

WHAT'S NEW IN NATIVE TITLE

NOVEMBER 2014

1. Case Summaries.....	1
2. Legislation	7
3. Native Title Determinations	9
4. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate	9
5. Indigenous Land Use Agreements	10
6. Future Acts Determinations	10
7. Native Title in the News	11
8. Related Publications	11
9. Training and Professional Development Opportunities.....	15
10. Events.....	15

1. Case Summaries

[Oil Basins Ltd v Watson \[2014\] FCAFC 154](#)

17 November 2014, Appeal (Order for Costs and Indemnity Costs), Full Federal Court, Perth, WA

Siopis, McKerracher and Barker JJ

In this matter, the Full Federal Court dismissed an appeal against Gilmour J's decision in [Watson v Western Australia \(No 3\) \[2014\] FCA 127](#).

In that case, Gilmour J awarded indemnity costs¹ against Oil Basins because of its "thoroughly unreasonable conduct" as a respondent party to the Nyikina Mangala people's application for native title.

Oil Basins' Interest in the Claim Area

The Nyikina Mangala people applied in 1998 to be recognised as the native title holders of their traditional country, in the Kimberley region of Western Australia.

¹ An order for costs is very rare in matters relating to a consent determination. As with family law matters, parties usually pay their own costs. In litigation, the Court usually orders that one party pay the other party's costs. This will cover only part of the party's total legal costs. However, where the conduct of a party warrants such an order, the Court will order that party to pay indemnity costs, covering all costs reasonably and properly incurred by the other party.

In December 2007, Oil Basins became the preferred applicant for an exploration permit over part of the claim area. The State gave notice of this as a future act, under [s 29](#) of the [Native Title Act 1993 \(Cth\)](#) (NTA) and, Oil Basins conducted future act negotiations with the Nyikina Mangala people from early 2008.

In May 2012, Oil Basins claimed a breakdown in the future act proceedings and asked the National Native Title Tribunal to issue a permit. This was granted, subject to conditions, on 1 February 2013, providing Oil Basins with what the Court noted at [32] “would seem an iron-clad protection” of “its interests under the permit.”

Oil Basins’ Joinder to the Claim

In October 2012, the Court ordered that the application for native title by the Nyikina Mangala People be referred to mediation and it was listed for hearing in early July 2013.

Later in October 2012, Oil Basins applied to be joined as a respondent and, against the applicant’s objection, were joined on 15 February 2013 (see [Watson v State of Western Australia \[2013\] FCA 238](#) or [click here to see the NTRU’s summary of that decision](#)). The Full Federal Court noted, at [20]:

counsel ... for Oil Basins told the primary judge that, in her experience, parties such as Oil Basins “take very little part in the proceeding and that such part as they play, does not significantly add to the length or cost of a trial”.

Prior to Oil Basins being joined to the proceedings, the State had already notified all respondents (the Commonwealth, Telstra and several pastoralists) that it was prepared to move to a consent determination. Upon its joinder, the State sent Oil Basins a copy of the notification. The State’s decision took into account connection evidence from the expert anthropologist for the applicant, Dr Kingsley Palmer, the State’s anthropologist’s report, Dr David Martin (provided to Oil Basins in December 2012) and from various research, interviews and discussions.

The State had engaged with issues raised in the expert reports about whether the Nyikina and Mangala constituted a single society. This issue was resolved between the expert anthropologists and, on 7 March 2013, the State advised the respondents, including Oil Basins, that senior counsel (the Solicitor General of the State, Mr Grant Donaldson SC) had advised that the claim would likely succeed if contested. The State also wrote to Oil Basins, explaining how the State came to offer to settle the proceedings.

The Court noted that the State would not provide Oil Basins with details of certain information it had received on a without prejudice basis and in confidential mediation. The State also directed Oil Basins to the Kimberley Land Council (KLC) for any further information on connection issues (lawyers employed by the KLC were the legal representative of the Nyikina Mangala people in the proceeding).

Oil Basins approached the Kimberley Land Council (KLC) on the issue of whether Nyikina and the Mangala People were one society. Oil Basins said it would not consent to a determination except on an informed basis and sought from KLC Dr Palmer’s report and some of the information that the State had denied Oil Basins on the basis of confidentiality and privilege.

On 21 March 2013, the KLC provided Oil Basins with some relevant information from Dr Palmer’s report as well as identifying caselaw and other information upon which the State was satisfied about the Nyikina Mangala people’s connection to the claim area. The KLC also redirected Oil Basins to the State Solicitor’s Office if it had further issues with connection evidence.

On 2 April 2013, the KLC provided Oil Basins with another three documents authored by Dr Palmer and Dr Martin and, the same day, the State provided tenure information.

On 19 April 2013, a mediation report was provided to the Court, setting out that the State was prepared to resolve the matter by way of a consent determination and that the Commonwealth, Telstra and the pastoral respondents were willing to follow the State’s lead. During April 2013, all parties filed documents with the Court, moving toward a consent determination. Oil Basins continued to put the claimants to proof on all connection issues necessary to establish native title.

Order to limit Oil Basins’ participation and award of costs

In early May 2013, the Nyikina Mangala claimants sought to have Oil Basins removed as a party under [s 84\(9\) NTA](#) or, as an alternative, that its participation be limited to extinguishment and determination issues concerning the permit. Shortly after, Oil Basins wrote to the KLC, maintaining that connection remained in issue.

During several hearings between 15 May and 13 August 2013, Oil Basins assured the Court that it would amend its response and look only to participate in the proceedings regarding extinguishment and not challenge connection. The Full Federal Court noted at [74] that:

the claimants put it squarely in issue that Oil Basins by its conduct in putting connection in issue had acted unreasonably and caused the claimants to incur costs in the conduct of the proceeding, that is to say, in the course of preparing for the on country hearing that was to commence on 2 July 2013, when all other respondent parties had, at material times, accepted connection and obviated the need for a hearing and the considerable expense associated with it.

Gilmour J's judgment on 24 February 2014 found that Oil Basins had acted unreasonably for the purposes of [s 85A\(2\)](#) NTA. His Honour ordered that Oil Basins' participation be limited to leading evidence and making submissions in respect of the matters listed in [s 225\(c\)](#) and (d) NTA (these matters relate to the nature and extent of native title interests and other interests in the determination area). Oil Basins was also ordered to pay indemnity costs (see [Watson v State of Western Australia \(No 3\) \[2014\] FCA 127](#) or the NTRU's summary [here](#))

Grounds for Appeal

Oil Basins' appealed against the cost orders. It raised a further 7 interrelated grounds that the primary judge made an error of fact or law by holding that:

- 1) Oil Basins was obliged to adopt the decision of the State to concede the claimants' case on connection. This is despite its beliefs about the existence of deficiencies in the claimants' case and despite the State refusing to give it access to the anthropological evidence and legal advice of the State which informed the State's decision.
- 2) It was unreasonable for Oil Basins to put connection in issue, in the circumstances where:
 - a. The beliefs of Oil Basins about the existence of deficiencies in the claimants' case.
 - b. The evidentiary material available to Oil Basins.
 - c. The particular impact of a determination of native title on Oil Basins; and
 - d. The State refusing to give Oil Basins access to relevant anthropological evidence and legal advice.
- 3) It was unreasonable for Oil Basins subsequently to concede the claimants' case on connection.
- 4) It would not be appropriate for Oil Basins to contest the case on connection simply by testing the claimants' expert evidence in cross examination and making submissions on the evidence.
- 5) None of the matters relied upon by Oil Basins as reasonable grounds for contesting the claimants' case on connection amounted to a significant deficiency in the case on connection.
- 6) Oil Basins had been informed that the State had been advised that the claimants' claim was very likely to succeed, when Oil Basins had simply been informed that the State had been advised that the claim was likely to succeed.
- 7) Oil Basins no longer believed it had reasonable grounds for contesting the case on connection.

Considerations by the Full Federal Court

The Full Federal Court stated, at [152] that Gilmour J did not find, in form, substance or "in effect" that any respondent must adopt the decision of the State.

Their Honours referred to Gilmour J identifying Oil Basins' misconception about the role of the State's *parens patriae* obligations.² The Court may place reliance on the State having discharged this obligation when considering the appropriateness

² *Parens patriae* is latin for "parent of the nation". In native title matters, it relates to the State's obligation to look after the interests of all the community.

of a consent determination. However, the State is under no obligation to share particular information and it would not be appropriate for the State to share material subject to privilege. The Full Federal Court noted, at [151]:

the solicitors for Oil Basins well understood, as indeed Oil Basins must have, that if they wished to lead anthropological evidence in the proceeding or rely on anthropological views going beyond those that had been shared with them, then it was up to Oil Basins to obtain that anthropological advice. At no time did Oil Basins do that.

Their Honours found, at [163]-[166], that the combination of events that saw Oil Basins change its position, from arguing on connection issues on 19 March 2013, to withdrawing its defence on 20 May 2013, justified Gilmour J's finding that it was unreasonable for Oil Basins to put connection in issue.

Oil Basins was of the opinion that protecting its considerable commercial interests was a legitimate reason to contest the case on connection (see [59] in the original decision and [177] in the appeal). The Full Federal Court, at [154] and at [184] separated the concepts of motivation from reasonable grounds, stating at [184]:

While it may be accepted that there was a motivation for Oil Basins to contest native title, because a determination that native title did not exist on the area over which its permit would apply would mean that Oil Basins would not be required to enter into right to negotiate dealings with the claimants under the NTA in respect of future acts (such as a production licence), as noted above that consideration should not be confused with the question whether it actually had reasonable grounds to contest the claimants' connection case.

The Full Federal Court noted, at [110]:

- Gilmour J described Dr Palmer's report as "an impressive report by a leading expert"; and
- Gilmour J said of Dr Martin's report, that "It is little wonder that, in light of this, the State altered its position [on connection]."

Their Honours supported Gilmour J's finding that it was not appropriate that Oil Basins sought to contest connection, simply by testing expert evidence, without seeking expert advice or undertaking its own research. Oil Basins raised no concern about connection when it was joined. Without the benefit of expert advice, Oil Basins formed the view that deficiencies in the expert reports existed. The Full Federal Court noted, at [113], that Oil Basins had been invited to explain, but had not explained what or why it took issue with connection. Furthermore, their Honours said, at [200], that it was:

simply incorrect for Oil Basins to say it could not have obtained its own anthropological report without "full access to and cooperation from the claimants".

At [202]-[216], the Full Federal Court rejected the appeal ground that Gilmour J had erred in finding that none of the "deficiencies" identified by Oil Basins amounted to even a single deficiency. Oil Basins considered the single society issue as significant and identified that as "the apparent disagreement among experts..." Oil Basins had focussed on a statement by the State that "as a matter of pragmatism" it would not put connection in issue. Oil Basins had been well informed, in various ways that the State was satisfied as to the cogency and sufficiency of the claimants' connection evidence.

The other grounds for appeal were also dismissed. The Full Federal Court considered, at [219], that the issue over the trial judge using the words "very likely" to succeed, when the State had only said "likely" to succeed was nothing more than a matter of semantics.

Furthermore, their Honours found that the challenge to Gilmour J's finding that Oil Basins no longer believed it had a reasonable ground for contesting the claimant's case, was a misstatement of the primary judge's findings. The issue their Honours considered important, at [223], was that Oil Basins had never reassessed its position in a way that would explain its about face³ in abandoning its opposition to the case on connection.

The appeal was dismissed with costs.

³ Its 'about face' means a sudden and complete change of someone's ideas, plans or actions.

20 November 2014, Application for removal of parties, Federal Court of Australia, Sydney

Rangiah J

In this matter the court relied on [s 84](#) of the *Native Title Act* (NTA) 1993 to remove two respondents from a native title application brought under [s 61\(1\)](#) of the NTA.

It must be noted that the second respondent had applied to be removed as a party, and this was heard in court, before he filed a notice indicating that he wished to cease to be a party.

Rangiah J therefore ordered that because the second respondent's application to be removed as a party was heard in court before he filed his notice to cease to be a party, it was appropriate for the court under [s 84\(8\)](#) NTA to dismiss the respondent as a party. Rather than grant him leave of the court to cease to be a party, as required under [s 84\(7\)](#) NTA.

The court noted that s 84 NTA applies where:

- There is a proceeding in relation to which s 61 applies (this means Native title applications);
- The applicant is a party to the proceedings;
- Another affected person is a party to the proceeding if:
 - the person claims to hold native title in relation to the determination area;
 - the person's interest, in relation to the land or waters, may be affected by a determination in the proceedings; and
 - the person notifies the court in writing that the person wants to be a party to the proceeding, within the period specified in the notice under [s 66 NTA](#).

The court also noted that in addition to any other rights to withdraw from the proceedings

- a party, excluding the applicant, can at any time before the first hearing of the proceeding cease to be a party by giving written notice to the court;
- an applicant can also withdraw from the proceedings with the leave of the Federal Courtⁱ; or
- the Federal Court may at any time order that a person ceases to be a party to the proceedings.

Rangiah J noted that the first respondents became a party pursuant to s 84, by filing a Form 5 of the NTA in which the parties among other things said in paragraph [4]:

We believe that our family and us hold Native Title rights within the whole of the area claimed through our Apical Mary and her son Abraham Johnson, a Wierdi person.

In paragraph 8, the court noted that the applicant relied upon the report of an anthropologist, Mr Daniel Leo, whose opinion is that Mary Johnson was connected to the Clermont area. The area of the applicant's claim is far to the north-east of Clermont. That suggests that the assertion in the Form 5 that the Johnson parties hold native title interests in the claim area cannot be correct. Another anthropologist, Dr Alison Pembroke, directly expresses the opinion that the Johnson parties do not hold native title interests in the applicant's claim area.

In paragraph 9, the court noted that there is no evidence before the court supporting the assertions made in the Form 5 or contradicting the opinions of Mr Leo and Dr Pembroke.

Rangiah J restated a passage by Bennett J in [Peter Hillig as Administrator of Worimi Local Aboriginal Land Council](#)ⁱⁱ which noted that in an application for joinder under [s 84\(3\)](#) NTA

The right to become a party to proceedings for determination of native title under the [Native Title Act](#) is restricted to persons whose interests may be genuinely, demonstrably and not indirectly affected by a determination of native title and which are not remote or so insubstantial that it will be mere speculation as to whether, and if so, how they may be actually affected by the determination.

In applying the passage to the present case, Rangiah J concluded that the claim in Form 5 by the respondent parties is unsupported by evidence and allows for no more than mere speculation that they may have interests which may be affected by a determination of native title. In these circumstances, Your Honour stated that it was appropriate to exercise the court's discretion under [s 84\(8\)](#) NTA to remove the parties.

In relation to the second respondent, the court noted that he failed to appear at the hearing, despite being served with the interlocutory application and supporting affidavits. The court relied on Dr Pembroke's report to conclude that the respondent is a member of the claim group. Rangiah J explained that there was no evidence before the court supporting his claims that he was excluded from meetings and decision making.

Rangiah J explained that the circumstances in which a disgruntled member of a native title claim group will be permitted to remain a respondent party are rare.ⁱⁱⁱ The court concluded that it had not been shown that there are circumstances that make it appropriate for the second respondent to remain a party.

[Graham on behalf of the Ngadju People v State of Western Australia \[2014\] FCA 1247](#)

21 November 2014, Native title determination, Federal Court of Australia, Norseman, Western Australia.

Marshall J

In this matter the court recognised that exclusive and non-exclusive native title rights exist in the Ngadju Trial area as required by [s 225 Native Title Act 1993 \(Cth\)](#), and that the Ngadju people are the native title holders as defined by [s 225\(a\) NTA](#).

Marshall J noted that the non-exclusive native title rights include;

- (i) the right to hunt and fish (excluding commercial fishing), to gather and use the natural resources of the area, such as food and medicinal plants and trees, timber and ochre and to have access to and use of potable water;
- (ii) the right to live, to camp, to erect shelters and other structures and to travel over and visit;
- (iii) the right to do the following activities:
 - a) engage in cultural activities;
 - b) conduct rituals or ceremonies;
 - c) hold meetings; and
 - d) teach the physical and spiritual attributes of places and areas of importance on or in the land and waters;
- (iv) the right to have access to, maintain and protect, places and areas of importance on or in the land and waters, including Dreaming sites, waterholes and ceremony grounds;
- (v) the right to share or exchange subsistence and other traditional resources obtained on or from the land and waters.

The exclusive rights granted are the right to possession, occupation, use and enjoyment of the Ngadju people to the exclusion of all others.

The court ordered that [sections 47A](#) and [47B](#) of the [NTA](#) apply, this means that any prior extinguishment in relation to those parts of the land and waters in the Determination Area described in Schedule 4 should be disregarded.

Background

- This case has a long history beginning with an order of the court on 9 December 2011, pursuant to [s 67\(2\) of the NTA](#) which noted that the part of the Ngadju claim area that did not overlap with the now dismissed WAD6216/1998 Kalamai Kabu(d)n Native Title Application be referred to as the Ngadju Trial Area Proceeding.
- On 21 December 2012, Marshall J published reasons for judgement that recognised the Ngadju people as holding native title in the Ngadju Trial Area Proceeding (see [Graham v Western Australia \[2012\] FCA 1455](#)). On 21 May 2014, the court published reasons for judgement relating to the remaining issue in the case, which is the extent to which Ngadju native title rights and interests have been extinguished (see [Graham v Western Australia \[2014\] FCA 516](#) and [AIATSIS summary May 2014](#)).
- (In [Graham v Western Australia \[2014\] FCA 700](#) and [AIATSIS summary July 2014](#)) the court made orders that:
 - The applicant bring forward a minute of proposed determination in accordance with the accompanying reasons for judgement read together with, and partially correcting the reasons provided on 21 May 2014.
 - The applicant and first Respondent confer in a case management conference to resolve issues.

Following the case management, orders were made on 20 August 2014 by consent for the listing of the determination of the Ngadju Trial Area Proceeding on 21 November 2014 and for the parties to file the Minute of Determination and any related documents by 7 November 2014.

On 12 November the court made the following orders.

1. Clause 8A of the Minute of Determination to be amended according to specific terms.
2. Mining leases M63/279 and M15/710 be removed from Schedule 4.2 of the Minute of Determination.
3. The Applicant to file a further Minute of Determination to reflect Order 1 and Order 2 (the above orders) by 10 am Thursday 13 November 2014.

Following the orders, an Amended Minute of Determination was filed by the Applicant on 14 November 2014.

In this matter, Marshall J made a determination of native title pursuant to the *Native Title Act 1993* (Cth) in the terms proposed by the Amended Minute of Determination filed on 14 November 2014 which has been agreed between the parties.

Prescribed Body Corporate

The court ordered that a representative of the common law holders of the Ngadju people should within 12 months nominate a Prescribed Body Corporate to either hold the native title in trust or perform the functions mentioned in [s 57\(3\) of the NTA](#).

2. Legislation

Federal Parliament:

Review of the Australian Parliament's Website provided the following information and updates:

[Offshore Petroleum and Greenhouse Storage Amendment \(Miscellaneous Measures\) Bill 2014](#) (3/12/2014 - Before the House of Representatives)

On 28 February 2014, the Commonwealth Government announced a new streamlined approach for environmental approvals for offshore petroleum activities, which makes the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) the sole environmental regulator for offshore petroleum activities in the Commonwealth waters.

Stated purpose: The purpose of this Bill is to amend the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) to:

- Expand the definition of 'designated coastal waters' to include all waters of the sea landward of the Commonwealth offshore area, so that States and the Northern Territory can confer functions and powers on the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) in respect of the broadest possible geographical area; and
- Provide an alternative mechanism for offshore petroleum and greenhouse gas titleholders to take actions that are permitted, but not required, to be taken under the OPGGS Act and regulations ('eligible voluntary actions'), such as submission of applications and nominations, where there is more than one holder of a single title.

Although at this point it remains unclear if and how this Bill might affect native title, information about this Bill has been provided for the information of our readers.

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

New South Wales

[Aboriginal Land Rights Amendment Bill 2014](#)

This Bill is to amend the *Aboriginal Land Rights Act 1983* (Cth) to among other things, provide for Aboriginal Land Agreements to be made between the Crown Lands Minister and Aboriginal Land Councils as an alternative to land claims under the principal Act. The Bill was passed in the Legislative Assembly on Tuesday 4 November 2014, and introduced in the Legislative Council on the same day. The Minister's Second Reading Speech was on Wednesday, 12 November 2014.

It received Royal Assent on Wednesday, 19 November 2014.

For more information about the Act see the [Explanatory notes](#)

Queensland

[Recreation Areas Management and Another Act Amendment Bill 2014](#)

The Bill was introduced on 14 October 2014, was passed on 25 November 2014 and received Assent on 5 December 2014.

The objectives of the Act are to:

- provide for the granting of a single instrument that authorises commercial activities operating across recreation areas and State and/or Commonwealth Marine Parks, including in the Great Barrier Reef World Heritage Area (GBRWHA);
- provide for an alternative mechanism to regulate access to recreation areas, State forests and timber reserves for the subset of higher impact non-commercial community, sports and recreation events that are currently regulated under the group activity permit (GAP) classification; and
- remove the Group Activity Permit classification.

The Office of the Queensland Parliamentary Counsel (OQPC) informed the Indigenous joint managers of North Stradbroke Island (Minjerrabah) of the proposal in September 2014. On the basis that the proposed amendments will not impact on any existing native title notification processes, broader consultations with native title representative bodies were not considered necessary.

For more information about the Act see the [Explanatory notes](#)

South Australia

[Anangu Pitjantjatjara Yankunytjatjara Land Rights \(Miscellaneous\) Amendment Bill 2014](#)

The Bill has passed both the Legislative Council and the House of Assembly on the 4 December 2014. It is currently awaiting assent. The purpose of the Bill is to amend the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*.

The amendment proposed is the repeal of s 130(1) of the *APY Land Rights Act*, which currently provides:

‘If the Executive Board refuses or fails to comply with the direction of the Minister under section 9D(4), 13A(3), 13G(4) or 13N, or not less than 4 members of the Executive Board refuses or fail to attend a meeting called by the Minister under section 11, the Minister may, by notice in the Gazette suspend the Executive Board for a period specified in the notice or until further notice in the Gazette.’

The bill proposes to insert a replacement of s 130(1) in the following terms:

‘The Minister may, for any reason he or she thinks fit, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice in the Gazette.’

Many people have criticised the Bill, including the Law Society of South Australia who note that ‘the unfettered discretion given to the Minister may be inconsistent with the principles of good government and the rule of law, which require that Ministers be accountable for administrative decisions reached. In the absence of statutory criteria, the process of judicial review becomes more difficult, and the ability of the public to make judgements about the Minister’s decision is restricted’.

For more information on the progress of the Bill, click [here](#)

To read the submission by the Law Society of South Australia, click [here](#)

To read the Second Reading, click [here](#)

Western Australia

[Aboriginal Heritage Amendment Bill 2014](#)

The Bill was introduced in the Legislative Assembly on 27 November 2014. The Second Reading at the Legislative Assembly was on the 27 November 2014.

The purpose of the Bill is to facilitate improvements to the administration of the *Aboriginal Heritage Act 1972* and the preservation of places to which the Act applies.

The proposed Amendments have met widespread opposition from Traditional Owners and Native Title Organisations (see November edition of [Native Title in the News](#))

For more information on the Bill, please see the [Explanatory Memorandum](#)

3. Native Title Determinations

In November 2014, the [NNTT Website](#) listed 1 native title determination.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC /PBC
Ngadju	Graham on behalf of the Ngadju People v State of Western Australia	21/11/2014	WA	Native Title exists in the entire determination area	Litigated	Claimant	N/A

4. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

The [Native Title Research Unit](#) within AIATSIS maintains a [RNTBC summary document](#) which provides details about RNTBCs and PBCs in each state/territory including the RNTBC name, RNTBC type (agent or trustee) and relevant native title determination information. The statistics for RNTBCs as of 20 November 2014 can be found in the table below.

Information on RNTBCs and PBCs including training and support, news and events, research and publications and external links can be found at [nativetitle.org](#). For a detailed summary of individual RNTBCs and PBCs see [PBC Profiles](#).

Additional information about RNTBCs and PBCs can be accessed through hyperlinks to corporation information on the [Office of the Registrar of Indigenous Corporations \(ORIC\) website](#); case law on the [Austlii website](#); and native title determination information on the [NNTT](#) and [ATNS](#) websites.

National Registered Native Title Bodies Corporate (RNTBCs) Statistics (20 November 2014)

State/Territory	RNTBCs	No. of Successful (& conditional) claimant determinations for which RNTBC to be advised
Australian Capital Territory	0	0
New South Wales	4	0
Northern Territory	19	49
Queensland	66	3
South Australia	14	0
Tasmania	0	0
Victoria	4	0
Western Australia	30	3
NATIONAL TOTAL	137	55

Note some RNTBCs relate to more than one native title determination and some determinations result in more than one RNTBC. Where a RNTBC operates for more than one determination it is only counted once, as it is one organisation.

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> and Registered Determinations of Native Title and RNTBCs as at 20 November 2014.

5. Indigenous Land Use Agreements

In November 2014, 9 ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
24/11/2014	Kyburra Munda Yalga Aboriginal Corporation RNTBC and Adani Mining North Galilee Basin Rail Project ILUA	QI2014/072	Body Corporate	QLD	Mining
21/11/2014	Esperance Nyungar Government ILUA	WI2014/006	Area Agreement	WA	Co-management, Access, Communication, Community, Government, Mining
21/11/2014	Kalkarindji Township ILUA	DI2014/002	Area Agreement	NT	Extinguishment
12/11/2014	Juru People Boundary Creek ILUA	QI2014/066	Body Corporate	QLD	Pastoral, Access
12/11/2014	Juru People Pretty Bend ILUA	QI2014/067	Body Corporate	QLD	Pastoral, Access
12/11/2014	Juru People Mt Aberdeen ILUA	QI2014/068	Body Corporate	QLD	Pastoral, Access
12/11/2014	Juru People Greentop ILUA	QI2014/069	Body Corporate	QLD	Pastoral, Access
12/11/2014	Juru People Weston Vale ILUA	QI2014/070	Body Corporate	QLD	Pastoral, Access
07/11/2014	Esperance Nyungar – FQM Mining Validation ILUA	WI2014/007	Area Agreement	WA	Mining, Medium mining

For more information about ILUAs, see the [NNTT Website](#) and the [ATNS Database](#).

6. Future Acts Determinations

In November 2014, 7 Future Acts Determinations were handed down.

Determination date	Parties	Tribunal File No	State or Territory	Decision/Determination
19/11/2014	Leedham Papertalk and Others on behalf of Mullewa Wadiari (WC1996/093) (native title party) - and - The State of Western Australia (Government party) - and - Colin David Gardiner and Laurie Dowding (grantee party)	WO2914/0039	WA	Objection – Expedited Procedure Applies
10/11/2014	Walalakoo Aboriginal Corporation RNTBC (native title party) - and - Brockman Exploration Pty Ltd (grantee party) - and - The State of Western Australia (Government party)	WO2013/0948	WA	Objection – Expedited Procedure Applies

07/11/2014	Leedham Papertalk and Others on behalf of Mullewa Wadjari (WC1996/093) (native title party) - and - The State of Western Australia (Government party) - and - Kalamazoo Resources Pty Ltd (grantee party)	WO2013/1214 WO2013/1233 WO2013/1234	WA	Objection – Expedited Procedure Applies
05/11/2014	WF (deceased) and Others on behalf of Wiluna (WC1999/024) (native title party) - and - Tropical Resources Pty Ltd (grantee party) - and - The State of Western Australia (Government party)	WO2014/0018 WO2014/0019 WO2014/0020	WA	Objection – Expedited Procedure Applies AND Objection – Expedited Procedure Does Not Apply
05/11/2014	WF (deceased) and Others on behalf of Wiluna (WC1999/024) (native title party) - and - Great Western Exploration Ltd (grantee party) - and - The State of Western Australia (Government party)	WO2013/1056 WO2013/1057 WO2013/1058 WO2013/1059	WA	Objection – Expedited Procedure Applies
05/11/2014	Frederick Taylor & Ors on behalf of Amangu (WC2004/002) (native title party) - and - The State of Western Australia (Government party) - and - Image Resources NL (grantee party)	WO2014/0695	WA	Objection - Dismissed
05/11/2014	Leedham Papertalk & Ors on behalf of Mullewa Wadjari (WC1996/093) (native title party) - and - The State of Western Australia (Government party) - and - Image Resources NL (grantee party)	WO2014/0714	WA	Objection - Dismissed

7. Native Title in the News

The [Native Title Research Unit](#) within AIATSIS publishes [Native Title in the News](#) which contains summaries of newspaper articles and media releases relevant to the native title sector.

8. Related Publications

Australian Human Rights Commission

Social Justice and Native Title Report 2014 – November 2014

The 2014 Social Justice and Native Title Report is now available.

Please visit the [Australian Human Rights Commission website](#)

Central Land Council

Council News – November 2014

The next issue of the Central Land Council's 'Council News' is now available.

Please visit the [CLC website](#)

Crime Justice Journal

Native Title Contestation in Western Australia's Pilbara region – November 2014

As demonstrated by the experience of Aboriginal corporations in the iron ore-rich Pilbara region of Western Australia, the rights afforded to Indigenous Australians under the *Native Title Act 1993* (NTA) are very limited and allow for undue coercion by corporate interests.

For further information, visit the [Crime Justice Journal website](#)

Queensland South Native Title Services

SERRP Newsletter – November 2014

SERRP is Queensland South Native Title Services' (QSNTS) South East Queensland Regional Research Project. SERRP is an intensive regional research effort that commenced in 2011.

For further information, visit the [QSNTS website](#)

Media Releases, News Broadcasts and Podcasts

Australian Archaeological Association

Response to WA Heritage Rorting Claims – 29 November 2014

Members of the Australian Association of Consulting Archaeologists Inc. (AACAI), the Australian Archaeological Association (AAA) and the Anthropological Society of Western Australia (ASWA) are angered at the defamatory allegations made about heritage consultants on the front page of the West Australian Newspaper in their article on the Aboriginal heritage assessment process in Western Australia (WA).

For further information, visit the [AAA website](#)

Australian Human Rights Commission

'Work with us not for us', Commissioner tells Parliament – 27 November 2014

In the Social Justice and Native Title Report 2014 tabled in Federal Parliament today, Social Justice Commissioner Mick Gooda said deep funding cuts and uncertainty about Government plans have created one of the largest scale upheavals in Aboriginal and Torres Strait Islander affairs.

For further information, visit the [Australian Human Rights Commission website](#)

Central Land Council

No nuclear waste dump site nominated – 7 November 2014

After a long and positive meeting, no nomination for a site for a nuclear waste management facility was made at a Central Land Council meeting at Lake Nash.

For further information, visit the [CLC website](#)

Late CLC chair's land rights fight as urgent now as during his lifetime – 18 November 2014

The Central Land Council mourns true land rights champion and former CLC chair Kwementyaye Stuart who passed away on Friday, 14 November, in Alice Springs.

For further information, visit the [CLC website](#)

Goldfields Land and Sea Council

Ngadju People – Native Title Determination – 5 November 2014

On 21 November 2014, after an 18 year process, the Ngadju People will have their native title recognised. The Federal Court will formally acknowledge native title over an area of approximately 102,000sq km surrounding Norseman, 700 kilometres east of Perth, of which almost 45,000sqkm will be exclusive possession, the highest form of native title.

For further information, visit the [Goldfields Land and Sea Council website](#)

World Parks Conference – 13 November 2014

On 12 November 2014, Minister for Indigenous Affairs, Nigel Scullion, said funding of up to \$77,000 has been provided for the next ten years to ensure that Indigenous rangers and managers are a part of setting the agenda for protected area conservation.

For further information, visit the [Goldfields Land and Sea Council website](#)

Esperance Nyungar – FQM Indigenous Land Use Registered – 13 November 2014

The National Native Title Tribunal, on 7 November 2014, registered the Esperance Nyungar-FQM Mining Validation Indigenous Land Use Agreement. This ILUA provides for the validation of two mining leases held by FQM Australia which may have become invalid following the landmark determination of native title in favour of the Esperance Nyungars earlier this year.

For further information, visit the [Goldfields Land and Sea Council website](#)

Kimberley Land Council

Kimberley rangers and culture get international exposure – 6 November 2014

Kimberley Traditional Owners will join more than 200 Indigenous people from across the globe to discuss conserving nature and culture at a three-day international event in the Blue Mountains.

For further information, visit the [KLC website](#)

Kimberley mob share knowledge at international Indigenous event – 11 November 2014

About 300 Indigenous people from five continents and 43 countries have attended the three-day Blue Mountains event to share knowledge and ideas about how people are managing their traditional lands through protected areas, community and conserved areas. Around 20 people from the Kimberley Land Council attended including land and sea managers, rangers, cultural advisers and directors.

For further information, visit the [KLC website](#)

Kimberley on show at World Parks Congress – 14 November 2014

The 25 Kimberley land and sea managers attending the World Parks Congress have been playing a lead role in highlighting the challenges and successes of natural resource management in our region.

For further information, visit the [KLC website](#)

Speaking with one voice: WA Aboriginal coalition takes stand against Heritage Act changes – 20 November 2014

The group of 70 Traditional Owners traveled from the Kimberley, Western Desert, Yamatji (Midwest & Murchison-Gascoyne) and South West to show the government that Aboriginal heritage and culture in WA was alive and strong and could not be destroyed. The strong and united Aboriginal coalition congregated on the steps of Parliament today to make it clear to the WA Government that Aboriginal Heritage Act amendments must be changed.

For further information, visit the [KLC website](#)

Smackdown: Kimberley rangers compete in literacy and numeracy challenge – 25 November 2014

Kimberley rangers transformed into culinary chefs, builders and treasure hunters at this year's literacy and numeracy Smackdown challenge in Corkbark. The event, this year hosted by the Karajarri Rangers, is a celebration of language, literacy and numeracy in the workplace and sees rangers battle it out in activities designed to challenge team work, communication and problem solving.

For further information, visit the [KLC website](#)

Qantas backs North Kimberley carbon project – 28 November 2014

In a landmark project backed by Qantas, Indigenous land owners in the North Kimberley are reducing carbon emissions through traditional fire management techniques.

For further information, visit the [KLC website](#)

Minister for Indigenous Affairs

Condolences for Kwementyaye Stuart – 19 November 2014

Former Chairman of the Central Land Council, Kwementyaye Stuart, passed away on Friday last week. He worked tirelessly as the Chairman of the Central Land Council and oversaw the Alice Springs native title claim which was the first claim over an Australian town.

For further information, visit the [Minister for Indigenous Affairs website](#)

Indigenous Grant Round – 24 November 2014

Due to an overwhelming response to the first grant funding round for the Government's \$4.8 billion Indigenous Advancement Strategy (IAS), the Minister for Indigenous Affairs, Nigel Scullion, said today more time would be taken to assess funding applications.

For further information, visit the [Minister for Indigenous Affairs website](#)

Yamatji Marpla Aboriginal Corporation

WA Traditional Owners Unite to Protect Aboriginal Heritage – 20 November 2014

Today, a delegation of over 70 Traditional Owners from WA, met with Minister for Aboriginal Affairs, Hon Peter Collier MLC, Hon Brendon Grylls MLA and Ben Wyatt MLA, where they voiced their concerns about the amendments to the *Aboriginal Heritage Act 1972*, and presented a petition signed by over 1600 concerned community members.

For further information, visit the [YMAC website](#)

Traditional Owners ignored – 27 November 2014

Simon Hawkins, CEO of Yamatji Marpla Aboriginal Corporation, is disappointed that the *Aboriginal Heritage Amendment Bill 2014* has been introduced into State Parliament today, as he says Minister for Aboriginal Affairs Peter Collier assured Traditional Owners at a recent meeting that the Bill would not go before Parliament until early 2015.

For further information, visit the [YMAC website](#)

9. Training and Professional Development Opportunities

AIATSIS

2015 Stanner Award

The 2015 Stanner Award is now open. Applications close on 30 January 2015. The award, provided by AIATSIS, is for the best academic writing by an Aboriginal or Torres Strait Islander writer. The winner will be given a glass statuette, \$5000, up to 50 hours editorial and mentoring support – and publication by Aboriginal Studies Press. This year any theses which are hosted on a university repository will be eligible.

For further information, visit the [AIATSIS website](#)

The Aurora Project

[See the Aurora Project: 2014 Program Calendar](#) for information on training and personal development for staff of native title representative bodies, native title service providers, RNTBCs and PBCs.

Mirima Dawang Woorlab-gerring

Special Intership

In addition to the regular internship program involving stays of around 10 weeks, the Mirima Dawang Woorlab-gerring Language and Culture Centre are currently looking for a linguist volunteer to assist them with a special task over a longer period of time. The successful candidate would spend up to 12 months at MDWg to help the centre enhance existing skills and greater independence in their Indigenous language workers. Your responsibility would include working with the staff to prepare Miriwoong language resources such as printed and digital resources, assist with the curriculum development for Miriwoong, support the preparation of school classes and help organise the production of radio programs. All tasks will be in teamwork with the Miriwoong language workers and other interns as well as in collaboration with the senior linguist. There will also be the opportunity to engage in other activities such as language documentation and language revitalisation.

For further information please contact Knut J. Olawsky, Senior Linguist/ Manager at info@mirima.org.au

ORIC

ORIC provides a range of training for Aboriginal and Torres Strait Islander corporations about the [Corporations \(Aboriginal and Torres Strait Islander\) Act 2006 \(CATSI Act\)](#), the corporation's rule book and other aspects of good corporate governance.

For further information on training courses visit the [ORIC website](#).

The Queen's Young Leaders

The Queen's Young Leaders Programme will recognise and support thousands of young people, including around 240 Award winners, who are striving to reach their potential and transform their own lives, and the lives of those around them. This programme provides opportunities for young leaders to develop new skills and international networks, as well as celebrating those who already demonstrate excellent leadership qualities.

For further information, visit the [Queen's Young Leaders website](#)

10. Events

Flinders University

Cultural Heritage and the Law Summer School

In 2015 the Archaeology Department at Flinders University is offering the graduate level topic as an intensive summer school program. It is open to students and to individuals who wish to take it as a short course.

Date: 27-30 January 2015

Location: Flinders University

For further information please email Ellen McPharlin – ellen.mcpharlin@flinders.edu.au

Australian National University

Alternative Pathways to Outcomes in Native Title Anthropology

Increasingly, NTRBs/NTSPs and Indigenous people are seeking out alternative means of progressing their claims within the existing framework of the Native Title Act 1993 (Cth). This has included, for example, 'alternative settlement' packages in both Victoria and south-west Western Australia. In addition, claims are being constructed at broader regional levels, maximising developments to definitional concepts such as 'society'. In other jurisdictions processes have involved agreements to reduce the evidentiary burden of connection through provision of 'short-form' reports.

Date: 12-13 February 2015
Location: University of Melbourne, Victoria

For further information please contact the Conference Secretary Elizabeth Watt – elizabeth.watt@anu.edu.au

AIATSIS

Managing Information in Native Title (MINT) Workshop

The AIATSIS Native Title Research Unit (NTRU) is organising a workshop for NTRBs and PBCs to discuss the challenges of managing native title information and start working together towards some shared solutions.

Date: 16-17 March 2015
Location: Mabo Room, AIATSIS, Canberra

For further information please contact the [MINT team](#)

Australian National University

Key issues in Native Title Anthropology Course

During the 2015 Autumn Session, the ANU School of Archaeology and Anthropology is offering *Key Issues in Native Title Anthropology (ANTH8055)*, an accredited postgraduate course on native title anthropology. The course will be delivered as an intensive over five days.

Date: 13-17 April 2015
Location: ANU, Canberra

For further information please contact Nic Peterson – Nicolas.peterson@anu.edu.au

Annual Conference of Swedish Anthropological Association (SANT) 2015)

DO THE RIGHT THING! Anthropology and Morality

A conference about anthropology and morality which will discuss moral and morally-based ethnography, moral practices and moral discourcsm and moral dimensions of anthropological practice. Deadline for panels and papers: Sunday 18 January 2015.

Date: 17-19 April 2015
Location: Lund University

For further information please email Tova Højdestrand – tova.hojdestrand@soc.lu.se

National Native Title Conference 2015

Leadership, legacy and opportunity

In 2015 the National Native Title Conference will be co-convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the Cape York Land Council (CYLC) on the traditional lands of the Kuku Yalanji people, the traditional owners of Port Douglas region.

Proposals for papers, panels, dialogue forums and Indigenous talking circles are invited for consideration by the conference convenors. If you would like to submit a proposal to present at the National Native Title Conference 2015, please complete our 'Call for Papers' form with an abstract (up to 200 words), and biography (up to 150 words for each presenter).

Date: 16-18 June 2015

Location: Sheraton Mirage, Port Douglas, QLD

For further information please email Shiane Lovell – shiane.lovell@aiatsis.gov.au

SIEF 12th Congress

Utopias, Realities, Heritages. Ethnographies for the 21st century

The International Society for Ethnology and Folklore is calling for papers for the 12th Congress to be held in Croatia in June 2015.

Date: 21-25 June 2015

Location: Zagreb, Croatia

Further information can be found on the [SIEF website](#)

AAS 2015 Conference

Moral Horizons

The Australain Anthropological Society's conference theme is an invitation for ethnographic research and anthropological theorisations that can contribute, critically or otherwise, to widen and multiply those moral horizons. Call for papers will be issued early next year.

Date: 1-4 December 2015

Location: University of Melbourne

For further information please email Catherine Gressier – catherine.gressier@unimelb.edu.au



The Native Title Research Unit produces monthly publications to keep you informed on the latest developments in native title throughout Australia. You can subscribe to NTRU publications online, follow @NTRU_AIATSIS on Twitter or 'Like' NTRU on Facebook.



ⁱ This means permission from the judge to take some action in a lawsuit.

ⁱⁱ [Peter Hillig as Administrator of Worimi Local Aboriginal Land Council v Minister for Lands for New South Wales, State Minister under the Native Title Act 1993 \(Cth\) \[2006\] FCA 61](#) (9 February 2006)

ⁱⁱⁱ [Starkey v South Australia \[2011\] FCA 456](#); [\(2011\) 193 FCR 450](#) at [\[61\]](#).