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AUSTRALIAN INSTITUTE OF ABORIGINAL  
AND TORRES STRAIT ISLANDER STUDIES

# Native Title Information Handbook

**Western Australia**

2016



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AIATSIS acknowledges the funding support of the Department of the Prime Minister and Cabinet.

The Native Title Research Unit (NTRU) acknowledges the generous contributions of peer reviewers and welcomes suggestions and comments about the content of the Native Title Information Handbook (the Handbook). The Handbook seeks to collate publicly available information about native title and related matters. The Handbook is intended as an introductory guide only and is not intended to be, nor should it be, relied upon as a substitute for legal or other professional advice. If you are aware that this publication contains any errors or omissions please contact us. Views expressed in the Handbook are not necessarily those of AIATSIS.

Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)

GPO Box 553, Canberra ACT 2601

**Phone** 02 6261 4223

**Fax** 02 6249 7714

**Email** [research@aiatsis.gov.au](mailto:research@aiatsis.gov.au)

**Web** [www.aiatsis.gov.au](http://www.aiatsis.gov.au)

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GPO Box 553 Canberra ACT 2601 P 02 6261 4223 F 02 6249 7714 E [research@aiatsis.gov.au](mailto:research@aiatsis.gov.au)

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## 1. Introduction

Western Australia (WA) has a significant area of determined native title lands. Native title had been recognised over 1,118,768km<sup>2</sup> or approximately 44 per cent of the State. In December 2015, there had been 44 consent and 11 litigated claimant determinations recognising native title in Western Australia, with a further 2 litigated determinations in which native title was not recognised. A further 68 claims awaited finalisation. At that time, 34 registered prescribed bodies corporate had been set up to hold on trust or manage that land on behalf of the native title holders.

WA does not have an alternative native title or land rights regime in place. The Government's policy regarding native title matters is informed by the [Land Approvals and Native Title Unit \(LANTU\)](#) within the [Department of Premier and Cabinet](#). LANTU provides strategic leadership and policy advice on related issues to the WA Government, and has published on its website a number of guides eliciting the State's policy positions on issues including land use and heritage agreement negotiations and the evidence it requires from native title claimants to enter into a consent determination of native title.

To assist with the management of claims by the State, WA is divided into six regions: the Kimberley, Pilbara, Geraldton, Central Desert, Goldfields and South West regions, which are serviced by the [Kimberley Land Council](#), [Yamatji Marlpa Aboriginal Corporation](#), [Central Desert Native Titles Services Ltd](#), [Goldfields Land and Sea Council](#) and the [South West Aboriginal Land and Sea Council](#).

## 2. Native title

Native title is the recognition in Australian law, under the [Native Title Act 1993 \(Cth\)](#) (NTA), that Aboriginal and Torres Strait Islander peoples had a system of law and ownership of their lands before European settlement. The historic High Court decision in [Mabo and Others v State of Queensland \(No 2\) \[1992\] HCA 23; \(1992\) 175 CLR 1](#) (*Mabo*) was the first recognition that native title continues to exist through the common law in Australia. The native title of a particular group is defined by the traditional laws and customs observed by that group of people.

[Section 223](#) of the NTA defines the native title rights and interests that are the subject of a determination of native title under [s 225](#) of the Act. In s 223(1), the term '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:

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

The significance of the *Mabo* decision lies in the recognition that native title is a pre-existing right, inherent to Indigenous peoples by virtue of their distinct identity as first owners and occupiers of the land and their continuing systems of law. Native title is not a grant or right that is created by the Australian government nor is it dependent upon the government for its existence, although it is dependent on recognition by the common law in order to be enforceable in the Australian legal system. This distinguishes native title from other legislative land rights systems that operate in Australia whereby the government grants the title. Native title may be recognised in places where Aboriginal and Torres Strait Islander people continue to follow their traditional laws and customs and have maintained a link with their traditional country. Native title in each instance is recognised as having its source in, and deriving its content from, the laws of Aboriginal and Torres Strait Islander people. The rights and interests that are recognised as native title may vary from group to group, from one area to another, and may differ depending on what is claimed and what might be negotiated between all of the parties with an interest in the area under claim. Native title rights may include the exclusive possession, use and occupation of traditional country or non-exclusive native title rights such as the right to access and camp or the right to hunt and fish on traditional country. Native title rights do not extend over minerals or petroleum.

The *Mabo* decision recognised Aboriginal and Torres Strait Islander peoples' rights over their land, and also recognised the system of laws from which those rights are derived. As a result of the *Mabo* decision and the subsequent enactment of the NTA Aboriginal and Torres Strait Islander people can apply to the Federal Court of Australia to have their native title rights recognised under Australian law. Native title may be recognised in relation to vacant Crown land, state forests, national parks, public reserves, pastoral leases, beaches, foreshores and waters, government or other public land and Indigenous held land (under land rights legislation).

For more information refer to the [National Native Title Handbook](#).

### 3. Legislation

The [Native Title Act 1993 \(Cth\)](#) (NTA) is the Australian Government's legislative response to the High Court decision in [Mabo](#), which recognised Indigenous



Australians' rights and interests in land and waters according to their own traditional laws and customs under [s 223](#). The NTA provides the legal principles for the recognition of native title, the processes involved in having native title recognised and the role and responsibilities of the different bodies involved in this process.

Since it was introduced the NTA has been the subject of numerous reviews and legislative amendments. The annual native title reports of the Aboriginal and Torres Strait Islander Social Justice Commissioner provide detailed information about these reviews, reform processes and related legislative amendments, see: [Native Title Reports](#) (1994-2012) and [Social Justice Reports](#) (2013-) on the [Australian Human Rights Commission](#) website for more information. A review of the NTA was undertaken in 2015 by the Australian Law Reform Commission, see below for an overview or read the full report [here](#). A brief overview is also provided below.

## Western Australian native title legislation

Before the NTA came into operation, the Western Australian (WA) Government implemented the [Land \(Titles and Traditional Usage\) Act 1993 \(WA\)](#), which sought to extinguish native title in Western Australia and replace it with 'rights of traditional usage' which would be a form of statutory title. Following the introduction of the NTA the Western Australian Government initiated a High Court challenge to the Constitutional validity of the NTA (see [Western Australia v The Commonwealth \[1995\] HCA 47; \(1995\) 183 CLR 373](#)). Meanwhile the Western Australian legislation was also the subject of a High Court challenge launched by the Wororra Peoples (see [Wororra Peoples v Western Australia; Biljabu v Western Australia \[1995\] HCA 47; \(1995\) 183 CLR 373](#)). On 16 March 1995, the High Court ruled against the Western Australian Government's challenge and declared the [Land \(Titles and Traditional Usage\) Act 1993 \(WA\)](#) inconsistent with the [Racial Discrimination Act 1975 \(Cth\)](#) and therefore invalid under the Constitution. The [Land \(Titles and Traditional Usage\) Act 1993](#) was repealed by the [Acts Amendment and Repeal \(Native Title\) Act 1995 \(WA\)](#).

The Western Australian Government subsequently implemented the [Titles \(Validation\) and Native Title \(Effect of Past Acts\) Act 1995 \(WA\)](#) (TNTA) to validate past acts. This Act was amended in 1999 to validate intermediate period acts. Part 2B of the TNTA confirms the extinguishment of native title by [previous exclusive possession acts](#) attributable to the State; and the partial extinguishment of native title by [previous non-exclusive possession acts](#) attributable to the State. Part 3 confirms Crown ownership of all natural resources; the rights of the Crown to use, control and regulate the flow of water; and all existing fishing access rights as well as public access to and enjoyment of waterways; beds, banks and foreshores of waterways; coastal waters; beaches; stock routes and areas that were public places as at 31 December 1993.

## Related legislation

For information about legislation relating to Aboriginal cultural heritage and land rights see sections 10 and 11 below. The [AIATSIS Native Title Research Unit \(NTRU\)](#) has conducted research about [joint management](#) and [weed management](#) within the context of native title. See the publications on these webpages for information about the relevant legislation.

## Policy

The [White Paper on Developing Northern Australia](#) was released by the federal Government in June 2015, and sets out a policy framework for developing business in the top end of Australia over the next 20 years. The report was developed based on community views expressed through the Joint Select Committee on Northern Australia's report 'Pivot North — Inquiry into the Development of Northern Australia' and submissions to the Government's Green Paper on Developing Northern Australia. The federal Government, together with the Western Australian, Northern Territory and Queensland governments, seeks to address the impediments to development in Northern Australia through a broad approach, including:

- Supporting the native title system (\$110 million a year over the next four years) with the aspiration of finalising all existing native title claims within a decade.
- More efficient native title processes that create more certainty for investors and opportunities for native title claimants and holders (through the COAG Indigenous land review).
- \$20.4 million to better support native title holders engage with potential investors.
- Consult on options to use exclusive native title rights for commercial purposes (through the COAG Indigenous land review).
- Consulting on new models to manage native title funds for development.
- Exploring mechanisms to support long term leasehold arrangements for exclusive native title holders.
- For more information and to download the paper, see the Australian Government's [White Paper on Developing Northern Australia website](#).

## 4. WA Government agencies: policies and procedures

### Department of Premier and Cabinet: Land, Approvals and Native Title Unit

The [Land, Approvals and Native Title Unit](#) (LANTU) within the [Department of Premier and Cabinet](#) is primarily responsible for the co-ordination and management of native title matters in Western Australia. LANTU provides strategic leadership to the Western Australian Government on all matters related to the NTA. This includes policy coordination and project oversight on proposed land activities that may affect native title rights and interests. Together with the [Department of Aboriginal Affairs](#) the [Department of the Premier and Cabinet](#) sponsors the [Inter-Agency Reference Group on Native Title and Aboriginal Heritage](#), which works to ensure that policies relating to native title matters are administered consistently across government departments.

The [LANTU](#) website provides information about policies and procedures relating to: [native title claims](#), Indigenous Land Use Agreements (ILUAs), native title determinations, [connection research](#), and native title and Aboriginal heritage policies and guides as well as Western Australian Government templates for heritage agreements and ILUAs.

### Department of Lands

The [Department of Lands](#) is responsible for administration of the Crown estate through the [Land Administration Act 1997 \(WA\)](#) (LAA) and provides assistance to government agencies and proponents with respect to procedural obligations under the NTA. Native title land is currently considered Crown land under the LAA. Section 104 of the LAA secures the right of the State's Aboriginal inhabitants to have access to unfenced, unimproved parts of pastoral leases for traditional hunting. Aboriginal parties have special rights to use unallocated State (Crown) land for traditional purposes, except to the degree restricted by any valid law. See the [native title section of the Department of Lands](#) website for more information.

### Landgate – Native Title Services

[Landgate](#) is responsible for providing and maintaining an accurate spatial definition for the extent of native title applications lodged with the Federal Court and the NNTT. Landgate also offers native title consultancy services such as project management, planning and custom mapping services.



## Department of Mines and Petroleum

The Department of Mines and Petroleum (DMP) is involved in native title matters relating to exploration and mining activities in Western Australia. See the [Native title](#) section of the DMP website for more information.

## Department of Parks and Wildlife

The [Department of Parks and Wildlife](#) is responsible for administering the [Conservation and Land Management Act 1984 \(WA\)](#) (CALM Act) which was amended in 2012 to enable Aboriginal people to undertake certain activities for customary purposes on reserves and other lands and establish a legal framework to enable joint management of lands and waters by Aboriginal traditional owners and the Department. See the [joint management](#) section of the Department of Parks and Wildlife website for more information.

## Department of Aboriginal Affairs

The Western Australian [Department of Aboriginal Affairs](#) administers the [Aboriginal Heritage Act 1972 \(WA\)](#) and the [Aboriginal Affairs Planning Authority Act 1972 \(WA\)](#) (which established the Aboriginal Lands Trust). As mentioned above the DAA works with the LANTU on issues relating to native title and cultural heritage. See also sections 10 and 11 below for more information about cultural heritage and Aboriginal land.

# 5. Native title representative bodies

## Overview

Native title services in Western Australia are provided by four native title representative bodies (NTRBs): the Goldfields Land and Sea Council (GLSC), the Kimberley Land Council (KLC), the South West Aboriginal Land and Sea Council (SWALSC), and Yamatji Marlpa Aboriginal Corporation (YMAC); and one native title service provider: Central Desert Native Title Services Ltd (Central Desert). See below for contact details and further information about each of these organisations.

## Map

The NNTT's [Representative Aboriginal/Torres Strait Islander body areas map \(PDF 663KB\)](#) shows the geographic areas covered by native title representative bodies (NTRBs) and native title service providers (often both commonly called NTRBs) across Australia.

## Central Desert Native Title Services Limited

[Central Desert Native Title Services Ltd](#) (Central Desert) is the recognised native title service provider for the Central Desert region of Western Australia. The organisation was incorporated and commenced operations in 2007. For more information see the [Central Desert](#) website.

**Table 1: Central Desert contact details**

Street & Postal Address	Phone	Email
76 Wittennoom St East Perth WA 6832	(08) 9425 2000 1800 189 936	<a href="mailto:reception@centraldesert.org.au">reception@centraldesert.org.au</a>

## Goldfields Land and Sea Council Aboriginal Corporation

The [Goldfields Land and Sea Council](#) (GLSC) is the recognised native title representative body for the Goldfields region of Western Australia. The Council was established in 1984 as the peak Aboriginal land and heritage body in the region. For more information see the [GLSC](#) website.

**Table 2: GLSC contact details**

Street Address	Postal Address	Phone	Email
14 Thossell St Kalgoorlie-Boulder WA 6430	PO Box 10006 Kalgoorlie WA 6430	(08) 9091 1661 1800 681 661	<a href="mailto:reception@glc.com.au">reception@glc.com.au</a>
Level 1 63 Adelaide Tce East Perth WA 6004	PO Box 3058 Adelaide Tce Perth WA 6832	(08) 9263 8700	<a href="mailto:reception@glc.com.au">reception@glc.com.au</a>

## Kimberley Land Council Aboriginal Corporation

The [Kimberley Land Council](#) (KLC) was established in 1978 as a peak regional community organisation to secure Kimberley Aboriginal traditional owners' rights and interests in lands and waters, and to protect significant places. The KLC became the NTRB for the Kimberley region in 1999. The KLC has its main office in Broome with other offices located in Derby and Kununurra. For more information see the [KLC](#) website.

**Table 3: KLC (Broome office) contact details**

Street Address	Postal Address	Phone	Email
36 Pembroke St Broome WA 6725	PO Box 2145 Broome WA 6725	(08) 9194 0100	<a href="mailto:klc@klc.org.au">klc@klc.org.au</a>

## South West Aboriginal Land and Sea Council

The [South West Aboriginal Land and Sea Council](#) (SWALSC) was recognised as the NTRB for the Noongar people (south west area) of WA in December 2001. For more information see the [SWALSC](#) website

**Table 4: SWALSC contact details**

Street Address	Postal Address	Phone	Email
1490 Albany Highway Cannington WA 6107	PO Box 585 Cannington WA 6987	(08) 9358 7400	<a href="mailto:reception1@noongar.org.au">reception1@noongar.org.au</a>

## Yamatji Marlpa Aboriginal Corporation

[Yamatji Marlpa Aboriginal Corporation](#) (YMAC) is the NTRB for the traditional owners of the Pilbara, Murchison and Gascoyne regions of Western Australia. YMAC's NTRB area covers over one million square kilometres, with offices in Geraldton (head office), South Hedland, Karratha, Tom Price and Perth. YMAC was formerly known as Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation. See the [YMAC](#) website for more information.

**Table 5: YMAC (Perth and Geraldton) contact details**

Street Address	Postal Address	Phone
171 Marine Tce Geraldton WA 6531	PO Box 2119 Geraldton WA 6531	(08) 9965 6222
Level 2, 161 St Georges Tce Perth WA 6892	PO Box 3071, 249 Hay St East Perth WA 6892	(08) 9268 7000

## 6. Native title applications

### Overview

As at 31 December 2015 there had been 576 native title applications in Western Australia comprising 564 claimant applications, four compensation applications, two revised native title determinations and six non-claimant applications, see Table 6 below. For up to date information about native title applications and registered native title claimant applications use the [Search applications and determinations](#) or [Search Register of native title claims](#) tools on the NNTT website.

**Table 6: Native title applications in Western Australia**

Application Status	Claimant	Compensation	Non-Claimant	Revised	Total
Active	88	4	0	0	92
Other	476	0	6	2	478
<b>All</b>	<b>564</b>	<b>4</b>	<b>6</b>	<b>2</b>	<b>576</b>

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> at 31 December 2015

The Western Australian Department of Premier and Cabinet's [Land, Approvals and Native Title Unit](#) (LANTU) also provides information about [native title claims in Western Australia](#). Use the links provided below to get information about native title claims in each region:

- [Kimberley region](#)
- [Pilbara region](#)
- [Geraldton region](#)
- [Central Desert region](#)
- [Goldfields region](#)
- [South West region](#)

## Maps

The NNTT's [Western Australia Native Title Applications and Determinations Areas Map \(PDF 2.48MB\)](#) shows claimant applications (as per the native title determinations applications (NTDA) schedule as lodged in the Federal Court) and native title claimant determinations (as per the NNTT's [National Native Title Register](#)). The NNTT also produces WA regional maps showing the same information.

- [Central Desert Applications and Determinations Map \(PDF 3.8MB\)](#)
- [Geraldton Applications and Determinations Map \(PDF 3.5MB\)](#)
- [Goldfields Applications and Determinations Map \(PDF 2.1MB\)](#)
- [Kimberley Applications and Determinations Map \(PDF 3.6MB\)](#)
- [Pilbara Applications and Determinations Map \(PDF 3.0MB\)](#)
- [South West Applications and Determinations Map \(PDF 3.5MB\)](#)

## South West alternative settlement process

In 2009 the Western Australian Government signed a Heads of Agreement with the South West Aboriginal Land and Sea Council (SWALSC) seeking to resolve the six Noongar native title claims (together comprising the Single Noongar claim) over Perth and the south west region of Western Australia by negotiation. Since then the

Noongar Negotiation Team and SWALSC have been working together with the WA Government towards a negotiated settlement of all Noongar native title claims. These negotiations were completed in late 2014. Between January and March 2015, SWALSC convened a series of authorisation meetings during which all six claim groups voted to accept the negotiated settlement (see [30 March 2015 media release](#) on the LANTU website).

A number of legal issues will now be finalised in order to implement the settlement. As part of this process SWALSC will facilitate a series of meetings with each agreement group who will decide on a range of matters relating to the establishment of regional corporations. For more information see the [SWALSC](#) website and the [South West native title settlement](#) section of the Department of Premier and Cabinet's LANTU website.

As part of the WA Government's South West native title settlement negotiations, the [Noongar \(Koorah, Nitja, Boordahwan\) \(Past, Present, Future\) Recognition Bill 2015](#) was tabled in October 2015. The Bill was drafted to demonstrate the Government's intention to formally recognise the Noongar people as the traditional owners of the south west of Australia as part of the settlement process. At 31 December 2015, the progress of the Bill was still in progress. For more information, see the [explanatory memorandum](#), [second reading speech](#) and the [LANTU website](#).

## 7. Native title determinations

### Overview

As at 31 December 2015, there had been a total of 57 native title determinations within Western Australia, all of which are claimant determinations.

### Claimant Determinations

As at 31 December 2015, native title had been found to exist in all or parts of the determination areas in 55 of the 57 claimant determinations in WA. Table 7 below provides links to information about these claimant determinations including: determination summaries on the [NNTT](#) website; relevant case law on the [Australasian Legal Information Institute \(Austlii\)](#) website (where available) and determination summaries on the [Agreements, Treaties and Negotiated Settlements \(ATNS\) website](#) (where available) which also provide links to information about the native title claimants/holders and agreements involving them.



**Table 7: Native title claimant determinations in Western Australia**

Short Name (NNTT Hyperlink)	Case Name (Austlii hyperlink)	Date	Outcome	Legal Process (ATNS hyperlink)
<a href="#">Bunuba Part B</a>	<a href="#">Wurrunmurra on behalf of the Bunuba People v State of Western Australia [2015] FCA 1480</a>	22/12/2015	Native title exists in parts of the determination area	Consent
<a href="#">Bunuba #2</a>	<a href="#">Brooking on behalf of the Bunuba People (Bunuba #2) v State of Western Australia [2015] FCA 1481</a>	22/12/2015	Native title exists in parts of the determination area	Consent
<a href="#">Bunuba #3</a>	<a href="#">Aiken on behalf of the Bunuba People (Bunuba #3) v State of Western Australia [2015] FCA 1482</a>	22/12/2015	Native title exists in the entire determination area	Consent
<a href="#">Ngarluma People</a>	<a href="#">Samson on behalf of the Ngarluma People v State of Western Australia [2015] FCA 1438</a>	21/12/2015	Native title exists in parts of the determination area	Consent
<a href="#">Kurungal</a>	<a href="#">Wise on behalf of the Kurungal Native Title Claim v State of Western Australia [2015] FCA 1329</a>	01/12/2015	Native title exists in parts of the determination area	Consent
<a href="#">Balanggarra #4</a>	<a href="#">Smith on behalf of the Balanggarra People (Balanggarra #4) v State of Western Australia [2015] FCA 1334</a>	27/11/2015	Native title exists in parts of the determination area	Consent
<a href="#">Nyikina Mangala #2</a>	<a href="#">Watson on behalf of the Nyikina Mangala People (Nyikina Mangala #2) v State of Western Australia [2015] FCA 1132</a>	29/10/2015	Native title exists in parts of the determination area	Consent
<a href="#">Puutu Kunti Kurrama People and Pinikura People #1 and #2</a>	<a href="#">Chubby on behalf of the Puutu Kunti Kurrama and Pinikura People v State of Western Australia [2015] FCA 964</a>	02/09/2015	Native title exists in parts of the determination area	Litigated
<a href="#">Jurruru People Part A</a>	<a href="#">Smirke on behalf of the Jurruru People v State of Western Australia [2015] FCA 939</a>	01/09/2015	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Badimia People</a>	<a href="#">CG (Deceased) on behalf of the Badimia People v State of Western Australia (No 2) [2015] FCA 204</a>	25/05/2015	Native title does not exist	<a href="#">Litigated</a>
<a href="#">Pilki People</a>	<a href="#">Willis on behalf of the Pilki People v State of Western Australia (No 2) [2014] FCA 1293</a>	02/12/2014	Native title exists in the entire determination area	<a href="#">Litigated</a>
<a href="#">Ngadiju</a>	<a href="#">Graham on behalf of the Ngadiju People v State of Western Australia [2014] FCA 1247</a>	21/11/2014	Native title exists in the entire determination area	<a href="#">Litigated</a>
<a href="#">Nyikina Mangala</a>	<a href="#">Watson on behalf of the Nyikina Mangala People v State of Western Australia (No 6) (includes Corrigendum dated 1 July 2014) [2014] FCA 545(</a>	29/05/2014	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">The Esperance Nyungars</a>	<a href="#">Bullen on behalf of the Esperance Nyungar People v State of Western Australia [2014] FCA 197</a>	14/03/2014	Native title exists in parts of the determination area	<a href="#">Consent</a>

Short Name (NNTT Hyperlink)	Case Name (Austlii hyperlink)	Date	Outcome	Legal Process (ATNS hyperlink)
<a href="#">Banjima People</a>	<a href="#">Banjima People v State of Western Australia (No 3) [2014] FCA 201</a>	11/03/2014	Native title exists in parts of the determination area	<a href="#">Litigated</a>
<a href="#">Wiluna #2</a>	<a href="#">BP (DECEASED) &amp; Ors and State of Western Australia &amp; Ors (unreported, FCA, 3 September 2013, Jagot J)</a>	03/09/2013	Native title exists in the entire determination area	Litigated
<a href="#">Balanggarra (Combined)</a>	<a href="#">Cheinmora v State of Western Australia (No 2) [2013] FCA 768</a>	07/08/2013	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Balanggarra #3</a>	<a href="#">Cheinmora v State of Western Australia (No 3) [2013] FCA 769</a>	07/08/2013	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Wiluna</a>	<a href="#">WF (Deceased) on behalf of the Wiluna People v State of Western Australia [2013] FCA 755</a>	29/07/2013	Native title exists in parts of the determination area	<a href="#">Consent (conditional)</a>
<a href="#">Gooniyandi Combined #2</a>	<a href="#">Sharpe v State of Western Australia [2013] FCA 599</a>	19/06/2013	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Martu (Part B), Karnapyrri, and Martu #2</a>	<a href="#">Peterson v State of Western Australia [2013] FCA 518</a>	16/05/2013	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngarla Overlap Proceeding</a>	<a href="#">AB (deceased) &amp; Ors on behalf of the Ngarla People v State of Western Australia &amp; Ors (unreported, FCA, 19 February 2013, Bennett J)</a>	19/02/2013	Native title exists in the entire determination area	Litigated
<a href="#">Bunuba</a>	<a href="#">Wurrunmurra v State of Western Australia [2012] FCA 1399</a>	12/12/2012	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Uunguu - Area B</a>	<a href="#">Puenmora v State of Western Australia [2012] FCA 1334</a>	27/11/2012	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Ngurrara 2 - Area C</a>	<a href="#">May v State of Western Australia [2012] FCA 1333</a>	27/11/2012	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngurrara - Area B</a>	<a href="#">Kogolo v State of Western Australia (No 3) [2012] FCA 1332</a>	27/11/2012	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Eastern Guruma - Area B</a>	<a href="#">Hughes and Ors on behalf of the Eastern Guruma People v State of Western Australia (unreported, FCA)</a>	09/10/2012	Native title exists in parts of the determination area	Consent
<a href="#">Nyangumarta-Karajarri Overlap Proceeding (Yawinya)</a>	<a href="#">Hunter &amp; Ors v State of Western Australia [2012] FCA 690</a>	25/05/2012	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Dambimangari</a>	<a href="#">Barunga v State of Western Australia [2011] FCA 518</a>	26/05/2011	Native title exists in parts of the determination area	<a href="#">Consent</a>

Short Name (NNTT Hyperlink)	Case Name (Austlii hyperlink)	Date	Outcome	Legal Process (ATNS hyperlink)
<a href="#">Uunquu Part A</a>	<a href="#">Goonack v State of Western Australia [2011] FCA 516</a>	23/05/2011	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Ngarla People (Mount Goldsworthy Lease Proceeding)</a>	<a href="#">Brown (on behalf of the Ngarla People) v State of Western Australia (No 3) [2010] FCA 859 (6 August 2010)</a>	06/08/2010	Native title exists in parts of the determination area	<a href="#">Litigated</a>
<a href="#">Thudgari People</a>	<a href="#">Thudgari People v State of Western Australia (includes corrigendum dated 23 November) [2009] FCA 1334 (18 November 2009)</a>	18/11/2009	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Nyangumarta People (Part A)</a>	<a href="#">Hunter v State of Western Australia [2009] FCA 654</a>	11/06/2009	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Thalanyji</a>	<a href="#">Leslie Hayes &amp; Ors on behalf of the Thalanyji People v The State of Western Australia and Others (unreported, FCA, 18 September 2008, North J)</a>	18/09/2008	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Birriliburu People - Part A</a>	<a href="#">Billy Patch &amp; Others on behalf of the Birriliburu People v State of Western Australia and Others [2008] FCA 944</a>	20/06/2008	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngaanyatjarra Lands (Part B)</a>	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 (unreported, FCA, 3 June 2008, French J)	03/06/2008	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngurrara Part A</a>	<a href="#">Kogolo v State of Western Australia [2007] FCA 1703 (9 November 2007)</a>	09/11/2007	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngurrurpa</a>	<a href="#">Payi Payi &amp; Ors on behalf of the Ngurrurpa People and State of Western Australia (unreported, FCA, 18 October 2007, Black CJ)</a>	18/10/2007	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Ngarla and Ngarla #2 (Determination Area A)</a>	<a href="#">Brown (on behalf of the Ngarla People) v State of Western Australia [2007] FCA 1025</a>	30/05/2007	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Noonkanbah</a>	<a href="#">Cox on behalf of the Yungngora People v State of Western Australia [2007] FCA 588</a>	27/04/2007	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Eastern Guruma</a>	<a href="#">Hughes (on behalf of the Eastern Guruma People) v State of Western Australia [2007] FCA 365</a>	01/03/2007	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Miriuwung Gajerrong #4</a>	<a href="#">Ward v State of Western Australia [2006] FCA 1848</a>	24/11/2006	Native title exists in parts of the determination area	Consent
<a href="#">Rubibi Community</a>	<a href="#">Rubibi Community v State of Western Australia (No 7) [2006]</a>	28/04/2006	Native title exists in parts of the	<a href="#">Litigated</a>

Short Name (NNTT Hyperlink)	Case Name (Austlii hyperlink)	Date	Outcome	Legal Process (ATNS hyperlink)
	<a href="#">FCA 459</a>		determination area	
<a href="#">Bardi and Jawi Native Title Determination</a>	<a href="#">Sampi v State of Western Australia (No 3) [2005] FCA 1716</a> <a href="#">Sampi v State of Western Australia [2005] FCA 777</a> <a href="#">Sampi v State of Western Australia (No 2) [2005] FCA 1567</a> <a href="#">Sampi v State of Western Australia (No 4) [2006] FCA 760</a>	30/11/2005	Native title exists in parts of the determination area	<a href="#">Litigated</a>
<a href="#">Ngaanyatjarra Lands (Part A)</a>	<a href="#">Mervyn &amp; Ors on behalf of the Peoples of the Ngaanyatjarra Lands v State of Western Australia [2005] FCA 831</a>	29/06/2005	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Ngarluma/ Yindjibarndi</a>	<a href="#">Daniel v State of Western Australia [2005] FCA 536</a>	02/05/2005	Native title exists in parts of the determination area	<a href="#">Litigated</a>
<a href="#">Karajarri People (Area B)</a>	<a href="#">Nangkiriny v State of Western Australia [2004] FCA 1156</a>	08/09/2004	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Wanjina - Wungurr Wilinggin Native Title Determination No 1</a>	<a href="#">Neowarra v State of Western Australia [2004] FCA 1092</a> <a href="#">Neowarra v State of Western Australia [2003] FCA 1402</a>	27/08/2004	Native title exists in parts of the determination area	<a href="#">Litigated</a>
<a href="#">Miriuwung-Gajerrong (Western Australia)</a>	<a href="#">Attorney-General of the Northern Territory v Ward [2003] FCAFC 283</a> <a href="#">Western Australia v Ward [2002] HCA 28</a> <a href="#">Western Australia v Ward [2000] FCA 611 (Full Court)</a> <a href="#">Western Australia v Ward [2000] FCA 191 (reasons for decision)</a> <a href="#">Ward v Western Australia [1998] FCA 1478 (first instance)</a>	09/12/2003	Native title does not exist	<a href="#">Consent (WA Area 1)</a> <a href="#">Consent (WA Area 2)</a>
<a href="#">Martu and Ngurrara</a>	<a href="#">James v Western Australia [2002] FCA 1208</a>	27/09/2002	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Karajarri People (Area A)</a>	<a href="#">Nangkiriny v Western Australia [2002] FCA 660</a>	12/02/2002	Native title exists in the entire determination area	<a href="#">Consent</a>
<a href="#">Rubibi Community</a>	<a href="#">Rubibi Community v Western Australia [2001] FCA 1153</a> <a href="#">Rubibi Community v Western Australia [2001] FCA 607 (reasons for judgment)</a>	07/11/2001	Native title exists in the entire determination area	<a href="#">Litigated</a>
<a href="#">Kiwirrkurra People</a>	<a href="#">Brown v Western Australia [2001] FCA 1462</a>	19/10/2001	Native title exists in the entire determination area	<a href="#">Consent</a>

Short Name (NNTT Hyperlink)	Case Name (Austlii hyperlink)	Date	Outcome	Legal Process (ATNS hyperlink)
<a href="#">Tjurabalan People</a>	<a href="#">Ngalpil v Western Australia [2001] FCA 1140</a>	20/08/2001	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Spinifex People</a>	<a href="#">Mark Anderson on behalf of the Spinifex People v State of Western Australia [2000] FCA 1717</a>	28/11/2000	Native title exists in parts of the determination area	<a href="#">Consent</a>
<a href="#">Bodney</a>	<a href="#">Bodney v Westralia Airports Corporation Pty Ltd [2000] FCA 1609</a>	13/11/2000	Native title does not exist	<a href="#">Litigated</a>
<a href="#">Nharnuwangga</a>	<a href="#">Smith v Western Australia [2000] FCA 1249 Clarrie Smith and Others on behalf of the Nharnuwangga, Wajarri and Ngarla People -v- the State of Western Australia and Others</a>	29/08/2000	Native title exists in parts of the determination area	Consent

Sources: <http://www.atns.net.au/default.asp>, <http://www.austlii.edu.au/> & <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> at 31 December 2015

For up to date information about native title determinations use the [Search applications and determinations](#) or the [Search national native title register](#) tools on the NNTT website.

The Western Australian Department of Premier and Cabinet's [Land, Approvals and Native Title Unit](#) (LANTU) also provides some information about [native title determinations](#) in Western Australia. The [AIATSIS Native Title Research Unit \(NTRU\)](#) includes information about native title determinations in its monthly '[What's New](#)' service.

## Maps

See Maps in section 5 above.

## More information

The Productivity Commission's [Overcoming Indigenous Disadvantage: Key Indicators 2014](#) report (using data provided by the NNTT) includes information about the proportion of land where native title has been found to exist wholly or partially; or has been extinguished (as at 30 June for 2004-2013), see [Chapter 9 \(PDF5.5MB\)](#) (section 9.2 and Table 9A.2.3).



## 8. Registered native title bodies corporate

### Overview

Under ss 55-57 of the [Native Title Act 1993 \(Cth\)](#), native title groups are required to nominate a Prescribed Body Corporate (PBC) to hold (as trustee) or manage (as agent) their native title following a determination that native title exists. A nominated PBC is entered onto the National Native Title Register and at this point the corporation becomes known as a Registered Native Title Body Corporate (RNTBC). RNTBCs and PBCs are often commonly both referred to as PBCs.

As at 21 December 2015, there were 34 RNTBCs in Western Australia and there were a further 3 successful determinations of native title for which the PBC was yet to be advised. Table 8 below provides links to information about these RNTBCs on the NTRU's [Native Title Corporations \(NTC\)](#) website, the [Agreements, Treaties and Negotiated Settlements \(ATNS\)](#) website (where available); the relevant RNTBC ( or related organisation, where available) and native title determination information on the [National Native Title Tribunal \(NNTT\)](#) website.

**Table 8: Registered Native Title Bodies Corporate in Western Australia (listed in alphabetical order)**

RNTBC Name (NTC hyperlink)	Type of RNTBC (ATNS hyperlink)	Determination Date/s (RNTBC hyperlink)	Determination/s short name (NNTT hyperlink)
<a href="#">Balanggarra Aboriginal Corporation RNTBC</a>	Trustee	07/08/2013	<a href="#">Balanggarra (Combined)</a>
			<a href="#">Balanggarra #3</a>
		27/11/2015	<a href="#">Balanggarra #4</a>
<a href="#">Banjima Native Title Aboriginal Corporation RNTBC</a>	Trustee	11/03/2014	<a href="#">Banjima People</a>
<a href="#">Bardi &amp; Jawi Niimidiman Aboriginal Corporation RNTBC</a>	Trustee	30/11/2005	<a href="#">Bardi and Jawi Native Title Determination</a>
<a href="#">Bunuba Dawangarri Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	12/12/2012	<a href="#">Bunuba</a>
<a href="#">Buurabalayji Thalanyji Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	18/09/2008	<a href="#">Thalanyji</a>
<a href="#">Esperance Tjaltjraak Native Title Aboriginal Corporation RNTBC</a>	Trustee	23/03/2015	<a href="#">The Esperance Nyungars</a>
<a href="#">Gooniyandi Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	19/06/2013	<a href="#">Gooniyandi Combined #2</a>

RNTBC Name (NTC hyperlink)	Type of RNTBC (ATNS hyperlink)	Determination Date/s (RNTBC hyperlink)	Determination/s short name (NNTT hyperlink)
<a href="#">Jidi Jidi Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	05/07/2001	<a href="#">Nharnuwangga</a>
<a href="#">The Jurruru AC RNTBC</a>	<a href="#">Trustee</a>	17/06/2015	<a href="#">Jurruru People Part A</a>
<a href="#">Karajarri Traditional Lands Association (Aboriginal Corporation) RNTBC</a>	<a href="#">Trustee</a>	12/02/2002	<a href="#">Karajarri People (Area A)</a>
		08/09/2004	<a href="#">Karajarri People (Area B)</a>
<a href="#">Kulyamba Aboriginal Corporation RNTBC (Formerly Wyamba Aboriginal Corporation RNTBC)</a>	<a href="#">Trustee</a>	18/11/2009	<a href="#">Thudgari People</a>
<a href="#">Kunin (Native Title) Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	07/11/2001	<a href="#">Rubibi Community</a>
<a href="#">Miriuwung &amp; Gajerrong #1 (Native Title Prescribed Body Corporate) Aboriginal Corporation RNTBC</a>	<a href="#">Agent</a>	<a href="#">9/12/2003</a>	<a href="#">Miriuwung-Gajerrong (Western Australia)</a>
<a href="#">Miriuwung &amp; Gajerrong #4 (Native Title Prescribed Body Corporate) Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	<a href="#">24/11/2006</a>	<a href="#">Miriuwung Gajerrong #4</a>
<a href="#">Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) RNTBC</a>	<a href="#">Trustee</a>	20/06/2008	<a href="#">Birriliburu People - Part A</a>
<a href="#">Ngadju Native Title Aboriginal Corporation RNTBC</a>	<a href="#">Agent</a>	21/11/2014	<a href="#">Ngadju</a>
<a href="#">Ngarluma Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	02/05/2005	<a href="#">Ngarluma/Yindjibarndi</a>
<a href="#">Nyangumarta Karajarri Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	25/05/2012	<a href="#">Nyangumarta-Karajarri Overlap Proceeding (Yawinya)</a>
<a href="#">Nyangumarta Warrarn Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	11/06/2009	<a href="#">Nyangumarta People (Part A)</a>
<a href="#">Parna Ngururrpa (Aboriginal Corporation) RNTBC</a>	<a href="#">Trustee</a>	18/10/2007	<a href="#">Ngururrpa</a>
<a href="#">Pila Nguru Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	28/11/2000	<a href="#">Spinifex People</a>
<a href="#">Tarlka Matuwa Piarku (Aboriginal Corporation) RNTBC</a>	<a href="#">Trustee</a>	29/07/2013	<a href="#">Wiluna</a>
		03/09/2013	<a href="#">Wiluna #2</a>
<a href="#">Tjamu Tjamu Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	19/10/2001	<a href="#">Kiwirrkurra People</a>

RNTBC Name (NTC hyperlink)	Type of RNTBC (ATNS hyperlink)	Determination Date/s (RNTBC hyperlink)	Determination/s short name (NNTT hyperlink)
<a href="#">Tjurabalan Native Title Land Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	20/08/2001	<a href="#">Tjurabalan People</a>
<a href="#">Walalakoo Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	29/05/2014	<a href="#">Nyikina Mangala</a>
		29/10/2015	<a href="#">Nyikina Mangala #2</a>
<a href="#">Wanjina-Wungurr (Native Title) Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	27/08/2004	<a href="#">Wanjina-Wungurr Wilinggin Native Title Determination No1</a>
		23/05/2011	<a href="#">Unguu Part A</a>
		26/05/2011	<a href="#">Dambimangari</a>
		27/11/2012	<a href="#">Unguu – Area B</a>
<a href="#">Wanparta Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	30/05/2007	<a href="#">Ngarla and Ngarla #2 (Determination Area A)</a>
		06/08/2010	<a href="#">Ngarla People (Mount Goldsworthy Lease Proceeding)</a>
<a href="#">Western Desert Lands Aboriginal Corporation (Jam Ukurnu-Yapalikunu) RNTBC</a>	<a href="#">Trustee</a>	<a href="#">27/09/2002</a>	<a href="#">Martu &amp; Ngurrara</a>
		<a href="#">16/05/2013</a>	<a href="#">Martu (Part B), Karnapyrri, and Martu #2</a>
<a href="#">Wintawari Guruma Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	01/03/2007	<a href="#">Eastern Guruma</a>
		20/11/2012	<a href="#">Eastern Guruma- Area B</a>
<a href="#">Yanunijarra Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	09/11/2010	<a href="#">Ngurrara Part A</a>
		27/11/2012	<a href="#">Ngurrara – Area B</a>
			<a href="#">Ngurrara 2 Area C</a>
<a href="#">Yarnangu Ngaanyatjarraku Parna (Aboriginal Corporation) RNTBC</a>	<a href="#">Trustee</a>	03/06/2008	<a href="#">Ngaanyatjarra Lands (Part B)</a>
		29/06/2005	<a href="#">Ngaanyatjarra Lands (Part A)</a>
<a href="#">Yawuru Native Title Holders Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	<a href="#">28/04/2006</a>	<a href="#">Rubibi Community</a>
<a href="#">Yindjibarndi Aboriginal Corporation (For the Yindjibarndi People) RNTBC</a>	<a href="#">Trustee</a>	<a href="#">02/05/2005</a>	<a href="#">Ngarluma/Yindjibarndi</a>
<a href="#">Yungngora Aboriginal Corporation RNTBC</a>	<a href="#">Trustee</a>	27/04/2007	<a href="#">Noonkanbah</a>

Sources: <http://www.nativetitle.org.au/> <http://www.atns.net.au/>  
& <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> at 21 December 2015

For up to date information about native title claimant determinations and PBCs/RNTBCs use the [NNTT Search applications and determinations](#) tool on the NNTT website. The [NTRU](#) also provides information about PBC/RNTBCs in its monthly '[What's New](#)' service; its [Registered Native Title Bodies Corporate Summary](#) compiled from data provided by the NNTT; and on the [Native Title Corporations](#) website (see below).

## National determinations and PBC map

The NNTT's [Determinations and Native Title Prescribed Bodies Corporate Map \(PDF 1.1MB\)](#) shows determined areas covered by PBCs and also shows where PBCs are still to be nominated over determined areas. This document includes a table of the areas in each state/territory (in square kilometres) covered by native title determinations.

## Compliance regime for RNTBCs

The NTA and the [Native Title \(Prescribed Bodies Corporate\) Regulations 1999 \(Cth\)](#) (PBC Regulations) require corporations to register under the [Corporations \(Aboriginal and Torres Strait Islander\) Act 2006 \(Cth\)](#) (CATSI Act) if they are determined by the Federal Court to hold and manage native title rights and interests. The [Office of the Registrar of Indigenous Corporations](#) (ORIC) supports and regulates corporations incorporated under the CATSI Act. ORIC provides advice on how to incorporate, training for corporation members and office holders and corporate governance. For information about RNTBCs use the corporations search tool on the [ORIC](#) website.

## Native title corporations website

The NTRU manages the [Native Title Corporations website](#), a resource for RNTBCs and for those engaging with them. It provides information about legislation and policies, events, resources and publications, training and running a RNTBC. Information about individual RNTBCs is provided in detailed [PBC profiles](#) (including links to PBC websites where available). The NTRU has also compiled [Funding and Training Guides for RNTBCs and PBCs](#). See: [Western Australia PBC Funding and Training Guide \(PDF 716KB\)](#)

## 9. Future acts

### Overview

A [future act](#) is a proposed activity on land or waters that may affect native title rights and interests. [Section 227](#) of the NTA sets out that an act affects native title if it extinguishes the native title rights and interests or if it is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise. Examples of future acts include the grant of a mining tenement, building public infrastructure, services or facilities and the compulsory acquisition of land. A future act is invalid to the extent it affects native title unless it complies with certain provisions in the NTA (see Subdivisions D-M of Division 3 of the [NTA](#)). These provisions include that a future act will be valid if parties to an Indigenous Land Use Agreement (ILUA) consent to it being done and details of the agreement are on the NNTT's [Register of ILUAs](#).

The future act process provides registered native title applicants and native title holders with specified rights, known as [procedural rights](#), from the time a claim is registered. The type of procedural rights which the native title group can exercise will vary (from the right to comment, be consulted, object or negotiate) depending on the type of future act that is being proposed. Generally the [right to negotiate](#) applies to future acts such as mining, exploration, prospecting, gas and petroleum exploration or extraction.

The [NNTT](#) administers the future act processes that attract the right to negotiate and provides information and support on future act related questions. The NNTT's role includes mediating between parties, conducting inquiries and making future act determinations when parties cannot reach agreement. Where a proposed future act meets the criteria set out in [s 237](#) of the NTA, it may attract an [expedited procedure](#). This means that the act may be validly done without negotiations if there are no objections to the act. For more information see the [Future acts section](#) of the NNTT website.

### WA Government ILUA and Standard Heritage Agreement

The number of future act expedited procedure objection applications in Western Australia is far greater than in any other jurisdiction (over 19,650 at 31 December 2016). In an effort to reduce the number of objections to license applications under the expedited procedures of the NTA, the WA Government introduced a Government Indigenous Land Use Agreement and Standard Heritage Agreement. In particular, these agreements seek to fast track mineral tenement applications that attract the expedited procedure under [s 237](#) of the NTA. The agreements are to be executed before a mineral tenement application is submitted to the expedited procedure.



However, these agreements are contentious and a large number of objections continue to be made. See section 9 below and the [Agreements](#) section of the Department of Premier & Cabinet's [LANTU](#) website for more information, and the [Publications](#) section of the [LANTU](#) website for template agreements.

## Future act applications

As at 31 December 2015 there had been a total of 22,590 future act applications in Western Australia, see Table 9 below. Use the NNTT [Future act applications and determinations](#) search tool to find information about particular applications.

**Table 9: Summary of future act applications in Western Australia**

Application Type	No.
Future act determination application	2,928
Future act expedited procedure objection applications	19,662
<b>Total future act applications</b>	<b>22,590</b>

Source: <http://www.nntt.gov.au/searchRegApps/FutureActs/Pages/default.aspx> at 31 December 2015

## Future act determinations

As at 31 December 2015 there had been a total of 3,183 future act determinations in Western Australia. Use the NNTT [Future act applications and determinations](#) search tool to find information about particular determinations.

## Future act agreements

A future act agreement is an agreement made under [s 31](#) of the NTA with native title parties about an activity that may affect native title. Once an agreement has been made the parties are required to lodge a copy of the agreement with the NNTT, however in most cases the parties provide only basic agreement information (to satisfy the NTA requirements). In some cases parties may make agreement information public and information about (some of) these public future act agreements are available on the Agreements Treaties and Negotiated Settlements (ATNS) website, see [Future act agreements \(Native Title Act\)](#).

# 10. Indigenous land use agreements

## Overview

As at 31 December 2015, there were 93 registered Indigenous Land Use Agreements (ILUAs) in Western Australia, 31 of these are Area Agreements (AA) and 62 are Body Corporate Agreements (BCA). Table 9 below provides links to ILUA

information on the [ATNS](#) website (where available) and ILUA information (including maps) on the [NNTT](#) website.

## WA Government ILUA and Standard Heritage Agreement

The WA Government has developed a Government ILUA and Standard Heritage Agreement in an attempt to address cultural heritage, land access and land use issues. The Government ILUA covers a range of matters including the grant of exploration tenements and low impact future acts (see section 9 below). See the [publications](#) section of the Department of Premier & Cabinet's [LANTU](#) for copies of the documents listed below (which are regularly updated):

- Guide to the Government Indigenous Land Use Agreement and Standard Heritage Agreements
  - Guide for Third Party Indigenous Land Use Agreements
  - Templates for the Government ILUA and Standard Heritage Agreement.
- In the [Native Title Report 2012](#) the Aboriginal and Torres Strait Islander Social Justice Commissioner expressed concerns that these agreements dilute the rights of native title groups. NTRBs have also developed their own heritage guidelines to address the heritage concerns of native title groups, see for example YMAC's [Aboriginal Cultural Heritage Management Guidelines](#).

**Table 10: Registered Indigenous land use agreements in Western Australia**

Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Cape Preston Project Deed (YM Mardie ILUA)</a>	<a href="#">WI2015/003</a>	06/11/2015	AA	Access
<a href="#">Karajarri Traditional Lands Association KSCS Eighty Mile Beach ILUA</a>	<a href="#">WI2015/010</a>	22/10/2015	BC	Co-management, Access
<a href="#">Yawuru Ungani Project ILUA</a>	<a href="#">WI2015/002</a>	24/06/2015	BC	Petroleum, Commercial, Energy, Tenure resolution
<a href="#">Nyikina Mangala Ungani Project Infrastructure ILUA</a>	<a href="#">WI2015/001</a>	15/06/2015	BC	Pipeline, Access, Petroleum/Gas
<a href="#">Ngarla PBC KSCS ILUA</a>	<a href="#">WI2014/016</a>	19/12/2014	BCA	Co-management Access, Development
<a href="#">Esperance Nyungar Government ILUA</a>	<a href="#">WI2014/006</a>	21/11/2014	AA	Co-management Access, Communication Community, Government Mining
<a href="#">Esperance Nyungar - FQM Mining Validation ILUA</a>	<a href="#">WI2014/007</a>	07/11/2014	AA	Mining, Medium mining
<a href="#">Blina Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/010</a>	21/10/2014	BCA	Pastoral, Access Communication Community

Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Kalyeeda Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/011</a>	21/10/2014	BCA	Pastoral, Access Communication Community
<a href="#">Meda Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/012</a>	21/10/2014	BCA	Pastoral, Access Communication Community
<a href="#">Yakka Munga Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/013</a>	21/10/2014	BCA	Pastoral, Access Communication Community
<a href="#">Dampier Downs Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/014</a>	21/10/2014	BCA	Pastoral, Access Communication, Community
<a href="#">Yeeda Station and Nyikina Mangala ILUA</a>	<a href="#">WI2014/015</a>	21/10/2014	BCA	Pastoral, Access Communication Community
<a href="#">Nyangumarta PBC KSCS ILUA</a>	<a href="#">WI2014/009</a>	17/10/2014	BCA	Co-management Government
<a href="#">Ellendale ILUA</a>	<a href="#">WI2014/002</a>	18/08/2014	AA	Mining Large mining
<a href="#">Anketell Port, Infrastructure Corridor and Industrial Estates Agreement</a>	<a href="#">WI2014/004</a>	23/07/2014	BCA	Industrial, Access, Communication, Community
<a href="#">Kuruma Marthudunera and Yaburara and Coastal Mardudhunera Indigenous Land Use Agreement</a>	<a href="#">WI2014/001</a>	04/07/2014	AA	Co-management
<a href="#">Mirning Area Agreement ILUA</a>	<a href="#">WI2013/007</a>	19/02/2014	AA	Tenure resolution, Co-management, Extinguishment, Government, Residential
<a href="#">Gooniyandi and Fossil Downs ILUA</a>	<a href="#">WI2013/008</a>	07/01/2014	BCA	Pastoral, Access, Communication, Terms of Access
<a href="#">Gooniyandi and Margaret River ILUA</a>	<a href="#">WI2013/009</a>	07/01/2014	BCA	Pastoral, Access, Communication, Terms of Access
<a href="#">Gooniyandi and Christmas Creek ILUA</a>	<a href="#">WI2013/010</a>	07/01/2014	BCA	Pastoral, Access, Communication, Terms of Access
<a href="#">Gooniyandi and Gogo Station Pty Ltd ILUA</a>	<a href="#">WI2013/011</a>	07/01/2014	BCA	Pastoral, Access, Communication, Terms of Access
<a href="#">Gooniyandi and Larrawa ILUA</a>	<a href="#">WI2013/012</a>	07/01/2014	BCA	Pastoral, Access, Communication, Terms of Access
<a href="#">Budina and Middalya Station Indigenous Land Use Agreement</a>	<a href="#">WI2013/003</a>	11/10/2013	AA	Pastoral
<a href="#">Budina and Lyndon Station Indigenous Land Use Agreement</a>	<a href="#">WI2013/004</a>	11/10/2013	AA	Pastoral

Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Budina and Towera Station Indigenous Land Use Agreement</a>	<a href="#">WI2013/005</a>	11/10/2013	AA	Pastoral
Budina and Emu Creek Indigenous Land Use Agreement	<a href="#">WI2013/006</a>	11/10/2013	AA	Pastoral
<a href="#">Kintyre Mining Development ILUA</a>	<a href="#">WI2013/002</a>	19/08/2013	AA	Mining, Development, Large mining
<a href="#">RTIO and Yinhawangka People ILUA</a>	<a href="#">WI2013/001</a>	05/07/2013	AA	Mining
<a href="#">RTIO and PKKP People ILUA</a>	<a href="#">WI2012/011</a>	24/04/2013	AA	Mining, Exploration, Infrastructure, Large mining
<a href="#">Niyiyaparli People and BHP Billiton Comprehensive Agreement—Initial ILUA</a>	<a href="#">WI2012/005</a>	13/03/2013	AA	Large mining, Communication, Consultation protocol, Mining
RTIO and Niyiyaparli ILUA	<a href="#">WI2012/007</a>	13/03/2013	AA	Mining
<a href="#">RTIO and Ngarlawangga People ILUA</a>	<a href="#">WI2012/010</a>	06/03/2013	AA	Mining, Exploration, Infrastructure, Large mining
<a href="#">RTIO Kuruma Marthudunera People ILUA</a>	<a href="#">WI2012/006</a>	11/02/2013	AA	Mining
<a href="#">Lake Disappointment Project Mining and Indigenous Land Use Agreement</a>	<a href="#">WI2012/009</a>	21/12/2012	BCA	Mining, Exploration
<a href="#">Yugunga-Nya People &amp; Sandfire ILUA (Non-overlapping area)</a>	<a href="#">WI2012/001</a>	21/09/2012	AA	Mining, Exploration, Medium mining
<a href="#">Nyangumarta Karajarri and Mandora Station ILUA</a>	<a href="#">WI2012/003</a>	20/08/2012	BCA	Access, Development, Pastoral
<a href="#">Nyangumarta Karajarri and Anna Plains Station ILUA</a>	<a href="#">WI2012/004</a>	20/08/2012	BCA	Pastoral
<a href="#">Ngarluma Aboriginal Sustainable Housing (NASH) ILUA</a>	<a href="#">WI2012/002</a>	16/07/2012	BCA	Residential, Development, Infrastructure
<a href="#">Gingirana People and Sandfire Resources Indigenous Land Use Agreement</a>	<a href="#">WI2011/009</a>	24/01/2012	AA	Mining, Exploration, Medium mining
<a href="#">Churdy Pool Siding Special Lease ILUA</a>	<a href="#">WI2011/006</a>	11/11/2011	AA	Tenure resolution
<a href="#">Wickham Motorcross ILUA</a>	<a href="#">WI2011/008</a>	08/11/2011	BCA	Public, Community, Government
<a href="#">Wingellina Project Agreement</a>	<a href="#">WI2011/007</a>	21/10/2011	BCA	Mining, Medium mining
<a href="#">Thalanyji and Nanutarra Station Indigenous Land Use Agreement</a>	<a href="#">WI2011/001</a>	04/08/2011	BCA	Terms of Access, Access
<a href="#">Thalanyji and Uaroo Station Indigenous Land Use Agreement</a>	<a href="#">WI2011/002</a>	04/08/2011	BCA	Terms of Access, Access
<a href="#">RTIO Ngarluma Indigenous Land Use Agreement (Body Corporate Agreement)</a>	<a href="#">WI2011/005</a>	29/07/2011	BCA	Infrastructure, Development, Industrial, Mining

Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Hope Downs 4 Corridor Agreement</a>	<a href="#">WI2011/003</a>	22/07/2011	AA	Infrastructure, Mining
<a href="#">Bidyadanga Initial Works ILUA</a>	<a href="#">WI2011/004</a>	05/07/2011	BCA	Infrastructure, Community, Consultation protocol, Government
<a href="#">Looma Multi Function Police Facility</a>	<a href="#">WI2010/021</a>	27/01/2011	AA	Government, Community, Public
<a href="#">Nyangumarta Warrarn Aboriginal Corporation &amp; Anna Plains Pastoral Lease ILUA</a>	<a href="#">WI2010/024</a>	24/01/2011	BCA	Access, Terms of Access
<a href="#">Nyangumarta Warrarn Aboriginal Corporation &amp; Mandora Pastoral Lease ILUA</a>	<a href="#">WI2010/025</a>	24/01/2011	BCA	Access, Terms of Access
<a href="#">Nyangumarta Warrarn Aboriginal Corporation &amp; Wallal Downs Pastoral Lease ILUA</a>	<a href="#">WI2010/026</a>	24/01/2011	BCA	Access, Terms of Access
<a href="#">Onslow ILUA</a>	<a href="#">WI2010/027</a>	17/01/2011	BCA	Mining, Medium mining
<a href="#">Macedon ILUA</a>	<a href="#">WI2010/023</a>	17/01/2011	BCA	Access, Petroleum/Gas, Exploration
<a href="#">Ilkurlka ILUA</a>	<a href="#">WI2010/022</a>	30/11/2010	BCA	Commercial, Community Living Area, Tenure resolution
<a href="#">Wyamba Aboriginal Corporation &amp; Wyloo Pastoral Lease ILUA</a>	<a href="#">WI2010/007</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Mangaroon Pastoral Lease ILUA</a>	<a href="#">WI2010/008</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Maroonah Pastoral Lease ILUA</a>	<a href="#">WI2010/009</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Mia Mia Pastoral Lease ILUA</a>	<a href="#">WI2010/010</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Minnie Creek Pastoral Lease ILUA</a>	<a href="#">WI2010/011</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Kooline Pastoral Lease ILUA</a>	<a href="#">WI2010/012</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Glen Florrie Pastoral Lease ILUA</a>	<a href="#">WI2010/013</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Edmund Pastoral Lease ILUA</a>	<a href="#">WI2010/014</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Lyndon Pastoral Lease ILUA</a>	<a href="#">WI2010/015</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Towera Pastoral Lease ILUA</a>	<a href="#">WI2010/016</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Williambury Pastoral Lease ILUA</a>	<a href="#">WI2010/017</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Uaroo Pastoral Lease ILUA</a>	<a href="#">WI2010/018</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Wyamba Aboriginal Corporation &amp; Nanutarra Pastoral Lease ILUA</a>	<a href="#">WI2010/019</a>	10/09/2010	BCA	Access, Terms of Access



Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Wyamba Aboriginal Corporation &amp; Middalya Pastoral Lease ILUA</a>	<a href="#">WI2010/020</a>	10/09/2010	BCA	Access, Terms of Access
<a href="#">Yawuru Area Agreement ILUA</a>	<a href="#">WI2010/004</a>	6/08/2010	AA	Development, Government, Residential, Tenure resolution
<a href="#">FMG Pilbara Pty Ltd and Wintawari Guruma Aboriginal Corporation RNTBC</a>	<a href="#">WI2010/005</a>	14/07/2010	BCA	Mining, Large mining
<a href="#">Burringurrah Multi Function Police Facility</a>	<a href="#">WI2010/001</a>	29/06/2010	AA	Infrastructure, Community, Government, Public
<a href="#">Yawuru Prescribed Body Corporate ILUA - Broome</a>	<a href="#">WI2010/003</a>	24/05/2010	BCA	Development, Commercial, Government, Infrastructure
<a href="#">Warburton Corrective Services Work Camp ILUA</a>	<a href="#">WI2010/002</a>	20/04/2010	BCA	Infrastructure
<a href="#">Thalanyji and Glen Florrie Pastoral ILUA</a>	<a href="#">WI2009/023</a>	07/01/2010	BCA	Access
<a href="#">Thalanyji and Minderoo Pastoral ILUA</a>	<a href="#">WI2009/024</a>	07/01/2010	BCA	Access
<a href="#">Thalanyji and Nyang (Emu Creek) Pastoral ILUA</a>	<a href="#">WI2009/025</a>	07/01/2010	BCA	Access
<a href="#">Thalanyji &amp; Yanrey Pastoral ILUA</a>	<a href="#">WI2009/026</a>	07/01/2010	BCA	Access
<a href="#">Thalanyji and Koordarrie Pastoral ILUA</a>	<a href="#">WI2009/027</a>	7/01/2010	BCA	Access
<a href="#">Murchison Radio-astronomy Observatory Agreement</a>	<a href="#">WI2009/002</a>	13/11/2009	AA	Infrastructure, Communication
<a href="#">SDWK Nyikina Mangala</a>	<a href="#">WI2005/001</a>	19/11/2008	AA	Infrastructure, Public
<a href="#">Blackstone Multi Function Police Facility BC ILUA</a>	<a href="#">WI2008/002</a>	10/10/2008	BCA	Infrastructure, Public
<a href="#">Pilbara Iron - Eastern Guruma Body Corporate ILUA</a>	<a href="#">WI2007/001</a>	23/06/2008	BCA	Mining, Exploration, Large mining
<a href="#">Ngarla Pastoral ILUA</a>	<a href="#">WI2006/002</a>	21/11/2007	BCA	Access, Consultation protocol, Terms of Access
<a href="#">Eastern Guruma Pastoral ILUA</a>	<a href="#">WI2006/004</a>	21/11/2007	BCA	Access, Consultation protocol, Terms of Access
<a href="#">Ord Final Agreement</a>	<a href="#">WI2005/003</a>	16/08/2006	AA	Development, Commercial
<a href="#">Telstra Ngaanyatjarra ILUA</a>	<a href="#">WI2004/006</a>	11/08/2006	BCA	Access, Communication, Infrastructure
<a href="#">Ngaanyatjarra Lands Indigenous Land Use Agreement (Body Corporate Agreement) No.1</a>	<a href="#">WI2004/005</a>	09/03/2006	BCA	Mining, Exploration
<a href="#">Airservices Australia - Ngaanyatjarra Indigenous Land Use Agreement</a>	<a href="#">WI2005/002</a>	18/01/2006	BCA	Infrastructure, Access, Communication, Terms of Access
<a href="#">Argyle Diamonds</a>	<a href="#">WI2002/003</a>	08/04/2005	AA	Mining, Large mining

Name (ATNS hyperlink)	NNTT file hyperlink	Date	Type	Subject
<a href="#">Hamersley Iron Pty Ltd - Eastern Guruma</a>	<a href="#">WI2001/001</a>	05/03/2004	AA	Mining, Large mining
<a href="#">Nharnuwangga Wajarri and Ngarlawangga</a>	<a href="#">WIA2000/001</a>	05/07/2001	AA	Extinguishment, Mining

Sources: <http://www.atns.net.au/> & <http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Indigenous-Land-Use-Agreements.aspx> at 31 December 2015

For up to date ILUA information use the [Register of Indigenous Land Use Agreements](#) search tool on the NNTT website. The [NTRU](#) also provides information about ILUAs in its monthly '[What's New](#)' service.

## ILUA map

The NNTT's [Indigenous Land Use Agreements Map \(PDF 2.02MB\)](#) shows the external boundaries of registered ILUAs (area agreements and body corporate agreements) as well as ILUAs in notification but not yet registered. It also includes a summary table of the area and proportion of land covered by ILUAs in each jurisdiction.

## More information

For more information about ILUAs see the ILUA section of the [National Native Title Information Handbook](#) and the [ILUA section](#) of the NNTT website. The Productivity Commission's [Overcoming Indigenous Disadvantage: Key Indicators 2014](#) report (using data provided by the NNTT) includes information about the total area of registered ILUAs (as at 30 June for 2004-2013), see [Chapter 9 \(PDF 5.5MB\)](#) (section 9.2 and Table 9A.2.5).

# 11. Cultural heritage

## Overview

Aboriginal cultural heritage in WA is primarily protected under the [Aboriginal Heritage Act 1972 \(WA\)](#). The Act is administered by the [Department of Aboriginal Affairs](#) (DAA). A review of this legislation commenced in 2009 and in 2012 the WA Government released a discussion paper for public consultation, see the [Aboriginal Heritage Act Reform](#) section of the DAA website for more information. In late 2014 the WA Government introduced the [Aboriginal Heritage Amendment Bill 2014](#) to the WA Parliament. In December 2015, the passage of the Bill was still in progress. The draft Bill has attracted strong opposition; see for example information about the

proposed changes on the [YMAC website](#) and request copies of the [submissions](#) from NTRBs and others on the [Aboriginal Heritage Act Reform](#) website.

In 2011, the State government launched a review of the [Heritage of Western Australia Act 1990 \(WA\)](#), which is administered by the Heritage Council of WA. That Act concerns the cultural heritage of WA that is not solely of Aboriginal cultural heritage significance, which is covered by the *Aboriginal Heritage Act 1972*. A consultation paper was released in April 2011, followed by a discussion paper in August of that year. The Heritage Bill 2015 exposure draft (the Green Bill), released for public comment in August 2015, is the culmination of the 2011 review. In December 2015, a final Heritage Bill had not been tabled.

Together with the Department of Premier & Cabinet's [LANTU](#), DAA has developed a number of documents to assist land users relating to cultural heritage (and native title) matters including a Government Standard Heritage Agreement; a Proponent Standard Heritage Agreement and Aboriginal Heritage Due Diligence Guidelines. See the [Publications](#) section of the LANTU website for more information. See also the [LANTU](#) website for information about State Land Initiatives Group for Native Title and Aboriginal Heritage, Inter-agency Reference Group on Native Title and Cultural Heritage and the Aboriginal Cultural Heritage Protocol pilot program.

## Legislation

### ***Aboriginal Heritage Act 1972 (WA)***

The [Aboriginal Heritage Act 1972 \(WA\)](#) (AHA) is the State's principal legislation for the protection of Aboriginal cultural heritage. It was enacted to make provision for the preservation on behalf of the community of places and objects customarily used by or traditional to the original inhabitants of Australia or their descendants (see the [Long Title](#) of the Act). The Act establishes an advisory body, the Aboriginal Cultural Material Committee (ACMC). [Section 5](#) of the AHA defines that the Act applies to places where Aboriginal people have, or appear to have, left any object connected with traditional Aboriginal life; sacred, ritual or ceremonial sites; any places that are (in the opinion of the ACMC) associated with Aboriginal people and should be preserved for their historical, anthropological, archaeological or ethnographical importance and significance to the cultural heritage of the State; and places where related objects (as defined in [s 6](#)) are stored.

[Section 17](#) of the AHA establishes as an offence the excavation, destruction, damage or alteration to an Aboriginal Site without appropriate authorisation. Acting on an entrenched Constitutional assumption that the AHA did not bind the Crown, the Western Australian Government caused damage to Aboriginal sites when it undertook works to redevelop the Swan Brewery. The High Court in [Bropho v](#)

[Western Australia](#) concluded that the AHA does bind the Crown (in this instance, the Western Australian Government).

The Noongar Standard Heritage Agreement (NSHA) forms part of the South West alternative settlement and came into effect on the ILUA execution date in June 2015. It was drafted to provide a uniform and efficient approach to heritage surveys and streamline land approvals in compliance with the *Aboriginal Heritage Act 1972 (WA)*. The NSHA also sets out a process aimed at ensuring that the relevant information is included in the [Aboriginal Heritage Inquiry System](#) managed by the DAA. The WA Government is legally bound to enter into a NSHA with the relevant ILUA group when conducting a heritage survey, unless an existing heritage agreement is in place. The Department of Mines and Petroleum is required to grant new mining and petroleum titles within the settlement area conditionally, requiring a heritage agreement or a NSHA be entered into before the rights granted can be exercised. Other land users are not bound to enter into an NSHA, but may choose to adopt the process.

### **Heritage Bill 2015 (WA)**

The Heritage Bill 2015 exposure draft was open for public comment in August and September 2015, and is expected to replace the [Heritage of Western Australia Act 1990 \(WA\)](#). The term ‘cultural heritage significance’ is defined in the draft bill to mean aesthetic, historic, scientific, social or spiritual value for Western Australians or groups within the State. However, the objectives of the draft bill state that it is not intended to apply to places whose cultural heritage significance is solely derived from its connection with Aboriginal tradition or culture. Under the draft bill the Heritage Council of Western Australia will continue to be the State’s expert body on matters concerning places of cultural heritage significance, except those places where cultural heritage significance is solely derived from its connection with Aboriginal tradition or culture. Nothing in the draft bill will affect the operation of the *Aboriginal Heritage Act 1972 (WA)*.

For further information please see the [Draft Bill for Public Consultation](#) and the Heritage Council’s [website](#).

### **More information**

The [NTRU](#) has compiled a [Native title and Indigenous cultural heritage management bibliography \(PDF 772KB\)](#), as part of its [Native title and cultural heritage research project](#). See the NTRU [website](#) for more information about Indigenous heritage protection in Australia, including links to relevant publications.

## 12. Land rights

### Overview

Former Aboriginal reserves held by the Native Welfare Department and other State government agencies have been vested in the [Aboriginal Lands Trust \(ALT\)](#) under the [Aboriginal Affairs Planning Authority Act 1972 \(WA\)](#) (AAPA Act). The [Department of Aboriginal Affairs](#) (DAA) administers this Act. In line with recommendations of the Bonner Report in 1996, the ALT seeks to divest ALT land back to Aboriginal ownership. In 1999, the Western Australian Government announced a land transfer program, under which the estate of the ALT was to be transferred to Aboriginal corporations by 2002; however this goal has still not yet been achieved. See the [DAA annual reports](#) for information about ALT land transfer processes in progress and the [Land](#) section of the DAA website for more information. The [Land Administration \(South West Native Title Settlement\) Bill 2015](#) was introduced in November 2015 and facilitates the transfer of a large parcel of land for the creation of the Noongar Land Estate. At the time of writing, the passage of the bill was still in progress.

The WA Government responded to calls from Aboriginal people to undertake a review of lands in Western Australia which were once reserved for Aboriginal use but, for one reason or another, are no longer part of the Aboriginal estate. The result of this review was the *Lost Lands Report*, published in 2004.

### Legislation

#### ***Aboriginal Affairs Planning Authority Act 1972 (WA)***

The [Aboriginal Affairs Planning Authority Act 1972 \(WA\)](#) (AAPA Act) established the [Aboriginal Lands Trust](#) (ALT). The functions of the ALT include acquiring and holding land and using and managing it for the benefit of Aboriginal persons. The Aboriginal Land Strategic Framework 2012-2014 states that the ALT holds 27 million hectares of land (or 11 per cent of the State) including 325 parcels of land (251 reserves, 59 freehold, 6 pastoral leases and 9 general leases). In December 2015, the 2015-2018 Strategic Framework was still in development. See the [ALT website](#) for more information. The AAPA Act also establishes the Aboriginal Affairs Planning Authority (AAPA), which has been amalgamated into the [Department of Aboriginal Affairs](#). As the operation of the Act provides for the continued existence of the AAPA as a body corporate, the Minister for Indigenous Affairs alone constitutes the AAPA for administrative purposes. As a legal entity the AAPA still holds land, money and carries out certain functions under the Act, however the functions of the AAPA have been assumed by DAA.



In 2002-2003 the AAPA and ALT were reviewed as part of the State Government's Machinery of Government Review (Review of Statutory Authorities). This Review recommended that the AAPA be completely abolished and its functions moved to the ALT and DAA. This would require minor legislative amendments. The Minister appoints the ALT chair and members. All members must be Aboriginal people. Following a 2003 review of the ALT governance and business processes, appointments to the Trust have been made on the basis of demonstrated capacities in one or more of the following: land and sea management; indigenous business and economic development; and/or Indigenous housing and infrastructure development.

The Act was amended in 2012 to repeal Part IV of the [Aboriginal Affairs Planning Authority Act 1972 \(WA\)](#) in order to ensure parity at law for Aboriginal people who die without a will by applying the same scheme of distributing intestate estates as non-Aboriginal people.

### **Aboriginal Communities Act 1979 (WA)**

The [Aboriginal Communities Act 1979 \(WA\)](#) provides for certain communities that are wholly or principally composed of Aboriginal people to manage and control their community lands. [Section 4](#) of the Act applies to the Aboriginal communities incorporated as the Bidjandanga Aboriginal Community La Grange Incorporated and the Bardi Aborigines Association Inc.; with provision for further communities to be included by proclamation.

Community lands do not need to be reserved lands, and are any lands declared by the Governor under [s 6](#) of the Act. The Act provides that the Councils of specified communities may make by-laws that deal with matters such as access to community land, preservation of buildings and plants, prohibition of certain behaviour and the regulation of alcohol and firearms ([s 7](#)). Such by-laws may be made subject to the Minister's consent, Governor's approval and disallowance by State Parliament ([s 8](#)).

### **Land Administration Act 1997 (WA)**

Under section 83 of the [Land Administration Act 1997 \(WA\)](#) the Minister may transfer Crown Land or grant a lease of Crown land for the purposes of advancing the interest of Aboriginal people to approved bodies corporate.

### **Land Administration (South West Native Title Settlement) Bill 2015 (WA)**

This Bill provides for the implementation of certain provisions of the native title settlement reached between the State and Noongar people in the south west of the State. The passage of this Bill is a precondition to the commencement of the settlement under six indigenous land use agreements (ILUAs) entered into with the Noongar people. These ILUAs provide a comprehensive package of benefits to the Noongar people as compensation for the surrender, loss, or impairment of any native

title rights and interests in relation to land and water in the south west of the State. The Bill was tabled in November 2015, and its passage was still in progress in December 2015.

The Noongar Land Estate will include up to 20,000 hectares of freehold land and up to 300,000 hectares of Crown land. Access licences will allow those people to access and undertake customary activities on certain unallocated Crown land and unmanaged reserves.

For further information see the [Explanatory Memorandum](#).

## Indigenous owned or controlled land in Western Australia

Information about Indigenous owned or controlled land is compiled by the Productivity Commission as part of its [Overcoming Indigenous Disadvantage](#) reports. The most recent report, [Overcoming Indigenous Disadvantage: Key Indicators 2014](#), was released on 19 November 2014. Chapter 9 (section 9.2 and Table 9A.2.1) of this report provides information about Indigenous owned or controlled land (which includes Indigenous owned or controlled land that is freehold, leasehold, crown, license, Aboriginal Deed of Grant in Trust or not stated tenure). Table 11 below provides a summary of Indigenous owned or controlled land in WA.

**Table 11: Estimated Indigenous owned or controlled land in WA (ILC data at 30 April 2014)** <sup>(a)</sup>

Land tenure type	Unit	Total
Freehold (alienable)	km <sup>2</sup>	442.5
Leasehold (Crown Lease)	km <sup>2</sup>	160,474.5
Leasehold (other than Crown Lease)	km <sup>2</sup>	-
License	km <sup>2</sup>	-
Tenure not stated	km <sup>2</sup>	202,362.1
<b>Total Indigenous land</b>	km <sup>2</sup>	363,279.0
Proportion of national total of Indigenous land	%	29.4
Total land area of WA (b)	km <sup>2</sup>	2,529,875.0
Indigenous land as a proportion of total land area of WA	%	14.4
<b>Number of land parcels (c)</b>	no.	<b>2,611</b>

<sup>(a)</sup> The ILC makes no warranties as to the currency or accuracy of this information. Non-ILC land information data date - 2000.

<sup>(b)</sup> Total land area figures based on GeoScience Australia's published "Area of Australia - States and Territories" data as calculated from GeoScience Australia's GEODATA Coast 100K 2004 product.

<sup>(c)</sup> Parcels are individual geographic features rather than legal entities. That is, a legal parcel may be dissected into two or more parcels by, for example, a road, and are represented in these data as two parcels while being only a single legal land entity.

- Nil or rounded to zero.

Source: <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/key-indicators-2014/09-key-indicators-2014-chapter9.pdf> Table 9A.2.1 Estimated Indigenous owned or controlled land by State/Territory, 2014 Indigenous Land Corporation 2014 (unpublished). See Chapter 9 and related attachment tables.

## 13. ILC land purchases

### Overview

The [Indigenous Land Corporation](#) (ILC) was established in 1995. It is a [Corporate Commonwealth Entity](#) under the [Public Governance, Performance and Accountability Act 2013](#) (Cth) and a portfolio agency of the [Department of Prime Minister and Cabinet](#). Since 2005, the ILC has been administered under the [Aboriginal and Torres Strait Islander Act 2005 \(Cth\)](#) (see part 4A of the Act). The ILC is accountable to Parliament through the [Minister for Indigenous Affairs](#), and it is this Minister who appoints the [ILC Board](#). The ILC Board is responsible for all policy and land purchase decisions and is not under the direction of the Minister. The ILC's purpose is to assist Indigenous people to acquire and manage land to achieve economic, environmental, social and cultural benefits. The ILC acquires and grants properties to Indigenous organisations and assists Indigenous landholders to sustainably manage land and develop viable and sustainable land uses including developing property management plans, purchasing equipment, or developing infrastructure. The ILC has recently made changes to its program delivery structure, combining its land acquisition and management functions into a single program: [Our Land Our Future](#). See the [Corporate documents](#) section of the ILC website for copies of the ILC's national, state and territory land strategies.

### ILC land purchases

As at 30 June 2015, the ILC had purchased 53 properties in WA covering a total area of 2,721,673.31. The titles to 28 of these properties had been transferred to Aboriginal organisations. A list of land purchases (including the title holding body) is available on the ILC website: [ILC Lands Purchased](#).

### Map

See the [Land purchased](#) section of the ILC website to view a map of land purchases.

## 14. Indigenous protected areas

### Overview

An Indigenous Protected Area (IPA) is an area of Indigenous-owned land (or sea) where Indigenous landowners have entered into a voluntary agreement with the

Australian Government for the purposes of promoting biodiversity and cultural resource conservation. The declaration of an IPA over Indigenous owned lands results in that land being part of the [National Reserve System](#). The IPA program is administered by the [Indigenous Affairs Group](#) within the Department of the Prime Minister and Cabinet.

## Indigenous protected areas in WA

As at November 2015, there were 14 [declared IPAs in WA](#). Table 12 below provides links to IPA information (where available). See the [Indigenous Protected Areas](#) website for up to date information.

**Table 7: Indigenous protected areas in Western Australia**

IPA name (DoE hyperlink, where available)	Year declared
<a href="#">Balanggarra</a>	2013
<a href="#">Bardi Jawi</a>	2013
<a href="#">Birriliburu</a>	2013
<a href="#">Dambimangari</a>	2013
Karajarri IPA (Stage 1)	2014
Kiwirrkurra IPA	2014
Matuwa Kurrara-Kurrara	2015
<a href="#">Ngaanyatjarra Lands</a>	2002
Nyangumarta Warrarn	2015
<a href="#">Ninghan</a>	2006
<a href="#">Paruku</a>	2002
Uunguu (Stage 1)	2011
<a href="#">Warlu Jilajaa Jumu</a>	2007
<a href="#">Wilinggin</a>	2013

Source: <https://www.dpmc.gov.au/indigenous-affairs/about/jobs-land-and-economy-programme/indigenous-environment-branch/project-locations> at November 2015

## Map of Indigenous protected areas

The [Indigenous Protected Areas Map](#) shows declared IPAs and IPA consultation projects throughout Australia.

## 15. Aboriginal & Torres Strait Islander population

### Overview

The [Australian Bureau of Statistics](#) (ABS) conducts a census of the Australian population every five years. The [Census of Population and Housing](#) collects information about the number and characteristics of people who are in Australia on census night and the dwellings in which they live. The most recent Census was conducted on 9 August 2011. See Table 11 below and the ABS catalogue number 2075.0: [Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2011](#) for more information.

**Table 13: Aboriginal & Torres Strait Islander population (Census 2006 and 2011)**

	WA 2006		WA 2011		Australia 2011	
	No.	%	No.	%	No.	%
Aboriginal & Torres Strait Islander population	58,711	3.0	69,666	3.1	548,369	2.5
Total population	1,959,086		2,239,171		21,507,719	

Source: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/2075.0> Table 3b: 2011 Census Counts Indigenous Status 2001-2011 (by state and territory) at 19 July 2012

The ABS estimates that the 2011 Census did not count around 17 per cent of Aboriginal and Torres Strait Islander Australians (see ABS Catalogue no. 2940.0: [Census of Population and Housing - Details of Undercount, 2011](#) on the ABS website for details). To address this problem of undercounting the ABS adjusts the Census count to derive the estimated resident Indigenous population (see ABS Catalogue no. 3238.0.55.001: [Estimates of Aboriginal and Torres Strait Islander Australians, June 2011](#) on the ABS website). The estimated resident Aboriginal and Torres Strait Islander population in WA at 30 June 2011 was 88,270.

## 15. Sources

### 1. Native title legislation

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Attorney-General's Department: <http://www.ag.gov.au/LegalSystem/NativeTitle/Pages/StateAndTerritoryAlternativeToRightToNegotiate.aspx>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>



- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>

## 2. WA Government agencies & programs: native title

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Landgate: <https://www0.landgate.wa.gov.au/>
- WA Department of Aboriginal Affairs: <http://www.daa.wa.gov.au/>
- WA Department of Lands: <http://www.lands.wa.gov.au/Pages/default.aspx>
- WA Department of Mines & Petroleum: <http://www.dmp.wa.gov.au/index.aspx>
- WA Department of Parks & Wildlife: <http://www.dpaw.wa.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>

## 3. Native title representative bodies

- Central Desert Native Title Services: <http://www.centraldesert.org.au/>
- Goldfields Land and Sea Council: <http://www.glsc.com.au/>
- Kimberley Land Council: <http://www.klc.org.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- South West Aboriginal Land and Sea Council: <http://www.noongar.org.au/>
- Yamatji Marlpa Aboriginal Corporation: <http://ymac.org.au/>

## 4. Native title applications

- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>

## 5. Native title determinations

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australian Productivity Commission: <http://www.pc.gov.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>

## 6. Registered native title body corporate

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- AIATSIS - Native Title Corporations: <http://www.nativetitle.org.au/>
- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Office of the Registrar of Indigenous Corporations (ORIC): <http://www.oric.gov.au/>

## 7. Future acts

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- Attorney-General's Department: <http://www.ag.gov.au/LegalSystem/NativeTitle/Pages/StateAndTerritoryAlternativeToRightToNegotiate.aspx>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>

## 8. Indigenous land use agreements

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australian Productivity Commission: <http://www.pc.gov.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>

## 9. Cultural heritage

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- WA Department of Aboriginal Affairs: <http://www.daa.wa.gov.au/>
- WA Department of Premier & Cabinet - Land, Approvals and Native Title Unit: <http://www.dpc.wa.gov.au/lantu/Pages/Default.aspx>
- Yamatji Marlpa Aboriginal Corporation: <http://ymac.org.au/>

## 10. Land rights

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Australian Productivity Commission: <http://www.austlii.edu.au/>
- WA Department of Aboriginal Affairs: <http://www.daa.wa.gov.au/>

## 11. ILC land purchases

- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Indigenous Land Corporation (ILC): <http://www.ilc.gov.au/>

## 12. Indigenous Protected Areas

- Department of the Prime Minister and Cabinet - Indigenous Affairs  
Group: <https://www.dpmc.gov.au/indigenous-affairs>
- Indigenous Protected Areas  
Program: <http://www.environment.gov.au/indigenous/ipa/index.html>

## 13. Aboriginal and Torres Strait Islander population

- Australian Bureau of Statistics: <http://www.abs.gov.au>
- Centre for Aboriginal Economic Policy Research: <http://caepr.anu.edu.au/>