOTAL	151	124

- 93 New applications filed between January 2010 and May 2015



Do we still need “connection reports”?



***Should respondent parties, other than
the government party, receive
connection information from the outset?***



Should current tenure be more accessible to inform claimant applications and negotiations?



Should government parties and claimants' representatives endeavour to agree jurisdiction-wide extinguishment principles?



Should claimants be required to demonstrate post-determination governance capacity in the course of negotiations in relation to a claim?



CONCLUDING OBSERVATIONS

