

WHAT'S NEW IN NATIVE TITLE

AUGUST 2014

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1. Case Summaries

[State of Western Australia v BP \(Deceased\) \[2014\] FCAFC 95](#)

1 August 2014, Appeal by the State, Full Federal Court of Australia, Perth, WA.

North, Barker and Bromberg JJ

Justices North, Barker and Bromberg provided a joint judgment dismissing the State's appeal of the decision in *BP (Deceased) on behalf of the Birriliburu People v State of Western Australia [2014] FCA 715*. In that case, the primary judge ordered the parties to finalise the terms of a determination of native title included that the terms of the agreement should feature the right to access and take the resources for any purposes. Please see case summary in [July 2014 What's New](#).

The State's grounds of appeal were about the way the primary judge had applied [s 47B of the Native Title Act 1993 \(Cth\)](#) (the NTA). This section allows prior extinguishment of native title to be disregarded, if the land in question is designated vacant Crown land. Under subsection 47B(1), prior extinguishment may be disregarded if one or more members of the native title claim group occupy the area and, when the application is made, the area is not:

- (i) covered by a freehold estate or a lease; or
- (ii) covered by a reservation or authority that the area is to be used for public purposes or for a particular purpose; or
- (iii) subject to a resumption process.

In this appeal, the State contended that the area was subject to a resumption process.

Under subsection [47B\(5\)\(b\)](#), an area is **subject to a resumption process** at a particular time (the **test time**) if:

- (i) all interests in relation to the area had been acquired, resumed or revoked by, or surrendered to, the Crown **before the test time**; and
- (ii) when that happened, the Crown had a bona fide intention of using the area for public purposes or for a particular purpose; and

(iii) the Crown still had a bona fide intention of that kind in relation to the area **at the test time**.

The State argued that the primary judge was in error because:

- 1 the primary judge failed to find that when all interests last existing in the determination area were acquired, the Crown had a bona fide intention of using the land for public purposes or for a particular purpose, namely conservation recreation; and
- 2 the primary judge found that the Crown did not still have a bona fide intention of that kind in relation to the land at the test time of 28 October 2004.

The State said that the error by the primary judge was based on her making inferences on documentary evidence about the intention of the State for the use of the land.

At paragraph [12], the appellate Court discussed that it would give respect and weight to the primary judge's reasoning and decision, but that it would make its own decision about the proper inferences to be drawn.

The Court then reviewed the facts to determine the bona fide intention of the Crown at the test time. This included consideration of discussions in the Western Australian Cabinet as well as a thorough examination of the reasoning of the primary judge and the State's ground for appeal.

At [112], the appellate Court agreed with the primary judge that the evidence:

demonstrated that the Crown's intention in early 2005 was that there would be no reservation without the agreement of the native title holders and that the Crown had not contemplated using mandatory powers to acquire the land.

[Phyllon on behalf of the Gumbayngirr People v Attorney-General of New South Wales \[2014\] FCA 851](#)

15 August 2014, Consent determination, Federal Court of Australia – Nambucca Heads, NSW

Jagot J

In this consent determination, the Court recognised the Gumbayngirr People's non-exclusive native title rights and interests over an area of land on the mid-north coast of New South Wales.

Despite there being no overlapping or competing claims and the only respondents being the Attorney-General of New South Wales and the Unkya Local Aboriginal Land Council, this claim took 17 years to resolve.

Paragraph [4] sets out the following interesting background to the land in question:

Between 1984 and 1995 the Nambucca Heads and Unkya Local Aboriginal Land Councils (the **LALCs**), constituted under the [Aboriginal Land Rights Act 1983](#) (NSW), with the support of the Gumbayngirr People, made several land claims over islands and areas of land in Warrell Creek and the Nambucca River on the mid North Coast of New South Wales under that legislation. Subsequent negotiations between the LALCs and the State of New South Wales, in the context of these claims, led to an agreement in 2002 for the establishment of a national park in the Warrell Creek/South Beach area, the Gaagal Wanggaan (South Beach) National Park, to be jointly managed by the LALCs and the State, with the majority of the remaining land to be transferred to the Nambucca Heads LALC (and which, in 2011, became the Gumma Indigenous Protected Area).

The Requirements of the Native Title Act

[Section 87](#) of the [Native Title Act](#) (NTA) provides that the Court may make Orders in or consistent with the terms of an agreement provided:

- certain procedural requirements are met;
- such an order is within the Court's power; and
- it is appropriate that the Court make such an Order.

Jagot J was satisfied that these requirements were met. In determining it was appropriate that the Court make the Orders, Jagot J was satisfied that the State had appropriately considered the evidence accumulated over the 17 years. This included expert anthropological reports, including nine expert reports from the applicants, various affidavits, a witness statement, a site map, and volumes of source materials and field notes.

Jagot J was without doubt that the agreement was freely entered into and was satisfied that the determination met the requirements of [s 94A](#), [s 66](#), [s 87](#) and, in determining the requirements of [s 225 NTA](#) were met, this included the definition of native title found in [s 223 NTA](#).

PBC appointed

The Wangaan (Southern) Gumbaynggirr Nation Aboriginal Corporation was appointed to be the Prescribed Body Corporate (PBC) for the purposes and functions set out in [s 57\(1\) NTA](#).

Of Note in the Decision

The Court addressed the delay caused by the State as completely unsatisfactory, stating, at [8]:

the enormous resources and extraordinary length of time involved in this process [which] could have been avoided, in large part, by the bringing to bear at an earlier time of a focus on the outcomes sought to be achieved and the application of common sense, practicality, proportionality, and flexible, constructive and creative thinking about how those outcomes might properly be accommodated and achieved.

[Ward v State of Western Australia \(No 2\) \[2014\] FCA 825](#)

06 August 2014, Interlocutory application to strike out amended paragraphs, Federal Court of Australia – Perth, WA

Barker J

In this matter, the Court considered whether to allow the State of Western Australia and the Commonwealth to change defence documents (defences) that each had lodged with the Federal Court. The defences had been lodged in response to an application for compensation for the extinguishment of native title rights with respect to the Gibson Desert Nature Reserve.

The Gibson Desert People sought to stop the State and the Commonwealth from changing their defences because these contained admissions that, if unamended, would support better outcomes for the compensation claim.

Background

A consent determination made in 2005 included an acknowledgement that the Applicants would have held exclusive native title rights and interests, except that the creation of the Gibson Desert Nature Reserve had extinguished those rights and interests.

In November 2005, the State signed a grant agreement with the traditional owners, recognising the State's compensation liability from the creation of the Reserve. Clause 3.8 of that grant agreement provided:

(the State) is committed to negotiating a compensation package which will fully compensate those people who, but for the extinguishment of native title rights and interests, would have held those native title rights and interests in the Gibson Desert Nature Reserve. The parties acknowledge that the contribution of funds made under this Agreement may be added, and a form of land tenure over the Gibson Desert Nature Reserve transferred to the ... People of the Gibson Desert Nature Reserve will be added, to the 'mix' of compensation options to be negotiated as part of any such 'compensation package'.

No compensation package was negotiated.

The Amended Defences

In October 2012 and April 2013, the State and the Commonwealth each submitted documents to the Court, acknowledging that exclusive native title rights and interests would have existed if the reserve had not been created.

On 21 May 2014, less than three months before the Hearing, the State filed an amended defence. This asserted that a license to prospect had been granted on 13 September 1921 and this grant extinguished the exclusive nature of any native title.

On 23 May 2014, the Commonwealth also filed an amended defence, stating that it had relied on the previous evidence of the State and seeking to reserve its position, pending additional information by the State.

On 4 August 2014, the Applicant sought to have both amended defences struck out.

Should the State and the Attorney be permitted to change their positions?

Barker J considered the rules on amending pleadings. These require that the Court not lightly permit a party from withdrawing from an admission. The interpretation of these rules is influenced by the overarching purpose of civil practice and procedure provisions: to facilitate the just resolution of disputes according to law and as quickly, inexpensively and efficiently as possible.

Although the State warned that, if it could not amend its pleadings, the matter would go to trial and many witnesses would be called at considerable expense, Barker J stated, at [111]:

If this matter only involved a case of the State wanting to change its position as to the nature of the relevant native title that it was prepared to admit, and did not involve the Attorney/Commonwealth, I would have been inclined to refuse the State's application for leave to file the proposed third further amended defence ...

The Commonwealth's involvement was important to the Court's decision because if neither party could amend their defence, and if the State successfully denied the claim at trial, the Applicant would seek compensation from the Commonwealth. This means that the Commonwealth would be bound to previous admissions, now found to be incorrect, made by the State.

It was not without real misgivings that Barker J allowed the State and the Commonwealth to alter their position, and refused to allow the Applicant's interlocutory application dated 4 August 2014. Barker J considered that the Commonwealth should not be bound by the admissions of the State. Furthermore, if the Commonwealth was not bound by those admissions, Barker J considered it was not appropriate to find that the State should be bound.

Of Note in the Case

Barker J warned at [120] that allowing the amendment to pleadings may impact the assessment of compensation. However, Barker J also considered the impact of the reasonable expectation that had been created by the State for the Applicant, where he said (at [114]):

The detriment or prejudice to the Applicant by such a course is obvious. It has reasonably maintained its application since it was filed on the basis of a belief that the State would not contest the view that, but for extinguishment at material times, native title holders would have had an exclusive possession native title. For the State, less than three months before trial, to withdraw that admission not only would defeat the reasonable expectations of the native title claim group members, but also serve to frustrate the considerable preparations for trial and the basis upon which the trial was to proceed from 19 August 2014. Compensation proceedings under the NTA are different from native title determination proceedings. Once the compensation claim has been made and a respondent is required to state its position in relation to what has been pleaded against it, the proceeding is no different from any other piece of civil litigation where admissions are made. The State is not at liberty to treat its initial admissions as provisional only.

[Forrest v State of Western Australia \[2014\] FCA 876](#)

19 August 2014, Application to amend composition of native title claim group, Federal Court of Australia – Perth, WA

Gilmour J

In this matter, the Court made orders to amend the description of the Yi-Martuwarra Ngurrara native title claim group's apical ancestors.

The Court applied the following two-step process, set out in [Doctor on behalf of the Bigambul People v State of Queensland \(No 2\) \[2013\] FCA 746](#), per Reeves J at [56] and [57], as the requirement for a claim group altering its composition:

- 1) **authorisation of the amendment:** if a native title claim group wishes to alter its composition, the existing claim group must meet and determine how the claim group is to be reconstituted; and
- 2) **authorisation of new applicant by the new claim group:** the new or reconstituted claim group must meet and decide to authorise a new applicant to make the claim on behalf of the new claim group.

Note: This two-step test follows requirements in [s 61](#) and [s 251B](#) of the Native Title Act (NTA).

On 9 April 2014, amendment to the claim group description was authorised at a meeting held at Fitzroy Crossing in the Kimberley region of Western Australia. Immediately following this meeting, another meeting was held where the newly reconstituted claim group authorised new applicants to make the claim.

Gilmour J found that both Steps 1 and 2 were met on the basis that:

- notice and content of both meetings were appropriately communicated;
- the first meeting was open to be attended by the claim group as described and by the claim group as intended; and
- the second meeting was open to be attended by the reconstituted claim group and by any person with a claim to hold native title rights and interests within the Yi-Martuwarra Ngurrara native title claim area.

[Wallace on behalf of the Boonthamurra People v State of Queensland \[2014\] FCA 901](#)

22 August 2014, Determining Apical ancestors, Federal Court of Australia – Adelaide (heard in Brisbane)

Mansfield J

In this matter the Court ordered two of the respondent groups to cease to be a party to the proceeding. This is because the apical ancestors of the two groups were found not to be Boonthamurra People.

Legal background

[Section 225\(a\)](#) of the [Native Title Act 1993 \(Cth\)](#) requires that the Court provide a description of the people who hold the rights and interests in the native title. Mansfield J said that this is usually satisfied by providing the name of the claim group. However, in cases where issues of ancestry have been directly raised, Mansfield J said the Court should determine whether claimed apical ancestors are made out on the evidence.

Mansfield J considered it appropriate for the Court to determine issues of ancestry on the basis of anthropological evidence as well as evidence from the individuals themselves. In this matter, the Court relied on historical and other documentary evidence, oral history of relevant families and anthropological analysis of both. The evidence about the two respondent groups was heard separately.

First respondent- The Booth/ Fisher families claim

The Booth/Fisher family claimed to be Boonthamurra People through the lineage of an apical ancestor 'Clara', the families described themselves as 'The Wilson river group', through Clara, in only the Southern section of the Boonthamurra claim area. On the evidence, Mansfield J found that Clara did not have Boonthamurra identity. Also His Honour found that the Booth/Fisher families' claim to be Boonthamurra People through Toney was not successful.

Second respondent- MCCarthy family claim

The MCCarthy family claimed to be Boonthamurra People through the lineage of two persons. Mansfield J found that there was little evidence to prove these ancestors were Boonthamurra. His Honour stated that the family's evidence did not support their claim on the basis that:

- their respective immediate upbringing was remote from the claim area and they were not brought up with other people recognised as Boonthamurra People (other than their immediate family)
- the family could say little by personal experience or from what perspective parents or grandparents told them to strengthen their connection to the present claim area;
- the family claims connection to 'Cooper Creek' which is to the west and the "Wilson River Area" around Nockatunga and Noccundra which is to the south of the claim area; and
- other McCarthy family members do not claim to be Boonthamurra but to belong to another Aboriginal group.

Decision

Based on the collective evidence from Scholars and Anthropologists, His Honour came to the conclusion that the ancestors stated were not Boonthamurra People. Hence the two respondent groups were not Boonthamurra People.

[Woosup on behalf of the Northern Cape York Group #1 v State of Queensland \[2014\] FCA 910](#)

22 August 2014, Application to remove respondents, Federal Court of Australia – Brisbane

Greenwood J

This matter concerned an application for a determination of native title over a particular area of land and waters of Northern Cape York. In particular, Greenwood J considered an application to seek costs for removing three respondent parties and another application for the removal of two respondent parties.

The First Application

On 14 August 2014, the Court removed three individuals as respondent parties to the principal proceedings, under [s 84](#) of the [Native Title Act 1993](#) (Cth) (NTA). The Court held that the three, as descendants of an apical ancestor in the claim group, are members of the claim group. Therefore, they cannot assert an interest that may be affected by a determination, nor can they be both applicant and respondent at the same time.

The applicant then sought that the three pay the applicant's costs.

[Section 85A NTA](#) empowers the Court to order a party to pay some or all costs, if satisfied that a party has by unreasonable act or omission caused another party to incur costs in connection with the conduct of the proceeding. In this matter, Greenwood J considered a range of evidence focussing on the parties continuing to maintain their positions as respondent, even after it was clear that they were accepted members of the claim group. Greenwood J, therefore ordered the three respondents to pay the costs of preparing and serving the material relied upon by the applicant to have each of the three removed as respondents.

The Second Application

12 individual respondents claimed, under [s 84 NTA](#), that they had an interest in the claim area.

These respondents were members of the "Bamaga People"; Saibai Island People who had been relocated to the claim area. Expert evidence by anthropologist Dr Redmond provided that, although some Torres Strait Islander People had become inducted through kin and friendship networks, the mode of traditional recruitment to country in the claim area is through descent of known apical ancestors, who themselves used, occupied and preserved interests in those lands under traditional laws and customs.

Therefore, the Bamaga People did not have native title rights in the claim area.

The Bamaga People and the applicant group signed a Minute of Agreement on 3 July 2014, recognising the rights and interests of the Bamaga People under a Deed of Grant in Trust (DOGIT), dated 31 May 2013. However, two people from the Bamaga People group, the respondents in this proceeding, did not provide their consent to the Agreement.

The Agreement was not acceptable to them because of insufficient certainty for the protection of Bamaga People's interests. In particular, that the DOGIT would at some point be 'transferred' under the [Aboriginal Land Act 1991](#) (QLD) in a way unfair to the beneficiaries of the grant.

Greenwood J noted that the rights of the Bamaga People under the DOGIT would not be compromised because:

- a) land held under the Bamaga DOGIT is subject to special protection by amendment to the *Aboriginal Land Act*. At paragraph [101], Greenwood J said it would be an odd result for the Minister to consider it necessary to transfer that land to the native title holders;
- b) The proposed native title determination expressly recognises "other interest", which is a reference to the Bamaga DOGIT; and
- c) [s 47A\(3\)\(a\)\(i\) NTA](#) provides that a determination does not affect the validity of a grant in favour of Islander inhabitants and the proposed determination expressly recognises that position for the purposes of [s 225\(c\) NTA](#).

Greenwood J adjourned this application so that the two respondents could seek legal advice as to their position, should a determination of native title be made.

[Pegler on behalf of the Widi People of the Nebo Estate #1 v State of Queensland \[2014\] FCA 932](#)

28 August 2014, Joinder of Respondent Party, Federal Court, Brisbane, QLD

Collier J

In this decision, Collier J dismissed applications by Ms Johnson and Ms Hunter to be joined as respondent to a native title determination application.

Background

In [Butterworth on behalf of the Wiri Core Country Claim v State of Queensland \(No 2\) \[2014\] FCA 590](#) (see summary of decision in [June 2014 What's New](#)), Collier J identified that certain decisions made at an authorisation meeting were valid. One change to the claim group authorised at that meeting was the removal of Mary Johnson as an apical ancestor. Mary Johnson had linked the two applicants to the native title claim group and, with her removal, the two could remain as parties only if the Court allowed them to be joined as respondents, pursuant to [s 84\(5\)](#) of the [Native Title Act 1993](#) (Cth) (NTA).

Considerations

[Section 84 NTA](#) empowers the Court to join a party to proceedings if the Court is satisfied that the person's interests may be affected by a determination in the proceedings and it is in the interests of justice to do so.

Collier J considered various authorities and legal propositions. His Honour considered the notion of “interests” for the purposes of [s 84](#) NTA, which has a broader meaning than “interests” for the purposes of [s 253](#) NTA. Collier J also considered general legal propositions for allowing joinder, noting at [14] that the Court will rarely permit joinder of dissenting members of a claim group.

Collier J looked to previous cases and proposed that a former member of a claim group should not be joined only on the basis of seeking to challenge the anthropological evidence on the basis that, to do so would delay the process of reaching consent. His Honour also noted the distinction between being a member of the Clan and being a member of the claim group.

Decision

Collier J determined that the applicants did not have an interest beyond that of an ordinary member of the public; therefore the interests of justice would not be served by joining the applicants. Her Honour also noted that the joinder applications were connected to a broader Wierdi/Widi cultural and/or language group existing over a large area of central Queensland which did not give the applicants an interest specifically in the Widi #1 claim.

Also, the anthropological evidence showed a vague connection that could not be described as historical. Furthermore, Mary Johnson was included as a proposed apical ancestor in another claim by a different group.

Finally, Collier J placed weight on the legitimacy of the decision making process under which Mary Johnson was removed as an apical ancestor.

Collier J concluded, at [41], that allowing the applicants to be joined

would re-open matters determined by the claim group and resolved by orders of the Court, and further would jeopardise conduct of the proceedings at this point.

Of Note in the Decision

The joinder applicants were represented pro bono by Mr Creamer of Counsel.

[Hazelbane v Northern Territory of Australia \[2014\] FCA 886](#)

21 August 2014, Joinder of Respondent Party, Federal Court, Adelaide (via video link to Darwin), SA

Mansfield J

This decision relates to a native title claim over lands and waters within the Town of Batchelor in the Northern Territory.

It has quite a complex background, with three claims having been made over the same area. While the first and second claims were progressing, a third claim diverted the parties. The third claim was finalised in 2011.

In this decision, Mansfield J considered matters relevant to the first two claims, raised in 2008.

Background

In September 2001, the Warai and Kungarakany Groups applied for a determination of native title over Batchelor (Batchelor #1).

In September 2002, the Finnis River Brinkin Group joined as respondents to that application, under [s 84](#) of the [Native Title Act 1993](#) (Cth) (NTA). This group was comprised of eight clans, belonging to the following three different language groups:

1. Descendants of Wagaitj: Long-neck Turtle Clan; Red Catfish Clan; Kangaroo Clan; Werak Goanna/Pulimi Clan;
2. Descendants of Larrakia: Marri Clan (Cycad/Glider Possum/Tree); and
3. Descendants of Kungarakan: Emu Clan; King Brown Snake Clan and Blue Tongue Lizard/Echidna Clan.

In June 2005, a second claim was made over the same area (Batchelor # 2) on behalf of the Emu Clan, the Blue Tongue Lizard Clan and the King Brown Snake Clan (the King Brown Snake Clan were later removed from the application).

In November 2005, the Court ordered that the Batchelor #1 and the Batchelor #2 claims be heard together.

In [Hazelbane v Northern Territory of Australia \[2008\] FCA 291](#) (*Hazelbane*), the Court struck-out the Batchelor #2 claim for reasons including that certain apical ancestors of the Emu clan were not members of the native title claim group and that an applicant was not appropriately authorised.

This strike-out did not completely dismiss the Batchelor #2 matter. Therefore, in August 2008, the Batchelor #2 applicants sought to include more evidence and apply for further orders. The Batchelor #1 applicants sought to have the Batchelor #2 claim dismissed.

Neither issue was resolved because a third application (Batchelor #3) diverted the process. Batchelor #3 was filed in October 2006 and was finally discontinued in October 2011 (see [Hazelbane on behalf of the Warai and Kunjarakany Groups v Northern Territory of Australia \[2011\] FCA 1186](#) or the summary in [November 2011 What's New](#)).

Decision

This matter is the hearing of the August 2008 Batchelor #2 application for orders and the Batchelor #1 application to have that claim dismissed.

Mansfield J did not allow the amendment to the Batchelor #2 application, ordering instead that the proceeding be dismissed.

His reasons included:

- the relevant native title holding group is a wider group than that proposed in the Batchelor #2 application (at [124]);
- the named applicant as well as the claim itself was not authorised (at [125]-[132]); and
- no anthropological evidence supported the Batchelor #2 claim (at [136]).

In considering the lack of anthropological evidence, Mansfield J found that the group did not have a proper interest in the Batchelor #1 claim. His Honour, therefore, considered the Court's discretion under [s 84](#) NTA to join/remove a party to proceedings and ordered that members of the Finnis River Brinkin Group be removed as respondents to the Batchelor #1 application.

2. Legislation

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

No Bills relevant to native title (by search terms) were before the Senate, House of Representatives or passed both houses in August 2014.

Relevant activity in Parliament included:

- The **Aboriginal and Torres Strait Islander Amendment (A Stronger Land Account) Bill 2014** was referred to the Senate Community Affairs Legislation Committee on 26 June 2014, for inquiry and report.

Submissions were sought by **29 August 2014**. The reporting date is **2 September 2014**. On 17 July 2014, the Senate granted an extension of time for reporting until **29 October 2014**.

[Further information](#), including submissions, is available.

- The **Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014** was introduced on 14 May 2014.

'One Stop Shops' for environmental approvals are being proposed under which the Commonwealth will accredit state processes for projects of national environmental significance. In effect, the Commonwealth seeks to delegate the responsibility for conducting assessments to the states.

On 16 June 2014, in the second reading debate in the House of Representatives, the Government introduced amendments to the Bill. The updated Bill was prepared for debate, on **22 August 2014**, in Bills Digest no.9 2014-15.

- **Development of northern Australia.** The Joint Select Committee on Northern Australia invited interested persons and organisations to make submissions addressing the terms of reference, by 14 March 2014.

The Joint Select Committee tabled their [Final Report](#) on **4 September 2014**. Joint Committee Hansard of **18 August 2014** includes [a transcript of the Committee's hearing](#) of Robert Dalton and Joe Morrison of the Northern Land Council.

- The **Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014** was introduced on 27 March 2014. It seeks to clarify defence activity within the Woomera Prohibited Area to allow certainty for commercial decisions.

Hansard of **7 August 2014**, the Parliamentary Joint Committee on Human Rights' Report was tabled. Where the Committee sought clarification from the Minister for Defence with respect to the impact of the proposed law on native title rights, the Minister stated (at paragraph 2.8):

Indigenous groups will retain current access rights and will not require permission under this Bill. I note that section 72TB of the Bill specifically excludes existing users of the WPA from the application of the Bill. This includes Indigenous groups with an interest in the land. Additionally, permit holders under the Bill will be required to respect the rights of the local Indigenous groups and comply with all relevant laws and pertaining to native title and the protection of these sites. Defence engages in ongoing consultation and discussion with all stakeholders, including Indigenous groups, to ensure there is minimal disruption caused by Defence testing.

With respect to economic activity, the Bill only creates a permission system to access a prohibited area. Any economic activity that takes place in the WPA, specifically mining activity, is regulated by the South Australian Government under its *Mining Act 1971*

3. Indigenous Land Use Agreements

The [Native Title Research Unit](#) within AIATSIS maintains an [ILUA summary](#) which provides hyperlinks to information on the [National Native Title Tribunal \(NNTT\)](#) and the [Agreements, Treaties, and Negotiated Settlements \(ATNS\)](#) websites.

In August 2014, 5 ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
19/08/2014	Watershed Tungsten Project ILUA	QI2014/001	Area Agreement	QLD	Exploration, Mining
18/08/2014	Ellendale ILUA	WI2014/002	Area Agreement	WA	Mining, Large Mining
05/08/2014	Gudjala Protected Areas ILUA	QI2014/032	Body Corporate	QLD	Co-management, Access
05/08/2014	Hope Vale # 2 ILUA	QI2014/035	Body Corporate	QLD	Residential, Tourism
04/08/2014	Gladstone, Rockhampton and Bundaberg Ports Project ILUA	QI2014/026	Area Agreement	QLD	Extinguishment, Infrastructure

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

4. Native Title Determinations

The [Native Title Research Unit](#) within AIATSIS maintains a [determinations summary](#) which provides hyperlinks to determination information on the Austlii, [NNTT](#) and [ATNS](#) websites.

In August 2014, 1 native title determination was handed down.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC /PBC
Gumbaynggirr People	Phyball on behalf of the Gumbaynggirr People v Attorney-General of New South Wales	15/08/2014	NSW	Native Title exists in the entire determination area	Consent determination	Claimant	Wanggaan (Southern) Gumbaynggirr Nation Aboriginal Corporation

5. Future Acts Determinations

In August 2014, 9 Future Acts Determinations were handed down.

Determination date	Parties	Tribunal File No	State or Territory	Decision/Determination
28/08/2014	Raymond William Ashwin, June Rose Ashwin, Geoffrey Alfred Ashwin and Ralph Edward Ashwin on behalf of the Wutha People (WC1999/010) (native title party) - and - The State of Western Australia (Government party) - and - Runnell Holdings Pty Ltd (grantee party)	WO2013/1268	WA	Objection – Expedited Procedure Applies
28/08/2014	Raymond William Ashwin, June Rose Ashwin, Geoffrey Alfred Ashwin and Ralph Edward Ashwin on behalf of the Wutha People (WC1999/010) (native title party) - and - The State of Western Australia (Government party) - and - Encounter Resources Ltd (grantee party)	WO2013/1123	WA	Objection – Expedited Procedure Applies
28/08/2014	Raymond William Ashwin, June Rose Ashwin, Geoffrey Alfred Ashwin and Ralph Edward Ashwin on behalf of the Wutha People (WC1999/010) (native title party) - and - The State of Western Australia (Government party) - and - West Coast Geoscience Pty Ltd (grantee party)	WO2013/1270	WA	Objection – Expedited Procedure Applies
18/08/2014	Minister for Lands, State of Western Australia (Government party/applicant) - and - Western Australian Land Authority (grantee party) - and - Buurabalayji Thalanyji Aboriginal Corporation RNTBC (native title party)	WF2013/0005; WF2013/0006; WF2013/0007; WF2013/0008	WA	Future Act – Can be done

12/08/2014	John Walter Graham and Others on behalf of Ngadiu (WC1999/002) (native title party) - and - The State of Western Australia (Government party) - and - Dunstan Holdings Pty Ltd (grantee party)	WO2013/0963; WO2013/0964	WA	Objection – Expedited Procedure Applies
12/08/2014	Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and - Grantee parties as listed in the attached schedule (grantee parties)	WO2013/0846; WO2014/0274; WO2014/0378	WA	Objection - Dismissed
06/08/2014	Raymond Ashwin & Ors on behalf of Wutha (WC1999/010) (first native title party) - and - Evelyn Gilla & Ors on behalf of Yugunga-Nya (WC1999/046) (second native title party) - and - The State of Western Australia (Government party) - and - Nearology Pty Ltd (grantee party)	WO2013/0787, WO2013/0867	WA	Objection – Expedited Procedure Applies
06/08/2014	FMG Pilbara Pty Ltd (grantee party) - and - Yindjibarndi Aboriginal Corporation RNTBC (WCD2005/001) (native title party) - and - The State of Western Australia (Government party)	WF2014/0006	WA	Future Act – Can be done subject to conditions
04/08/2014	Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and - Grantee parties as listed in the attached schedule (grantee parties)	WO2013/0699; WO2014/0044; WO2014/0052; WO2014/0092; WO2014/0136; WO2014/0189; WO2014/0190; WO2014/0191; WO2014/0192; WO2014/0193; WO2014/0194; WO2014/0195; WO2014/0263; WO2014/0323; WO2014/0385; WO2014/0470; WO2014/0479	WA	Objection – Dismissed

6. 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.

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.

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

Aboriginal Resource and Development Services Inc

ARDS Newsletter

The August edition of the ARDS Newsletter is now available. The newsletter includes ARDS' current work, news and events.

For further information, visit [ARDS website](#)

Australian Human Rights Commission

Rights and Responsibilities 2014

The Human Rights Commissioner is conducting a national consultation about how well we currently protect people's rights and freedoms in Australia.

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

Australian National University

Indigenous and Minority Placenames: Australian and International Perspectives

This book, edited by Ian D. Clark, Luise Hercus and Laura Kostanski, showcases current research into Indigenous and minority placenames in Australia and internationally.

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

Department of Prime Minister and Cabinet

Indigenous Advancement Strategy

On 1 July 2014, a new [Indigenous Advancement Strategy \(IAS\)](#) began which replaced more than 150 individual programmes and activities with five flexible, broad-based programmes:

- [Jobs, Land and Economy](#)
- [Children and Schooling](#)
- [Safety and Wellbeing](#)
- [Culture and Capability](#)
- [Remote Australia Strategies](#)

On 8 September 2014, a grant round for funding under the IAS opened, and will close at 2pm EDST on Friday 17 October. This grant round provides funding for activities commencing from January 2015 (for calendar year funding) or from July 2015 (for financial year funding). Organisations are able to apply for funding from one or more of the IAS programs through a single application and funding agreements will focus on the delivery of outcomes to Indigenous people.

For further information, visit the [PM&C website](#).

The Extractive Industries and Society

Aboriginal engagement and agreement-making with a rapidly developing resource industry: Coal seam gas development in Australia

This article explores the onshore development of coal seam gas in Australia and the industry's interaction with Aboriginal people.

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

Media Releases, News Broadcasts and Podcasts

Central Desert Native Title Services

Wiluna 2: Wiluna Claimants win test case over former pastoral leases – August 2014

The Wiluna Martu People were granted as the native title holders for the area that consists of two parcels of unallocated Crown land that cover the former pastoral leases known as Lorna Glen station and Earahedy station. An appeal by the State of Western Australia against that decision was dismissed by the Full Court of the Federal Court on 1 August 2014 as recorded in *State of Western Australia v BP (Deceased)* [2014] FCAFC 95.

For further information, visit the [Central Desert NTS website](#)

Central Land Council

CLC Mourns Passing of Constructive and Positive Chairman – 5 August 2014

The Aboriginal flag at the Central Land Council office in Alice Springs is flying at half mast as members and staff mourn the passing on the weekend of former CLC chairman, Mr Kumanjaye Bookie.

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

Department of Prime Minister and Cabinet

Minister Scullion: Strengthening Governance to support effective services for Indigenous Australians – 8 August 2014

The Australian Government is moving to further strengthen governance arrangements for Commonwealth-funded organisations that deliver services to Indigenous Australians. Poor governance not only affects individual organisations delivering services for Aboriginal and Torres Strait Islander people, it also affects quality of services and outcomes achieved.

For further information, visit the [indigenous.gov.au website](#)

Strengthening organisational governance to support effective services for Indigenous Australians – August 2014

From 1 July 2014, organisations are required to incorporate under Commonwealth legislation and maintain these arrangements while they continue to receive any funding of \$500,000 or more in a single financial year from funding administered by the Indigenous Affairs portfolio within the Department of the Prime Minister and Cabinet.

For further information, visit the [PM&C website](#)

Goldfields Land and Sea Council

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples: A Historical View – 31 August 2014

A brief examination of the history of the Australian Constitution demonstrates clearly why Indigenous Australians need to be formally recognised in this country's founding document. The Goldfields Land & Sea Council ('GLSC') endorses the Constitutional recognition of Aboriginal and Torres Strait Islander peoples.

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

Northern Land Council

Talks begin on buffalo – 18 August 2014

Talks between the Northern Land Council and the Northern Territory Government have begun on the future of the buffalo industry, and the opportunities it offers to traditional Aboriginal landowners.

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

Premier of Victoria

Coalition protects Aboriginal heritage – 7 August 2014

Minister for Aboriginal Affairs Tim Bull today released an exposure draft of proposed Aboriginal heritage legislation to strengthen the protection of Victoria's Aboriginal cultural heritage.

For further information, visit the [Premier of Victoria website](#)

South Australian Native Title Services

Expression of interest for three board members – 29 August 2014

South Australian Native Titles Services Ltd (SANTS) performs the functions of a Native Title Service Provider in the State of South Australia pursuant to the *Native Title Act 1993*. The SANTS Board Selection Committee invites interested persons to make a written Expression of Interest for a position on the board.

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

Torres Strait Regional Authority

Torres Strait arts industry meeting a success – August 2014

Artists from across the Torres Strait and Northern Peninsula Area met at the Gab Titui Cultural Centre last month for the inaugural Torres Strait Arts Industry Meeting.

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

Torres Strait Regional Authority Celebrates 20 year milestone – 1 August

The Torres Strait Regional Authority (TSRA) marks its 20th year of operation in 2014, providing coordinated service delivery to facilitate better outcomes for Torres Strait Islanders.

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

9. Training and Professional Development Opportunities

ABC

An ABC News cadetship is one of the most sought-after paths to a career in journalism in Australia. Applications for the 2015 Indigenous News Cadetship are closing on 26 September 2014.

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

AIATSIS

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.

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](#).

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

10. Events

The Aurora Project

Legal Masterclass 2014

The Legal Masterclass focuses on specific aspects of law which NTRB/NTSP senior lawyers have identified as pivotal to their native title work.

Date: 16-18 September 2014

Location: The Downtowner, Lygon St, Melbourne

Further information can be found on the [Aurora Project](#) website.

NIRAKN

2014 Scopus Young Research of the Year Award (SYRA)

The Australasian Research Management Society (ARMS) and Elsevier are proud to announce the 2014 Scopus Young Researcher Award (SYRA). The SYRA awards are part of an Elsevier global initiative to recognise outstanding young scientists and researchers in Australasia who have made significant contributions in their areas of research. The awards ceremony will be held at the ARMS 2014 Conference in Canberra.

Date: 19 September 2014

Location: National Convention Centre, Canberra

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

KALACC Festival

The bi-annual KALACC Festival is the most significant Aboriginal festival of culture in the Kimberley, attended by many of the Aboriginal communities of the region that celebrates the region's cultural heritage and culture and languages. The event includes three important annual general gatherings of the Kimberley Aboriginal Law and Culture Centre (KALACC), Kimberley Land Council and the Kimberley Language Centre.

Date: 22-26 September 2014

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

Strehlow Conference

Where do we go from here?

Australia is currently going through an unprecedented period of change in its attitude to its Indigenous peoples and their cultures, opening up new possibilities for everyone. The quality of this change, and the extent to which it is embraced by the population at large, will depend in the first instance upon reliable information about what has been attempted in the past, both what has succeeded and what has failed.

Date: 24-26 September 2014
Location: Araluen Centre, Alice Springs, Northern Territory

For further information contact the Strehlow Centre on Tel: (08) 8951 1111, Fax: (08) 8951 1110, Email: strehlow@nt.gov.au

Yamatji Marlpa Aboriginal Corporation

On Country meeting to discuss proposed changes to the Aboriginal Heritage Act

This meeting is open to all Aboriginal People, Aboriginal Representative Bodies and Members of Parliament. Spread the word to your family and friends to help show the State Government that the Aboriginal community cares about its heritage.

Date: 11am on 26 September 2014
Location: Yule River Meeting Place (about 55km SW of Port Hedland)

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

National Climate Change Adaptation Research Facility (NCCARF)

Future Challenges

The National Climate Change Adaptation Research Facility invites you to its annual conference, **Climate Adaptation 2014: Future Challenges**. This is a national conference focused on the information needed to ensure Australia is adapting well to climate change.

Date: 30 September to 2 October 2014
Location: Gold Coast Convention and Exhibition Centre, Gold Coast, Queensland

Further information can be found on their [website](#).

Indigenous Knowledge Forum

Comparative Systems for Recognising and Protecting Indigenous Knowledge and Culture

The Second Indigenous Knowledge Forum will span two days and will discuss the protection of Indigenous knowledge and culture.

Date: 2-3 October 2014
Location: UTS – Haymarker (Law) – 1 – 59 Quay St, Haymarket

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

Australian Network of Student Anthropologists (ANSA)

AAS/ANSA Postgraduate Travel Grants

The Australian Network of Student Anthropologists (ANSA), in conjunction with the Australian Anthropological Society (AAS), offers a number of travel grants for current and recent postgraduate by research students, to assist them with meeting costs incurred in travelling to the annual AAS conference. In 2014, the conference will be held jointly with the Association of Social Anthropologists of Aotearoa / New Zealand (ASAA/NZ).

Date: 10-13 November 2014
Location: Millenium & Copthorne Hotels, Queenstown, New Zealand

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

Indigenous Business, Enterprise and Corporations Conference (IBECC)

The 3rd Indigenous Business, Enterprise and Corporations Conference (IBECC14) will be hosted by the UWA Centre for Social Impact. The conference will cover topics such as Indigenous business, strong foundations, amplifying futures, sustaining country and culture, driving change, speaking up and a common agenda.

Date: 1-2 December 2014

Location: UWA Business School

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

ACRAWSA Conference 2014

ACRAWSA is calling for scholars working on any aspect of critical race or whiteness studies to submit papers for our annual conference. This year's conference has an open theme, and we encourage scholars working in relevant areas to attend and reflect upon the field. This conference aims to reinstate the importance of the study of race

Date: 4-5 December 2014

Location: Brisbane

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

World Indigenous Domestic Violence Conference

The world Indigenous Domestic Violence conference will be held in Cairns in early December. Registration is filling quickly and conference organisers has recommended interested delegates should register as soon as possible for the conference.

Date: 8-10 December 2014

Location: Pullman Cairns International Hotel

Further information can be found on the Indigenous Conferences [website](#).

World Indigenous Health Conference

There are more than 50 speakers confirmed to attend the World Indigenous Health Conference. Registration is filling quickly and conference organisers has recommended interested delegates should register as soon as possible for the conference.

Date: 15-17 December 2014

Location: Pullman Cairns International Hotel

Further information can be found on the Indigenous Conferences [website](#).



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.

