



WHAT'S NEW IN NATIVE TITLE

September 2015

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1. Case Summaries

Smirke on behalf of the Jurruru People v State of Western Australia **[2015] FCA 939**

1 September 2015, [Consent Determination](#), Federal Court of Australia- Perry Flats, Kooline Station, Western Australia, McKerracher J

In this decision, McKerracher J recognised the native title rights and interests of the Jurruru people in relation to land and waters covering approximately 10,066 square kilometres in the Ashburton area north east of Carnarvon in the Pilbara region. The claim was first filed on 14 July 2000 but has been substantially amended twice, including the replacement of the applicant on 16 January 2012. The respondent parties included the state of Western Australia, Yamatji Marlpa Aboriginal Corporation, Bambi, Cheela Plains Pastoral Co, as well as a number of individual pastoralists. All of the pastoralists, except Bambi, agreed to the terms of the determination and have negotiated agreements with the Jurruru people for their particular leases which will be executed and will be lodged for registration as Indigenous Land Use Agreements. The order was made under [s 87A of the Native](#)

Title Act ('NTA') as no determination was made in relation to the land and waters which are overlapped by a native title application from Gobawarra Minduarra Yinhawanga peoples.

The native title rights and interests in relation to the land and waters are the non-exclusive rights to:

- a) the right to enter and remain on the land, camp, erect temporary shelters, and travel over and visit any part of the land and waters
- b) the right to hunt, fish, gather, take and use the traditional resources of the land
- c) the right to take and use water
- d) the right to engage in cultural activities including
 - i) visiting places of cultural or spiritual importance and maintaining, caring for, and protecting those places by carrying out activities to preserve their physical or spiritual integrity and
 - ii) conducting ceremony and ritual and
- e) the right to be accompanied by those people who, though not Jurruru people, are:
 - i) spouses, parents or descendants of one or more Jurruru person or
 - ii) people required by traditional law and custom for the performance of ceremonies or cultural activities

In his judgment, McKerracher J noted at [16] that the Jurruru traditional laws and customs which connect them to their country were believed to have been passed on to the people by the ancestral beings when the world was created and the current physical features of their land were shaped. These laws are binding on the Jurruru people and have been handed down through their descendants as well as recorded by the ancestral beings in rock engravings. The Jurruru people speak a common Jurruru language.

The Court was satisfied that it should make the orders agreed to by the parties. Justice McKerracher noted at [42] that both the State and the Jurruru people had legal representation, as did the other parties. His Honour was also satisfied that the State was convinced that the evidence proving connection to the country and the maintenance of the Jurruru people's presence in the area since British sovereignty was sufficient. The prescribed body corporate is the Jurruru Aboriginal Corporation. In relation to the undetermined area, the Court ordered that the matters be listed for directions.

Chubby on behalf of the Puutu Kunti Kurrama People and the Pinikura People #1 and #2 [2015] FCA 940

2 September 2015, Consent Determination, Federal Court of Australia- House Creek, Western Australia, McKerracher J

In this decision, the Court considered two applications lodged, Puutu Kunti Kurrama and Pinikura #1 (PKKP 1) and Puutu Kunti Kurrama and Pinikura #2 (PKKP 2), covering approximately 10,888 square kilometres of land and waters between Exmouth and Tom Price in the Pilbara region. The applicants are two separate but related language groups consisting of the Puutu Kunti Kurrama people and Pinikura people speaking for their own country, as well as a shared area. The PKKP 1 was filed on 30 October 2001 and is in its original form. The PKKP 2 was lodged on 1 June 2005 and has been amended twice under order of the Court. The respondents included the State of Western Australia, API Management and a number of pastoralists.

The non-exclusive native title rights and interests in relation to the claim area are:

- a) the right to enter and remain on the land, camp, erect temporary shelters, and travel over and visit any part of the land and waters
- b) the right to hunt, fish, gather, take and use the traditional resources of the land
- c) the right to take and use water
- d) the right to engage in cultural activities including:
 - i) visiting places of cultural or spiritual importance and maintaining, caring for, and protecting those places by carrying out lawful activities to preserve their physical or spiritual integrity and
 - ii) conducting ceremony and ritual, and the transmission of cultural knowledge and
- e) the right to be accompanied onto the area by those people who, though not native title holders, and who (for the avoidance of doubt) cannot themselves exercise any native title right in the area, are:
 - i) spouses, parents or children of the native title holders or
 - ii) people required by traditional law and custom for the performance of ceremonies or cultural activities

In his judgment, McKerracher J noted at [16] that while the two groups were distinct and had unique characteristics, they also observe common laws and customs that facilitate the protection and sharing of resources. He also discussed the histories of both the Puutu Kunti Kurrama people and Pinikura people. The evidence demonstrated that European settlement did not reach the Aboriginal people in the claim area until the 1880s and many Aboriginal people continued to live independent, mobile lives on country. The evidence provided to the State in support of the claim included an anthropological report, a historical report and supplementary anthropological information. Justice McKerracher also emphasised at [44] that the

Court was not creating, but rather recognising rights and interests that have always existed.

Within six months, the group must nominate a prescribed body corporate: the native title may be held in trust either by the PKKP Aboriginal Corporation or alternatively, another corporation should be nominated with the consent of the group.

Wintawari Guruma Aboriginal Corporation RNTBC v State of Western Australia [2015] FCA 1053

25 September 2015, [Application for Joinder](#), Federal Court of Australia-Perth, WA, Rares J

In this case, the Court dismissed an application filed by the Wintawari Guruma Aboriginal Corporation RNTBC (WGAC) on 11 August 2015 to be joined as a party to the Yindjibarndi people's application for the determination of native title proceedings, *TJ v Western Australia* (WAD 6005 of 2003). This native title proceeding was set down for an on-country hearing in the Pilbara on 7 September 2015. WGAC filed a revised native title determination application on 18 August 2015, applying for a variation of two approved consent determinations of native title held by the Eastern Guruma people recognised in [Hughes \(on behalf of the Eastern Guruma People\) v State of Western Australia \[2007\] FCA 365](#) and in [Hughes \(on behalf of the Eastern Guruma People \(No 2\) v State of Western Australia \[2012\] FCA 1267](#) (see AIATSIS case summary in the [November 2012 edition of What's New in Native Title](#)). WGAC is the prescribed body corporate for the Eastern Guruma people's native title. The land and waters in the Eastern Guruma determination are immediately to the south of the Yindjibarndi people's claim. In the revised application lodged by WGAC the area of land and waters of 700 square kilometres overlaps one quarter of, and divides into two, the Yindjibarndi claim area. Justice Rares had considered and dismissed these applications on 25 August 2015 requiring the WGAC to pay costs on an indemnity basis. However, having erroneously taken into account the evidence that WGAC had filed but not formally read, Rares J decided to set aside and remake the orders for costs under [r 39.04 of the Federal Court Rules 2011 \(Cth\)](#).

The principal issue for Rares J was whether WGAC's claimed status, as the registered native title body corporate (RNTBC), to bring both the revised application and the joinder application had any legal foundation. WGAC contended that it had discovered an error in the boundaries of the agreed determinations. WGAC also claimed that a site of particular significance to the Eastern Guruma people, 'Satellite Springs', was believed at the time of the consent determinations to be within the claim area. However, further investigation revealed that the site is located within the area now claimed under the variation application. Two Eastern Guruma elders confirmed this in affidavits. If this variation was accepted, it would significantly reduce the Yindjibarndi claim area. The variation would also have significantly

disrupted the imminent on-country trial as additional anthropological and other factual evidence would need to be gathered. WGAC acknowledged that the revised application was not the subject of any previous applications from the Eastern Guruma people.

Under [s 64\(1\) of the Native Title Act 1993 \(Cth\)](#) ('NTA'), an amendment cannot include additional areas that were not covered within the original application. Nevertheless, WGAC argued that as the RNTBC it had the right to apply to vary the approved determination to increase the area. Further, WGAC argued that the statutory trust arrangement created under s 56(2) of NTA, included native title rights and interests that were not the subject of the determination but might have been were it not for mistake or misadventure, namely the mistake in the boundaries of the original 1997 claim.

Justice Rares held at [23] that neither of the applications was capable of being made under the NTA. Firstly, at [24] he observed that in the consent determinations made by the Court previously, Bennett J. had identified, with precision, the nature and extent of the native title rights and interests of the East Guruma people. Secondly, he noted that her Honour had no power to allow, or declare, the creation of a trust over land and waters not claimed in the application. At [25] Rares J. confirmed that s 64(1) precluded the inclusion of an additional area in an amendment. The status claimed by WGAC in its applications had no foundation in the NTA. Therefore WGAC could not make a claim and as a result the Court lacked the jurisdiction to grant relief. This interpretation was confirmed in [Native Title \(Prescribed Bodies Corporate\) Regulations 1999 \(Cth\)](#) where the PBC's function is limited to the land and waters that the Court has determined is subject to the trust. Justice Rares emphasised at [29] that the NTA makes it clear that no one can apply for native title over land and waters that 'have not been the subject of, first, a process of authorisation by a native title claim group pursuant to s 251B and, secondly, the ordinary processes of the Act, including giving notice of such an application to the National Native Title Tribunal, the publication by the Tribunal of that notice and the subsequent application of the registration test under s 190A'.

The costs order made by Rares J at [36] was that WGAC should pay the costs of the Yindjibarndi applicant for both applications on an indemnity basis. Justice Rares noted that WGAC's actions were entirely unreasonable and that the applications had been lodged very late as the Yindjibarndi hearing was about to take place, especially given it had been aware of the alleged error for at least one year. He stated at [40] that the applications were 'misconceived' and 'baseless'.

Barbara Sturt and Others on behalf of Jaru v Baibao Resources Pty Ltd and Another [2015] NNTTA 38

1 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence is an 'act attracting the expedited procedure' under [s 237\(b\) of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers an area of approximately 194.44 square kilometres and is situated about 87 kilometres south-west of Halls Creek in the Kimberly region of Western Australia. The proposed grant is situated wholly within the boundaries of the Jaru native title claim. The decision has the consequence that Baibao Resources can explore without prior negotiation with the Jaru people.

The Jaru claimants argued that the proposed licence, and the activities that would be conducted under its authority, would directly interfere with the social or community activities carried on in the area and that it is also likely to interfere with areas or sites of particular significance. The Jaru people claim that they hunt for goanna, emu and turkey, gather bush tucker including conker berries, bush tomatoes, bush onions and bush medicines, camp, fish and pass on intergenerational knowledge to their children within the licence area. Two affidavits were offered in support of these claims. The Tribunal noted that it was unclear whether the activities could only take place on the licence area, or whether they could also be carried out elsewhere on their 28,825 square kilometres claim. There was also a restriction imposed by Lamboo Station limiting access to one area. Another important factor was that no evidence indicating the frequency or duration of visits was provided. Thus, the Tribunal concluded the grant was unlikely to interfere directly with the community or social activities of the Jaru people.

The Jaru claimants contended that there were sites of particular significance, sacred dreaming sites where only Jaru men are permitted. The information and dreamtime stories could not be shared with the Tribunal as they are only told to initiated Jaru men. There are also some sites on the Register of Aboriginal Sites within the licence area. However, the Tribunal concluded that there was no evidence to determine the site was of particular significance. In contrast, the Hangman's Creek site where white men used to hang Aboriginal people was held to be of particular significance. However, there was no evidence that the activities of Baibao Resources would affect the Hangman's Creek site, particularly as the State will impose a condition that a Regional Standard Heritage Agreement ('RSHA') be executed in favour of the Jaru claimants.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Coal First Pty Ltd [2015] NNTTA 39

1 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') dismissed an objection lodged by the Wutha people to the intended grant of an exploration licence to Coal First. The Wutha people native title claim overlaps the licence by 66.31 per cent. The State had included an expedited procedure clause in the notice.

The Tribunal was advised by Coal First on an 8 July 2015 status conference that the parties had agreed to a Regional Standard Heritage Agreement ('RSHA') and that they had signed it and forwarded it to the Wutha people for their assent on 29 June 2015. The Wutha representative did not attend the conference. The Tribunal advised that dates would be set for an inquiry and wrote to the Wutha claimants to inform them of the inquiry and that Coal First was awaiting their signature on the agreement. Directions were made by the Tribunal that all evidence be provided on or before 19 August 2015. No correspondence was received from the Wutha claimants. On 20 August 2015 the State wrote to the Tribunal and Wutha claimants requesting a dismissal of the objection. That same day the Tribunal wrote to both the Wutha representative and Coal First asking them to respond by 27 August 2015. Coal First supported the State's request.

However, at the date of the determination, no response had been received from the Wutha claimants, either as to why the objection should not be dismissed, nor any requests for an extension, nor reasons for not complying. As a consequence, the Tribunal stated that it would be unfair to prejudice the other parties with further delays and dismissed the objection. The question of whether the licence could be granted in an expeditious manner was therefore not considered.

Aston Coal 2 Pty Ltd, ICRA MC Pty Ltd and J-Power Australia Pty Ltd and Another v Gomeri People [2015] NNTTA 40

7 September 2015, [An Inquiry into a Future Act Determination](#), National Native Title Tribunal – Sydney, NSW, R Webb, President

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the grant of the mining lease under the *Mining Act 1992* (NSW) may occur. This action had the agreement of all parties, but was not an agreement of the kind mentioned in s 31(1) (b) of the Native Title Act ('NTA') which meant the Tribunal was not barred from making a determination. The proposed licence lies entirely within the claim area of the Gomeri people.

The matter concerned the agreement which had the consent of both parties in principle about the doing of the act. However, 2 of the 18 members of the Gomeri

Applicant had not executed the deed as required under the NTA. The question to be resolved by the Tribunal was whether there was agreement from the native title party, that is, whether the applicant could act by majority. However, material provided to the Tribunal from meeting minutes did not disclose a resolution that the applicant could act by majority.

In making the determination, the Tribunal had to have regard to the criteria under s 39 of the NTA including the effect of the licence grant upon the enjoyment of the Gomeri people of their registered native title rights and interests, the development of their social, cultural and economic structures, their wishes or opinions in relation to the management, use or control of land or waters. The Tribunal directed the parties to set out an agreement with any conditions to be imposed. The parties did so in a joint submission which did not include any conditions, and with their consent this submission formed the agreement that satisfied the Tribunal that the grant may occur.

Tarlka Matuwa Piarku (Aboriginal Corporation) RNTBC v WA Mining Resources Pty Ltd Another [2015] NNTTA 41

8 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Brisbane, Queensland, JR McNamara, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence is an 'act attracting the expedited procedure' under [s 237\(b\) of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence is situated west of Wiluna. The decision has the consequence that WA Mining Resources and the State do not need to negotiate with the Tarlka Matuwa Piarku Aboriginal Corporation ('TMP') which holds native title rights and interests on behalf of the Wiluna and Tarlpa peoples.

TMP contended that the grant of the licence was likely to cause harm to Aboriginal and non-Aboriginal people through interfering with 'sites, areas, places and meandering dreaming [jukurrpa] tracks'. Their submissions concerned a site of particular significance, known as Tarlka, associated with two hills in the north-west of the licence. TMP relied upon two affidavits of senior men involved in ceremony. The information they provided was restricted to male officers, legal representatives and Tribunal staff. As a result, the Tribunal only relayed the detailed information where it was necessary under s 162(2) of the Native Title Act. According to affidavit evidence, Tarlka was of particular significance because it is 'one of the main places' for a specific jukurrpa or dreaming which extends across the licence area and beyond. The area is only accessible for men; women cannot 'go too close to that place'. The State accepted that the site is of particular significance but argues that the grant is not likely to interfere with it given existing and previous uses of the area, the intentions of the licensee to be and the applicable regulatory regime.

Other sites suggested to be of particular significance included sites linked with male initiations practices, sacred objects stored within and adjacent to the licence area and dreaming tracks whose location is limited to those people with cultural knowledge and authority. The State argued that there was insufficient evidence or detail provided about these places, a submission accepted by the Tribunal.

TMP submitted that the grant will place Tarlka at a real risk of interference, with severe consequences such as people getting bashed or speared if they are unable to exclude other people from certain areas, members of the community may get upset, sick or be 'killed'; women who enter the site will suffer adverse repercussions. The State argued that there is no evidence other than some restrictions for women entering certain parts of Tarlka and no evidence of broader restrictions on access was provided. Additionally, the State notes that it is and has been in the past a history of exploration and pastoral activity in the area. Further, the State revealed that it intended to impose a condition requiring the licensee to enter into a RSHA if requested to do so by TMP. The Tribunal ultimately concluded that it was possible to avoid the risks posed to Tarlka and that WA Mining Resources will be on notice to ensure interference is avoided.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Murchison Gold Mines Pty Ltd [2015] NNTTA 42

9 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') dismissed an objection lodged by the Wutha people to the intended grants of prospecting licences to Murchison Gold Mines. The Wutha people native title claim overlaps the licences entirely. The State had included an expedited procedure clause in the public advertisement of the licences.

Murchison Gold Mines requested that the matters proceed to an inquiry on 15 July 2015. The Tribunal then directed all parties to provide their contentions and evidence on or before 26 August 2015. The Wutha native title claimants failed to provide either. On 27 August 2015, the State wrote to the Tribunal requesting the objections be dismissed due to the failure to proceed with the objection or comply with the directions. The Tribunal wrote to both the Wutha representative and Murchison Gold Mines asking them to respond. Neither party provided one. At the date of the determination, no response had been received, either as to why the objection should not be dismissed, nor any requests for an extension, nor reasons for not complying. As a consequence, the Tribunal states it would be unfair to prejudice the other parties with further delays and dismissed the objection.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Iluka Resources Limited [2015] NNTTA 43

10 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') dismissed an objection lodged by the Wutha people to the intended grant of an exploration licence to Iluka Resources. The Wutha people native title claim overlaps the licence 100 per cent. The State had included an expedited procedure clause in the notice.

On 26 June 2015, Iluka Resources requested the matter proceed to an inquiry and that a date be set. The Tribunal directed on 30 June 2015 that all contentions and evidence be provided on or before 7 August 2015. The parties were advised that failure to comply with these directions could lead to the dismissal of the objection. No response from the Wutha claimants was received. On 10 August, Iluka Resources wrote to the Tribunal requesting the objection be dismissed. This request was also forwarded to the Wutha claimants. The Tribunal then wrote on 11 August 2015 to the State and Wutha claimants asking for a response to the request to dismiss. The State supported the request. The Wutha claimants replied and requested an on-country oral hearing. On 13 August 2015, the Tribunal asked for a response from the State and Iluka Resources. The State replied that it opposed the request, as did Iluka Resources.

As a result, all parties attended a directions hearing on 25 August 2015 where the Wutha representative, Mr Harrington-Smith, acknowledged the group had failed to comply with the Tribunal's directions and that as a consequence the objection could be dismissed. Mr Harrington-Smith stated that the group would concentrate their efforts on the other matter for which contentions had been provided. All parties were made aware that the dismissal of the objection would occur on 10 September 2015, as confirmed via email.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Interim Resources Ltd [2015] NNTTA 44

16 September 2015, [An inquiry into Expedited Procedure Objection Application](#), National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') dismissed an objection lodged by the Wutha people to the intended grant of an exploration licence to Interim Resources. The State asserted that the grant could be made without negotiations with the Wutha people as it considered the grant to attract the expedited procedure. The Wutha people native title claim overlaps the licence entirely.

On 14 July, Interim Resources requested that the matter proceed to an inquiry and the Tribunal directed that both parties produce the contentions and evidence on or

before 25 August 2015. Neither of the requests were complied with by the Wutha claimants. On 27 August 2015, the State requested that the objection be dismissed with Interim Resources supporting the request. The Tribunal wrote a second time to the Wutha claimants to inform them that they should respond by 2 September 2015. At the date of the determination, no response had been received, either as to why the objection should not be dismissed, nor any requests for an extension, nor reasons for not complying. As a consequence, the Tribunal states it would be unfair to prejudice the other parties with further delays and dismissed the objection.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Iluka Resources Ltd and Another [2015] NNTTA 45

21 September 2015, An inquiry into Expedited Procedure Objection Application, National Native Title Tribunal – Perth, WA, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence is an 'act attracting the expedited procedure' under s 237(b) of the *Native Title Act 1993* (Cth) ('NTA'). The licence covers an area of approximately 149.9 square kilometres and is situated about 132 kilometres east of Wiluna in the Laverton and Wiluna Shires. Both the Wutha native title claim and the Mantijintjarra Ngalia #2 claim wholly overlap the licence. The Wutha people lodged an objection to the application to grant the licence with the expedited procedure on 28 October 2014. The Mantijintjarra Ngalia #2 also objected on 9 January 2015. Iluka Resources had been in negotiations with the Wutha people but did not reach an agreement. However, an agreement between the Mantijintjarra Ngalia #2 and Iluka Resources was reached in relation to the licence, including a heritage protection regime. As a result, Mantijintjarra Ngalia #2 withdrew their objection. The Wutha people requested an oral hearing but the Tribunal denied this as it was satisfied the matter could be determined on the basis of written materials provided. Therefore, the Wutha people were invited to provide extra evidence in writing to the Tribunal. A Wutha representative contacted the Tribunal to confirm that no further information would be provided.

The Wutha claimants contended that the grant of the licence will interfere directly with the social or community activities carried on in the area by the group, the exploration undertaken in the area is likely to interfere with sites of particular significance to the group and it is also likely to involve, or create rights whose exercise is likely to involve, major disturbance to land or waters. However, the Tribunal noted that there was no specific information provided as to what community and social activities are carried out on the proposed licence grant. Similarly, the Wutha people failed to identify any sites of particular significance and to explain why these sites were of particular significance. Finally, the Tribunal noted no specific evidence about the disturbance of land or waters had been presented. The State submitted that there were conditions upon the grant of the licence limiting what

activities Iluka Resources may or may not carry out. Thus the Tribunal was satisfied the grant would not create rights or involve major disturbance to land or waters.

2. Legislation

NSW

[Coal Seam and Other Unconventional Gas Moratorium Bill 2015](#)

Status: This bill was introduced on 10 September 2015 and the Second Reading took place on the same day.

Stated Purpose: This bill places a moratorium on prospecting for, or the mining, of coal seam gas or other unconventional gas.

Native Title Implications: This bill contains provisions that prohibit prospecting or mining of coal seam gas or other unconventional gas until the Minister publishes an order lifting the moratorium. The Minister is only permitted to make such an order if several conditions are met including the Minister being satisfied on reasonable grounds that no part of the area is within a no go zone and that the Standing Expert Advisory Body believes the regulatory framework will be complied with. The Standing Expert Advisory Body is established by the bill with responsibility for the provision of advice and recommendations to the Minister in connection with matters such as petroleum mining operations, undertaking research and updating risk management tools.

An individual engaging in the prohibited activity will be committing an offence under s 7 of the *Petroleum (Onshore) Act 1991*. This bill establishes no go zones for coal seam or other gas extraction, these areas are outlined in Schedule 1 of the bill. The bill also affects existing production leases, prohibiting the holder from conducting petroleum mining operations involving drilling or hydraulic fracturing. The bill may therefore affect native title holders in relation to future acts.

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

Victoria

[National Parks Amendment \(No 99 Year Leases\) Bill 2015](#)

Status: This bill was introduced on 15 September 2015 and a second reading of the amendment took place on 16 September 2015.

Stated Purpose: This bill repeals provisions that currently enable the granting of leases for up to 99 years over certain national park areas, reduces the maximum term of a lease that can be granted there from 99 years to 50 years, as well as making other miscellaneous amendments.

Native Title Implications: This bill is a technical amendment which limits the 'land' which may be subject to leases to land included within Schedule 4, rather than land

included in any of the Schedules of the Act (several of which concern repeals, transitional provisions and native title).

For further information please see the [Explanatory Memorandum](#) and the [Second Reading Speech](#).

Western Australia

[Conservation and Land Management Amendment Bill 2015](#)

Status: This bill was introduced on 12 March 2015, for further detail please see the [March 2015 editions of What's New in Native Title](#) or the [Explanatory Memorandum](#). A second reading of the bill occurred in the Legislative Council on 24 September 2015.

[Mining Legislation Amendment 2015](#)

Status: This bill was introduced, read for a first time and moved for second reading on 22 April 2015. For further detail please see the [May 2015 Edition of What's New in Native Title](#) or the [Explanatory Memorandum](#). The bill was considered in detail by the Legislative Assembly on 22 September 2015.

3. Native Title Determinations

In September 2015, the NNTT website listed 2 native title determinations.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC/ PBC
Puutu Kunti Kurrama People and Pinikura People #1 and #2	Chubby on behalf of the Puutu Kunti Kurrama People and the Pinikura People #1 and #2	02/09/2015	WA	Native title exists in parts of the determination area	Consent	Claimant	N/A
Jurruru People Part A	Smirke on behalf of the Jurruru People v State of Western Australia	01/09/2015	WA	Native title exists in parts of the determination area	Consent	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 9 October 2015 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.au. 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.

Table 1: National Registered Native Title Bodies Corporate (RNTBCs) Statistics (9 October 2015)

State/Territory	RNTBCs	No. of successful (& conditional) claimant determinations for which RNTBC to be advised
Australian Capital Territory	0	0
New South Wales	6	0
Northern Territory	19	39
Queensland	69	6
South Australia	14	0
Tasmania	0	0
Victoria	4	0
Western Australia	33	3
NATIONAL TOTAL	145	48

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 9 October 2015.

5. Indigenous Land Use Agreements

In September 2015, 5 ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
28/09/2015	<u>Saibai Island Additional Staff Accommodation ILUA</u>	QI2015/041	Body Corporate	QLD	Infrastructure, Residential
18/09/2015	<u>Garawa People Wentworth Pastoral ILUA</u>	QI2015/010	Area Agreement	QLD	Access, Terms of Access
16/09/2015	<u>Ugar (Stephen Island) Torres Strait Social Housing ILUA</u>	QI2015/039	Body Corporate	QLD	Infrastructure, Residential
14/09/2015	<u>Iman People and Local Government ILUA</u>	QI2015/012	Area Agreement	QLD	Access, Government
08/09/2015	<u>Coober Pedy Renewable Hybrid Project Indigenous Land Use Agreement</u>	SI2015/004	Body Corporate	SA	Energy

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

6. Future Acts Determinations

In September 2015, 8 Future Acts Determinations were handed down.

Determination date	Parties	Tribunal file no.	State or Territory	Decision/ Determination
21/09/2015	<u>Raymond William Ashwin (dec) and others on behalf of Wutha (WC1999/010) (native title party)</u> - and - <u>Iluka Resources Limited (grantee party)</u> - and - <u>The State of Western Australia (Government party)</u>	WO2014/0840	WA	Objection - Expedited Procedure Applies
16/09/2015	<u>Raymond William Ashwin (dec) and Others on behalf of Wutha (WC1999/010) (native title party)</u> -and- <u>The State of Western Australia (Government party)</u> -and- <u>Intermin Resources Ltd (grantee party)</u>	WO2015/0319	WA	Objection - Dismissed

Determination date	Parties	Tribunal file no.	State or Territory	Decision/ Determination
10/09/2015	<u>Raymond William Ashwin (dec) and Others on behalf of Wutha (WC1999/010) (native title party)</u> -and- <u>The State of Western Australia (Government party)</u> -and- <u>Iluka Resources Limited (grantee party)</u>	WO2015/0466	WA	Objection - Dismissed
09/09/2015	<u>Raymond William Ashwin (dec) and Others on behalf of Wutha (WC1999/010) (native title party)</u> -and- <u>The State of Western Australia (Government party)</u> -and- <u>Murchison Gold Mines Pty Ltd (grantee party)</u>	WO2014/0899 WO2014/0900 WO2014/0901 WO2014/0902	WA	Objection - Dismissed
08/09/2015	<u>Tarika Matuwa Piarku (Aboriginal Corporation) RNTBC (native title party)</u> - and - <u>WA Mining Resources Pty Ltd (grantee party)</u> - and - <u>The State of Western Australia (Government party)</u>	WO2014/0324 WO2014/0329	WA	Objection - Expedited Procedure Applies
07/09/2015	<u>Aston Coal 2 Pty Ltd, ICRA MC Pty Ltd and J-Power Australia Pty Ltd (grantee party)</u> - and - <u>Alfred Boney, Maureen Sulter, Clifford Toomey, Lyall Munro Junior, Norman McGrady, Madeline McGrady, Leslie Woodbridge, Jason Wilson, Michael Anderson, Alfred Priestly, Ray Tighe, Greg Griffiths, Burrul Galigabali, Susan Smith, Richard Green, Raymond Welsh Senior, Elaine Binge, Bob Weatherall and Anthony Munro on behalf of the Gomeri People (native title party)</u> - and - <u>The State of New South Wales (Government party)</u>	NF2015/0001	NSW	Future Act - May be done
01/09/2015	<u>Barbara Sturt and others on behalf of Jaru (WC2012/003) (native title party)</u> - and - <u>Baibao Resources Pty Ltd (grantee party)</u> - and - <u>The State of Western Australia (Government party)</u>	WO2014/0302	WA	Objection - Expedited Procedure Applies

Determination date	Parties	Tribunal file no.	State or Territory	Decision/ Determination
01/09/2015	<u>Raymond William Ashwin (dec) and Others on behalf of Wutha (WC1999/010) (native title party)</u> -and- <u>The State of Western Australia (Government party)</u> -and- <u>Coal First Pty Ltd (grantee party)</u>	WO2014/0841	WA	Objection - Dismissed

7. Native Title in the News

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

8. Related Publications

Publications

Central Desert Native Title Services

Central Desert Native Title Services Annual Report for 2014-2015 is now available for download.

For further information, [please visit the Central Desert Native Title Services website](#)

Central Land Council

The September Edition of Council News is now available for download.

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

Ecological Management & Restoration – Linking Science and Practice

Developing collaborative marine turtle monitoring in the Kimberley region of northern Australia

A collaborative paper written by AIATSIS Senior Research Fellow Rod Kennett, Micha V Jackson and Peter Bayliss is now available for download.

For further information, [please visit Wiley Online Library](#)

Kimberley Land Council

The September 2015 Kimberley Land Council newsletter is now available for download.

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

Native Title Services Victoria

Native Title Services Victoria Annual Report for 2014-2015 is now available for download.

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

Northern Land Council

The Northern Land Council has released their Corporate Plan for 2015/16-2018/19. It is now available for download.

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

North Queensland Land Council

The Northern Queensland Land Council's quarterly newsletter Message Stick is now available for download.

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

Media Releases, News Broadcasts and Podcasts

Central Land Council

Traditional owners get ready to declare the land surrounding Uluru an Indigenous Protected Area

More than five million hectares of land surrounding Uluru Kata Tjuta National Park will be declared an Indigenous Protected Area (IPA) on Thursday 1 October 2015. Anangu traditional owners will gather at a significant site located between Uluru and the West Australian border to celebrate the launch of one of the world's newest IPAs.

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

Minister for Indigenous Affairs – Senator the Honourable Nigel Scullion

New era for native title funding

The Gooniyandi Aboriginal Corporation will receive \$194,471 for further economic development on their country in the Kimberley region. Native title holders will maximise the benefits of owning their own land through this Federal funding scheme. This follows the Commonwealth's announcement of over \$20 million to support the better use of native title as part of the White Paper on Developing Northern Australia.

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

Native title recognised over Jurruru country

The Federal Court has recognised that native title exists over almost 10,500 square kilometres in the South West Pilbara region. Within the consent area there are many sacred sites including ancient stone engravings and permanent pools close to the

Ashburton River. This is a great achievement for the Jurruru people who have fought hard for the last 15 years to acquire their native title rights.

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

Native Title recognised over west Pilbara

A claim covering almost 10,000 square kilometres across the west Pilbara is the second native title determination to be delivered in two days, according to Minister Scullion. The claim was heard at an on-country meeting at the House Creek picnic area near Mount Stuart on the 3 of September. For the Puutu Kuntj Kurrama and Pinikura People who have lived here since time immemorial, this area holds great spiritual significance.

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

Northern Land Council

Second round of ABA grant funding begins

Applications are open on Monday 7 September and closes on Friday 2 October for the second round of the Aboriginals Benefit Account grant funding. Applicants will be notified of the outcome before the end of the 2015 calendar year.

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

Kimberley land Council

Kija Rangers host 2015 Kimberley Ranger Forum at Purnululu

The Kija Rangers hosted a forum including 14 different Aboriginal ranger groups from across the Kimberley and Northern Territory. The forum included professional development and networking with workshops on Cyber Tracker technology, music sessions, suicide prevention and mental health, social media, first-aid training, building and construction and trailer mechanics.

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

South West Aboriginal Land and Sea Council

Noongar community remains steadfastly opposed to the Toe Highway 8 Extension

The Whadjuk People Native Title Claimants and the Noongar community have expressed their disapproval to the South West Aboriginal Land and Sea Corporation for a proposal extending directly through the Coolbellup and Walliabup area wetlands, also known as North Lake and Bibra Lake. These areas are of specific spiritual and cultural significance to Noongar people enabling the continuation of traditions, customs and beliefs.

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

Yamatji Marlpa Aboriginal Corporation

Aboriginal community demands answers from State Government

At the Yule River 300 people gathered to challenge the State Government's Aboriginal Heritage Act Amendment Bill and the Regional Services Reform plan. Both forms of legislation focus on evaluating the sustainability of Aboriginal communities across Western Australia. This meeting was hosted on the 25 September by Yamatji Marlpa Aboriginal Corporation's Pilbara Regional Committee. YMAC's Co-Chair Mrs Doris Eaton and Mr Maitland Parker led discussions.

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

Native title recognised for PKKP people

On 2 September 2015, the Puutu Kunti Kurrama and Pinikura (PKKP) People celebrated the legal recognition of their native title rights at a Federal Court hearing. Justice Neil McKerracher handed down the consent determination recognising the PKKP People's non-exclusive rights to the land. The consent determination was held on-country at House Creek near the homestead on Mt Stuart Station about 200 kilometres northwest of Paraburdoo. The PKKP people and other representatives from the government, mining and pastoral industries attended.

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

Native title recognised for Jurruru people

The Jurruru People's native title was recognised on the 1 September 2015 in a Federal Court hearing held out on-country at Perry's Flat near the Kooline pastoral station, west of Paraburdoo. Justice Neil McKerracher handed down the consent determination recognising the Jurruru People's non-exclusive rights to the land. This application was filed back in 2000 and covers approximately 10,500 square kilometres of land in the southwest Pilbara region.

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

9. Training and Professional Development Opportunities

AIATSIS

Australian Aboriginal Studies

Australian Aboriginal Studies (AAS) is inviting papers for coming issues. AAS is a quality multidisciplinary journal that exemplifies the vision where the world's Indigenous knowledge and cultures are recognised, respected and valued. Send your manuscript to the Editor by emailing aasjournal@aiatsis.gov.au. Early submissions will be given preference in the case of review and publication process.

For more information, [visit the journal page of the AIATSIS website](#)

Victoria University – Wellington, New Zealand

School of Social and Cultural Studies

Applications are invited for a Lecturer position with research expertise in the area/s of environmental anthropology, economic anthropology, and/or political economic anthropology. The applicant will have a PhD in social/ cultural anthropology, experience in teaching at a tertiary level and a developing research profile. The successful applicant will teach at the undergraduate level and will supervise postgraduate students. This is a permanent position commencing in July 2016. Closing date is the 6 November 2015.

For more information, [visit the current vacancies of the Victoria University website](#)

Volunteers needed for an AIATSIS Research Project

Understanding how native title and other advances have provided livelihood benefits to Indigenous people is a key area of research for AIATSIS. Indigenous employment in the natural resource management sector is an important area of success but we lack much quantitative data to understand who and how people benefited. Jobs and employment are one key indicator so we are exploring historical data sets on employment patterns in natural resource management.

We have collated email job ads from the last 20 years from NRM Jobs and are in the process of converting them from a large ‘text dump’ into a useable database. Once complete we can analyse spatial and temporal patterns in the data and explore how government and industry investment in natural resource management has translated into jobs and opportunities in remote and regional Australia.

Patterns are emerging but it is slow work and we need volunteers to help process a huge dataset. The work will involve coding and refining the information contained in job ads and then arranging it into particular columns. We will provide you with a manual and software tools such as Google Refine and of course acknowledge you in the research report.

If you are interested, or can think of other volunteers or services that might be of use, please email Tim Heffernan (tim.heffernan@aiatsis.gov.au)

The Aurora Project

[See the Aurora Project: 2015 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](#)

10. Events

AAS Pre-Conference Assembly

Pre-Conference Assembly for Native Title Anthropologists

First held in Perth in 2011, this now regular assembly provides a unique opportunity for practitioners and others working in the area of native title to meet, catch up with long-lost colleagues, and share information about relevant developments in research, law and practice.

Date: 1 December 2015

Location: University of Melbourne

For further information or to register your interest, please contact Dr Pamela McGrath, Pamela.mcgrath@nntt.gov.au

AAS 2015 Conference

Moral Horizons

The Australian 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.

Date: 1-4 December 2015

Location: University of Melbourne

For further information, please contact catherine.gressier@unimelb.edu.au

Indigenous Governance Programs – The University of Arizona

January in Tuscon 2016

The Indigenous Governance Programs offers nine courses on Indigenous rights and governance topics. They include Native title building; Native economic development; Comparative Indigenous governance; International law and Indigenous peoples; Intergovernmental relations and Indigenous constitutions.

Date: 4-23 January 2016

Location: University of Arizona, Arizona USA.

For further information, please contact Ryan Seelau, igp@email.arizona.edu

University of Tasmania and Australian National University Workshop

Indigenous Peoples & Saltwater/ Freshwater Governance for a Sustainable Future

The University of Tasmania and the Australian National University are convening a workshop to discuss the environmental governance of marine and freshwater areas by and from the perspective of Indigenous peoples. Presentation proposals are due by 1 July 2015.

Date: 11-12 February 2016

Location: University of Tasmania, Hobart

For further information, please contact Professor Benjamin Richardson, B.J.Richardson@utas.edu.au, or Lauren Butterly, lauren.butterly@anu.edu.au

Children's Healthcare Australasia and National Rural Health Alliance

Caring for Country Kids Conference

Children's Healthcare Australasia (CHA) and the National Rural Health Alliance (NRHA) are joining forces to host a national Conference on quality healthcare for children and young people living in rural, regional and remote communities across Australia. This unique Conference will showcase innovations, models, programs and activities that enhance the health and wellbeing of infants, children and young people in rural and remote Australia.

Date: 17-19 April 2016

Location: Alice Springs Convention Centre, NT

For further information, [visit the Caring for Country Kids website](#)

NAISA 2016

2016 Annual Meeting

The University of Hawai'i, the National Indigenous Research and Knowledges Network (NIRAKN), Queensland University and RMIT will host the Native American and Indigenous Studies Association Annual meeting in Honolulu, Hawai'i in May 2016.

Date: 18-21 May 2016

Location: University of Hawai'i, Honolulu

For further information, [visit the NAISA 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.

