

# WHAT'S NEW IN NATIVE TITLE

## MARCH 2014

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### 1. Case Summaries

#### [Western Australia v Brown \[2014\] HCA 8](#)

12 March 2014, Appeal to the High Court, Native Title Coexists with Mining Lease - Esperance, Western Australia.

French CJ, Hayne, Kiefel, Gageler and Keane JJ

This important case sets the precedent for an assumption that native title coexists with mining leases and clarifies that activity that impacts on the exercise of a native title right or interest does not necessarily extinguish that right or interest.

Background:

In 1964 the State of Western Australia (the State) and some joint venturers entered the Mount Goldsworthy iron ore agreement (the agreement) under which the State granted mineral leases. Two of these leases (the leases) expired in 1986 but provided for a renewal of 21 years, which could be exercised from time to time. The leases were ratified by the [Iron Ore \(Mount Goldsworthy\) Agreement Act 1964](#) and are, therefore, rights granted by statute.

The leases were both renewed and are still in force. However, the open pit mine closed in December 1982, the town closed in 1992 and is completely removed and the land restored. The pit remains but is filled with water.

Throughout the progress of this matter, the Ngarla People sought recognition that their native title rights and interests were not extinguished, to any extent, by the grant of the mineral leases or by any subsequent activities on the leased land.

The State and the joint venturers both claim that native title rights and interests were wholly extinguished over the whole of the area of the mineral leases.

Progress through the Courts:

In May 2007, the Federal Court made a consent determination that the Ngarla People held native title in the Pilbara region of Western Australia, with respect to the claimed area except for the areas subject to the leases. The primary judge ordered the trial to the Full Federal Court (Mansfield, Greenwood and Barker JJ) to determine whether the grant of the mineral leases extinguished native title rights and interests in relation to the land subject to the leases.

On 22 February 2013, the Full Federal Court made a new determination that the Ngarla People's native title rights and interests were not extinguished by the grant of the mineral leases. However, the Judges were divided in opinion about the consequences of the exercise of rights under the leases.

1. Mansfield J held that the orders and reasons of the primary judge were correct.
2. Greenwood J held that the native title rights and interests of the Ngarla People were not extinguished by the grant of the mineral leases but that the exercise of rights under the leases prevents the exercise of native title rights over any part of the leased land for so long as the joint venturers hold rights under the leases.
3. Barker J held that the native title rights and interests were not extinguished and could be exercised or enjoyed, except where such rights and interests were incompatible with activities conducted by the joint venturers. In which case, the native title would yield.

The State appealed to the High court on the basis that native title rights and interests were wholly extinguished over the whole of the area of the mineral leases or, in the alternative, native title rights and interests were extinguished "in respect of those lands ... on which the [joint venturers] exercised their rights to develop and construct mines, a town and associated works".

Considerations by the High Court (French CJ, Hayne, Kiefel, Gageler and Keane JJ):

The parties to this matter in the High Court had already reached agreement that, unless extinguished by the leases, the Ngarla People hold native title to the land over which the leases were granted.

Therefore, the High Court only had to consider whether the grant of the mineral leases extinguish those native title rights and interests in relation to the land subject to the mineral leases.

In their joint judgment, the full bench of the High Court stated, at paragraph [28] that the subsequent use of the land subject to the leases is irrelevant to the issue of extinguishment and, therefore, the differences between the members of the Full Federal Court was not relevant.

In considering whether native title was extinguished, the High Court applied the test from [Ward v Western Australia \[2002\] HCA 28](#) of whether the objective intention of Parliament was to extinguish native title (wholly or in part).

The High Court found that the leases were not intended to, and did not confer exclusive possession on the leaseholders. Also, with respect to the decisions in [Wik Peoples v Queensland \(1996\) 187 CLR 1](#) and [Ward](#) , the High Court stated the legal proposition, that

the grant of rights to use land for particular purposes (whether pastoral, mining or other purposes), if not accompanied by the grant of a right to exclude any and everyone from the land for any reason or no reason, is not necessarily inconsistent with, and does not necessarily extinguish, native title rights such as rights to camp, hunt and gather, conduct ceremonies on land and care for land. (See paragraph [55]).

The High Court also referenced the decision in Ward when considering the extent of any inconsistency of rights and interests and stated, at paragraph [38]:

There cannot be "degrees of inconsistency of rights". "Two rights are inconsistent or they are not. If they are inconsistent, there will be extinguishment to the extent of the inconsistency; if they are not, there will not be extinguishment.

Importantly, and in a rejection of the notion of "contingent extinguishment" proposed in [De Rose v South Australia \(No 2\) \(2005\) 145 FCR 290](#), their Honours considered the distinction between the existence of native title rights and interests and the manner that those rights and interests could be exercised. (see paragraphs [37] and [60]-[63]) and found, at [64], that:

The rights which the joint venturers had, and exercised, took and continue to take priority over the rights and interests of the native title holders for so long as the joint venturers enjoy and exercise those rights. Any competition between the exercise of the two rights must be resolved in favour of the rights granted by statute; but when the joint venturers cease to exercise their rights (or their rights come to an end) the native title rights and interests remain, unaffected.

The High Court dismissed the State's appeal and ordered that the determination by the Full Federal Court stand.

## 7 Native Title Consent Determinations

1. [Albert v Northern Territory of Australia \[2014\] FCA 152](#)
2. [Willy v Northern Territory of Australia \[2014\] FCA 153](#)
3. [O'Keefe v Northern Territory of Australia \[2014\] FCA 154](#)
4. [Simpson v Northern Territory \[2014\] FCA 158](#)
5. [Morrison v Northern Territory of Australia \[2014\] FCA 155](#)
6. [Cutta v Northern Territory of Australia \[2014\] FCA 157](#)
7. [Bates v Northern Territory of Australia \[2014\] FCA 156](#)

## 6 March 2014, Consent Determination, Federal Court of Australia – Tingkarli/Lake Mary Ann, Northern Territory.

### Rangiah J

In this matter, Rangiah J considered seven applications for determination of native title over seven pastoral leases of a total of approximately 37000km<sup>2</sup> of land in the Northern Territory. These matters were heard together because of their geographic proximity to one another and were dealt with as a group at the request of the pastoralists and with the consent of the applicants and the Northern Territory.

Details of the pastoral leases, and interests in those particular matters, are set out below:

1. an area of some 2820 square kilometres making up the Eva Downs Pastoral Lease. The application was brought by Claudette Albert on behalf of the Yalajirpa Group, the Walanyja Group and the Karrkarrkuwaja (Kalkakuwaja) Group.

Other interests to this particular matter include the following Exploration Permits granted under the Petroleum Act (NT):

- No. 169 granted on 4 April 2013; and

- No 136 granted on 28 August 2012.
2. an area of some 4930 square kilometres making up the Alroy Downs Pastoral Lease. The application was brought by Tony Willy on behalf of the Gulunurru (Anderson) Group and the Purrukwarra Group.

Other interests to this particular matter include:

- rights and interests to occupy and use the Buchanan Radio Transmitter site; and
- the following Exploration Licenses granted under the Mineral Titles Act (NT):
  - No. 29196 granted on 30 July 2012;
  - No. 29197 granted on 30 July 2012;
  - No. 25600 granted on 23 August 2007;
  - No. 29193 granted on 30 July 2012; and
  - No. 29195 granted on 30 July 2012.

3. an area of some 12,260 square kilometres making up the Brunette Downs Pastoral Lease. The application was brought by Shirley O'Keefe on behalf of the Karrkarrkuwaja (Kalkalkuwaja) Group, the Mangurinji Group and the Kujuluwa Group.

Other interests to this particular matter include the following Exploration Licenses granted under the Mineral Titles Act (NT):

- No. 28791 granted on 21 December 2011;
- No. 28790 granted on 2 April 2012;
- No. 29391 granted on 2 April 2012;
- No. 24115 granted on 13 October 2004; and
- No. 24196 granted on 5 March 2013.

4. an area of 4900 square kilometres making up the Rockhampton Downs Pastoral Lease. The application was brought by Peppi Simpson on behalf of the Kunakiji (Snake) and Lukkurnu (Star) Group, the Kurtinja (Turkey) Group and the Jampijinpa/Jangala-Kunapa Group.

5. an area of some 3340 square kilometres making up the Brunchilly Pastoral Lease. The application was brought by Harry Morrison on behalf of the Kurtinja Group, the Kunakiji/Lukkurnu Group, the Kunapa Group, the Jalajirpa Group and the Pirrtangu Group

Other interests to this particular matter include:

- a Right of Way Easement; and
- Exploration Permit 169, granted under the Petroleum Act (NT) on 4 April 2013.

6. an area of some 6483 square kilometres making up the Anthony Lagoon Pastoral Lease. The application was brought by Tony Cutta on behalf of the Karrkarrkuwaja (Kalkalkuwaja) Group, the Jukatayi Palyarinji Group, the Walanyja Group and the Kurtinja Group.

Other interests to this particular matter include the following Exploration Permits granted under the Petroleum Act (NT):

- No. 169 granted on 4 April 2013; and
- No 136 granted on 28 August 2012.

7. an area of some 2807 square kilometres making up the Tandyidgee Pastoral Lease. The application was brought by Harry Bates, Heather Wilson and William Kingston on behalf of the [Y]ijiparta, Gurungu/Kulumintini and Warranangku Estate Groups.

Other interests to this particular matter include the following Exploration Permits granted under the Petroleum Act (NT):

- No. 169 granted on 4 April 2013;
- No 76 granted on 8 March 2001;
- No 99 granted on 4 February 2004; and
- No 117 granted on 14 March 2006.

Non-exclusive native title rights were recognised in each of the seven matters. These include the right to:

- travel over, move about on and have access to those areas;
- hunt and fish on the land and waters of those areas;
- gather and use natural resources;
- take and use natural water;
- live and camp, including to erect shelters and other structures;
- light fires for domestic purposes, but not for the clearance of vegetation;
- conduct and to participate in cultural activities and practices, ceremonies, meetings and teaching;
- maintain and protect sites and places of significance under traditional laws and customs;
- share or exchange subsistence and other traditional resources obtained on or from those areas; and
- conduct activities necessary to give effect to the rights referred to above.

Other interests were recognised as being held in the determination areas of each matter, including:

- the rights of the interests held under the relative perpetual pastoral lease;
- the valid rights of use for the passage of travelling stock;
- the rights of Aboriginal persons (whether or not native title holders) pursuant to any reservation in favour of Aboriginal peoples contained in the pastoral lease;
- the rights of Aboriginal persons (whether or not native title holders) by virtue of the Northern Territory Aboriginal Sacred Sites Act 1989 (NT);
- the rights and interests of Telstra to undertake its function; and
- the rights of access by employees, servants, agents or instrumentalities of the Northern Territory or Commonwealth;

Parts of the claim area in each of the 7 matters were the subject of a number of former native title determination applications which have been amended or withdrawn so as to remove any claims which overlap the Determination Area.

Native title rights and interests were identified by Rangiah J as being for the personal or communal needs of the native title holders which are of a domestic or subsistence nature and not for any commercial or business purpose.

Rangiah J noted that native title rights and interests are wholly extinguished with respect to:

- Public works and associated infrastructure; and
- Homesteads, houses, buildings, tanks, constructed dams, stockyards and highway strips.

His Honour also noted that there are no native title rights and interests in:

- a) minerals (as defined in s 2 of the Minerals (Acquisition) Act (NT));
- b) petroleum (as defined in s 5 of the Petroleum Act (NT));
- c) prescribed substances (as defined in s 3 of the Atomic Energy (Control of Materials) Act 1946 (Cth) and/or [s 5\(1\)](#) of the [Atomic Energy Act 1953](#) (Cth))

In making consent orders, under [s 87 of the Native Title Act 1993 \(Cth\) \(NTA\)](#), Rangiah J considered the conditions in s 87(1) NTA, concluding that in all cases:

- the notice period requirement under [s 66 NTA](#) was met;
- the requirement that the agreements relate to the proceedings was met;
- the agreements were appropriately recorded and filed with the Court;
- it was within the Court's power to make the orders consistent with the agreements; and
- it was appropriate for the Court to make the orders because:
  - the parties were legally represented;
  - the Northern Territory had investigated other interests;
  - the nature and extent of interests had been agreed to by the parties;
  - there were no other proceedings before the Court relating to the areas subject to the applications that would otherwise require orders under [s 67\(1\) NTA](#); and
  - the Northern Territory Government actively participated in the negotiations, thereby acting on behalf of the community generally.

The Court also ordered:

- that, in each case, an Aboriginal corporation, yet to be named, would be the prescribed body corporate for the purposes of [s 57\(2\) NTA](#);
- that there be no order to costs; and
- that the parties may apply to establish:
  - precise locations and boundaries of public works and adjacent land and waters;
  - precise locations of the boundaries of pastoral improvements; and
  - whether pastoral improvements have been constructed unlawfully.

Rangiah J stated, at paragraph 12, that:

The determination of native title rights and interests are important to the Applicant and to the Aboriginal estate groups because they are a recognition by the Court on behalf of the Australian community that their ancestors inhabited this country prior to European settlement. The orders that the Court is about to make today are a recognition that they enjoyed such rights as the traditional owners of the land, and have done so since that time.

### **[Banjima People v State of Western Australia \(No 3\) \[2014\] FCA 201](#)**

**12 March 2014, Consent Determination, Federal Court of Australia – Karijini, Western Australia.**

#### **Barker J**

This matter has an adversarial history with application for native title being contested on several grounds. In a hearing of the contested application on 28 August 2013, in [Banjima People v State of Western Australia \(No 2\) \[2013\] FCA 868 \(Banjima No 2\)](#), Barker J made Orders that the Banjima people were entitled to a determination of native title under the [Native Title Act 1993 \(Cth\)](#) (NTA).

The decision in *Banjima No 2* was made by reference to much evidence going to connection and extinguishment and involved the Banjima people as applicants and the State of Western Australia, the Shires of Ashburton and Meekatharra, and 51 others (including Yamatji Marlpa Aboriginal Corporation and Gina Rinehart's Mulga Downs Station) as respondents.

In Banjima No 2, Barker J invited the claimants to bring forward a minute of proposed determination, which was considered and given effect to in this matter.

The parties came to consensus and, based on their minute of proposed determination, Barker J made consent orders, under [s 94A NTA](#) by reference to [s 225 NTA](#), recognising that the Banjima people have exclusive as well as non-exclusive native title rights and interests over identified areas within their traditional lands. The creation of certain freehold interests, reserves, leases, dedicated roads and public works were identified as having completely extinguished native title and were excluded from the determination area.

Barker J also ordered that, under [s 56\(2\)\(b\) NTA](#), the Banjima Aboriginal Corporation Prescribed Body Corporate will hold the native title for the Banjima people on trust.

### **[Bullen on behalf of the Esperance Nyungar People v State of Western Australia \[2014\] FCA 197](#)**

**14 March 2014, Consent Determination, Federal Court of Australia – Esperance, Western Australia.**

**McKerracher J**

This matter recognises the Esperance Nyungar people as having non-exclusive native title rights and interests over traditional lands on an area of approximately 28,895 square kilometres of land and waters around Esperance including Israelite Bay, Ravensthorpe and Salmon Gums.

This matter was initiated by an application for a determination of native title, lodged on 6 June 1996 and amendments on 23 October 2008 and 31 March 2009 to alter the claim area and provide for the replacement of an applicant.

This decision was made without a hearing, as provided by [s 87\(2\) Native Title Act 1993 \(Cth\) \(NTA\)](#), and is based on a mediated consent agreement between the Esperance Nyungar people as applicant and the State Of Western Australia (**the State**), the Shires of Esperance and Ravensthorpe, Ravensthorpe Nickel Operations (**FQM**) and The Shell Company Of Australia Ltd, as respondents.

Central to the agreement was a requirement that the Esperance Nyungar people enter into Indigenous Land Use Agreements (**ILUAs**) with both the State and with FQM.

One of the conditions to obtaining the State's consent to the agreement was that the Esperance Nyungar people agreed to a determination that native title does not exist in the northern part of the claim area, on the basis that the State was not satisfied that connection had been proven in respect of that area.

The agreement included also included that the ILUA with FQM must be registered before a determination of native title would be made over two particular parcels of land within the claim area. These parcels of land are subject to mining leases granted to FQM by the State on 27 June 2007. Justice Siopis declared, in [Bullen v State of Western Australia \[2010\] FCA 900](#), that these leases were granted after the registration of the Esperance Nyungar people's application and were not subject to good faith negotiations, as required under [s 31 NTA](#).<sup>i</sup>

The agreement also included a description of the native title holders that were agreed to at authorisation meetings on 20 and 21 November 2013, and that:

- a) accurately reflects the position as described in the connection materials;
- b) captures all proposed native title holders; and

- c) in substance, identifies the same group as the native title claimant group described in the Esperance Nyungar application.

The Court accepted anthropological, historical, archaeological and linguistic evidence, as well as a Connection Report prepared by Goldfields Land and Sea Council, witness statements by members of the claimant group, a DVD and film guide of a three day on-country meeting in March 2008 and joint submissions by the parties.

McKerracher J discussed various aspects of the Esperance Nyungar connection to country, at paragraph 17, and noted the elements of traditional cultural practice, law and custom that the Esperance Nyungar people share with the broader Nyungar cultural bloc, while acknowledging the unique attributes that justify recognition of a distinct Esperance Nyungar society. Of interest was McKerracher's J discussion of the geographical distribution of the *tjaltjraak* or *tallarack* tree, which correlates closely to the boundaries of Esperance Nyungar country.

McKerracher J was satisfied that the State had taken steps to satisfy itself that there was a credible basis for the application, noting at paragraphs 32-34, that the Court is not required to be satisfied of the facts of the application (see [Nelson v Northern Territory of Australia \[2010\] FCA 1343](#), [Lovett on behalf of the Gunditjmara People v State of Victoria \[2007\] FCA 474](#) and [Cox on behalf of the Yunqngora People v State of Western Australia \[2007\] FCA 588](#) at [3]). His Honour stated that the primary consideration for the Court is to determine whether there is an agreement and that it has been freely entered into on an informed basis (see [Lander v State of South Australia \[2012\] FCA 427](#) at [11] and [Hughes \(on behalf of the Eastern Guruma People\) v State of Western Australia \[2007\] FCA 365](#) at [9]).

The determination by the Court was made in the form agreed by the parties. However, as noted by McKerracher J, at paragraph 22, the Court may make a determination in such form as it sees fit, based on the evidence, provided the application is valid (see [Billy Patch and Others on behalf of the Birriburu People v State of Western Australia \[2008\] FCA 944](#)).

### **[Coulthard v State of South Australia \[2014\] FCA 124](#)**

#### **25 February 2014, Consent Determination, Federal Court of Australia – Ikara, South Australia**

##### **White J**

In this case, the Adnyamathanha People (Applicants) and the State and ninety four other Parties (the Respondents) filed an agreement in writing with the Court to seek the making of consent orders for a determination.

- A) In the agreement the Parties recognise that a determination by the Court will recognise the Adnyamathanha People as the native title holders for the Determination Area.
- B) The Parties requested that the Court make a determination over the Determination Area without a trial.

White J in this instance agreed that it was appropriate to make determinations to give effect to the agreements of the Parties. In paragraph 42, White J notes that the agreement of the Parties to the determinations is relevant to the appropriateness of a determination order. The circumstance that all affected Parties both consent to, and support, the making of the determination is a significant matter.

Two issues were presented to the Court in this case:

1. Whether the Court can make further determinations by consent in relation to the areas within the Adnyamathanha No 1 claim that were excluded from previous determinations.



2. Whether the Memorandum of Understanding between the Adnyamathanha and the Dieri, in relation to the overlap in one of the proposed determination areas is effective. This is in regards to the area also claimed by the [Dieri People](#).

In relation to the first issue, White J was prepared to rely on the evidence of the State to determine whether native title exists. In paragraph 17, White J refers to Keane CJ in *King v State of South Australia [2011] FCA at 19*, where he stated that the Court is prepared to rely upon the protocols developed by a State or Territory in determining whether native title exists. This is because the State acts in the public interest and as the public guardian; it has access to anthropological and linguistic expertise.

In considering the evidence in this case, the Court considered joint written submissions of the Applicants and the State, as well as materials the State referred to before consenting to the proposed determination. In regards to satisfying s223, which requires a claim group to show that it still possesses rights and interests under the traditional laws acknowledged, White J agreed with Mansfield J's approach in [Adnyamathanha No 1 \[2009\] FCA 359](#) where he relied on anthropological, historical and ethnographic materials, as well as evidence from the Applicants to conclude that the Adnyamathanha People are in a relevant sense a society united by traditional law and custom.

In relation to the second issue, an agreement was reached between the Adnyamathanha, the Dieri, the State and other Parties, about the overlapping claim area. Both Parties agreed that the claim of the Dieri is to be recognised with respect to the western portion of the overlap area, and the claim of the Adnyamathanha to be recognised with respect to the eastern portion. Both groups agreed between themselves to recognise the traditional rights of each other in the area over which they will not hold native title. The Court noted that under s87A of the [Native Title Act 1993](#) the Court is authorised to make a determination without conducting a hearing in circumstances where all the Parties have reached agreement in respect of the claims area and when specified requirements of a procedural kind are satisfied.

### [\*\*\*Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland \(No 3\) \[2014\] FCA 231\*\*\*](#)

**18 March 2014, Consent Determination, Federal Court of Australia – Charters Towers, Queensland and Corrigendum 19 March 2014.**

#### **Logan J**

This matter recognises the Gudjala people as having native title rights and interests over approximately 10,617 square kilometres of traditional lands in an area generally known as Northern Queensland, in the Regional Shire Councils of Etheridge, Flinders and Charters Towers. This decision was based on two applications for determination of native title: the Gudjala People Core Country Claim #1 (**Gudjala #1**); and the Gudjala People Core Country Claim #2 (**Gudjala #2**). Logan J decided these matters together due to their geographic proximity and similarity of anthropological evidence.

The 34 Respondents in Gudjala #1 comprised the State of Queensland; the Commonwealth; Regional Councils for Charters Towers and the Flinders Shire; Ergon Energy, Citigold Corporation, James Cook University and 26 others.

The 20 Respondents in Gudjala #2 comprised the State of Queensland; the Commonwealth; Regional Councils for Charters Towers and the Flinders Shire; Ergon Energy, Citigold Corporation, Great Mines Pty Ltd and 13 various pastoral Respondents.

Logan J's determination identified, by reference to geospatial maps and data provided by the National Native Title Tribunal:

1. Gudjala People Core Country Claim #1

- 39 parcels of rural land over which the Gudjala people have exclusive native title;
- 153 parcels of rural land over which the Gudjala people have non-exclusive native title;
- 4 parcels of urban areas (Towers hill) over which the Gudjala people have non-exclusive native title; and
- 303 parcels of land in urban areas over which the Gudjala people have non-exclusive native title.

12 parcels of land were the subject of agreement between the parties that native title did not exist and a further 50 parcels of land were subject to acts that partially or wholly extinguished native title.

2. Gudjala People Core Country Claim #2

- 16 parcels of rural land over which the Gudjala people have non-exclusive native title;
- 51 parcels of land in urban areas over which the Gudjala people have non-exclusive native title.

15 parcels of land were the subject of agreement between the parties that native title did not exist and a further 50 parcels of land were subject to acts that partially or wholly extinguished native title.

This consent determination was made pursuant to [s 87 of the Native Title Act 1993 \(Cth\) \(NTA\)](#) on the basis that an agreement was reached between the parties, within required timeframes and in the proper form. Also as required by s 87 NTA, the Court was satisfied that the order was within power, was appropriate in the circumstances and reflected an agreement freely entered into on an informed basis.

Logan J considered the connection material satisfies [s 223 NTA](#), and supported the determination of native title, described in [s 225 NTA](#), stating at paragraph [27], with respect to connection, that:

“despite forced dislocations, frontier conflict, coercive labour practices and draconian state interventions into Gudjala people’s personal and social lives, the Gudjala native title claim group and their predecessors have continuously exercised their right of possession, occupation, use and enjoyment of their traditional country since before the assertion of British Sovereignty.” (see paragraph [27]).

Logan J identified the Ngarragoonda Aboriginal Corporation as the prescribed body corporate for the purposes of [s 57 NTA](#).

In setting out his reasons, Logan J stated that “native title claims which linger unresolved on a court list are an affront to our system of justice” and commended the responsible action of the parties, guided by dedicated, hard-working and experienced legal advisors and the work of the Court’s registrars in bring the parties to final, consensual resolution (see paragraph [7]).

Logan J then identified that assistance to pastoralists under the Native Title Respondent Funding Scheme, cancelled in 2012 and reinstated in January 2014, was yet to be received by Queensland pastoralists, Logan J also identified that bids for the funding appears to have exceeded funds available and provided his opinion that, although the

Executive Government has the discretion to make funding decisions, his personal experience was that this funding beneficially contributed to the administration of justice, making a connection between this funding, the length of time native title matters may take to resolve, and Parliament's goal of national reconciliation (see paragraphs [8]-[11]).

### [Johnson v Native Title Registrar \[2014\] FCA 142](#)

**3 March 2014, Summary Judgment on application to set aside an ILUA, Federal Court of Australia – Brisbane, Queensland.**

**Rangiah J**

This matter considered an application from Mr Johnson that the Court direct the Native Title Registrar (**the Registrar**) to remove details of an ILUA from the Register on the ground, as set out in [s 199C\(2\) of the Native Title Act 1993 \(Cth\) \(NTA\)](#):

that a party would not have entered into the agreement but for fraud, undue influence or duress by any person (whether or not a party to the agreement).

This matter also considered applications from the Registrar to either:

1. dismiss the proceedings because of the applicant's non-compliance

**Note:** This application was based on Mr Johnson being two weeks late in filing and serving an affidavit setting out the evidence of his case. In dismissing this application by the Registrar, Rangiah J stated it was without merit and should not have been made (see paragraph [4]).

2. dismiss the proceedings because Mr Johnson's application had no reasonable prospect of success.

**Note:** Rangiah J considered this application had substance and, after considering the facts and applying the law, made Orders dismissing the proceedings on this basis, pursuant to [s 31A of the Federal Court of Australia Act](#) (see paragraph [52]).

#### **Background:**

In June 1998, the Wulgurukaba people filed two applications for determinations of native title in relation to Magnetic Island. These were registered by the National Native Title Tribunal (**NNTT**) and the Court required the Wulgurukaba people to provide a connection report to the State of Queensland (**the State**) in 2002 or 2003. The State considered the connection report provided by the Wulgurukaba and deemed it would not satisfy the requirements of [s 223\(1\) NTA](#).

On this basis, the Wulgurukaba people's solicitor (**the solicitor**) advised the claim group of three potential courses of action:

1. withdraw the application;
2. face the prospect of the State either:
  - a) bringing an application to strike out the proceedings; or
  - b) seeking a declaration that native title was extinguished.
3. Entering into an Indigenous Land Use Agreement (**ILUA**) to settle the applications.

In 2004, the claim group authorised Mr Johnson and others to pursue an ILUA with the State.

In a letter to Mr Johnson on 24 August 2009, the solicitor advised that the draft ILUA would provide a better outcome for the Wulgurukaba than would be achieved through a successful native title determination; and there was no certainty of a successful determination. In this letter, the solicitor also advised that the North Queensland Land Council had funds for an authorisation meeting, but that only 35 people from each family would be funded and, therefore, it was important that preference should be given to ensuring elders and other persons important to the decision-making be able to come to the meeting – should they so choose.

At a meeting on 26 September 2009, the Wulgurukaba people authorised the draft ILUA, which was lodged for registration with the NNTT on 2 June 2010.

On 26 August 2010, Mr Johnson notified the NNTT that he had signed the ILUA under duress. In other words, Mr Johnson claimed that pressure had been exerted upon him to coerce him to perform an act (in this case, signing the ILUA) that he would not ordinarily have performed. Mr Johnson told the NNTT that he wanted his signature withdrawn immediately.

On 9 September 2010, the solicitor emailed the NNTT, stating that:

- it was appropriate that the claim group authorised the ILUA;
- Mr Johnson had been actively involved in discussion at the authorisation meeting;
- at no time during the meeting or when signing the ILUA was anybody coerced or bullied; and
- at no time whatsoever did Mr Johnson make any assertions or allegations that he had “signed the draft ILUA under duress”.

On 24 September 2010, Mr Johnson spoke with officers at the NNTT, asking to withdraw his objection to the registration of the ILUA and, on 12 October 2010, Mr Johnson wrote to the NNTT, seeking that the ILUA be registered. On 20 October 2010, Mr Johnson advised the NNTT that he was revoking the claim of duress.

#### **The applicant’s case:**

Some three years later, Mr Johnson sought the details of the ILUA be removed from the Register on the basis of:

1. “economic duress”
  - a. the solicitor brought undue economic pressure to bear when he advised members of the claim group that they could take their claim no further and they should accept something from the State ... “rather than simply getting nothing”; and
  - b. the solicitor brought “some kind of economic pressure” (see paragraph [20]) by making a statement about lack of funds regarding the authorisation meeting.

2. “physical duress”

many of the people who were present at the authorisation meeting were not truly Wulgurukaba People and, as a result, the true Wulgurukaba People were outnumbered.

Rangiah J pointed out that Mr Johnson had no legal assistance in setting out his affidavits and the material placed before the Court was limited and the basis of his allegations were not easy to decipher

#### **Considerations:**

In making the judgment to dismiss Mr Johnson’s application, Rangiah J considered the application of case law to the circumstances, including the advice provided to the NNTT by Mr Johnson in 2010. At paragraph [44] Rangiah J

discussed what he considered to be Mr Johnson’s “real complaint”, that he was concerned that only members of his family be recognised under the ILUA as having rights and interests in Magnetic Island.

Rangiah J determined that Mr Johnson could not show that either he or the Wulgurukaba People were subjected to “duress by any person” or, if there was duress, that he or the Wulgurukaba would not have entered into the agreement but for that duress.

## 2. Legislation

### Commonwealth

#### Native Title Amendment (Reform) Bill 2014

The Federal Parliament is getting set to reform the Native Title Act. The reform agenda is being driven by calls for change by various stakeholders including submissions to the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Native Title Amendment Bill 2009 and the 2009 Native Title Report from the Aboriginal and Torres Strait Islander Social Justice Commissioner.

The Explanatory Memorandum to the Bill states that the reforms address two key areas:

1. the barriers claimants face in making the case for a determination of native title rights and interests; and
2. procedural issues relating to the future act regime.

This is intended to be achieved by some procedural changes and also through broad conceptual reform, including:

- introducing a presumption of continuity. In effect, this means that the applicant will only be required to prove connection to traditional lands in response to the State (or other party) proving that a significant disruption to that connection occurred;
- re-defining the term “traditional” to ensure that laws and customs can be considered traditional if they remain identifiable through time, rather than the current legal position that to be considered traditional, laws and customs must remain largely unchanged; and
- providing for prior extinguishment to be disregarded by agreement.

For further information, the first reading of the Native Title Amendment (Reform) Bill 2014 can be accessed [here](#) or at [www.comlaw.gov.au/Details/C2014B00018](http://www.comlaw.gov.au/Details/C2014B00018) and the Explanatory Memorandum to the Bill can be accessed [here](#) or at [www.comlaw.gov.au/Details/C2014B00018/Explanatory%20Memorandum/Text](http://www.comlaw.gov.au/Details/C2014B00018/Explanatory%20Memorandum/Text).

### Tasmania

The Aboriginal Heritage Protection Bill 2013 (Tas) and The Aboriginal Heritage Protection (Consequential Amendments) Bill 2013 (Tas) have passed the House of Assembly and are now to be considered by a Committee of the Legislative Council. The proposed legislation aims to achieve the best outcomes for the protection and management of Aboriginal heritage, while also providing clearer procedures and greater certainty for landowners and developers than exist under the current system. Further information can be accessed [here](#) or at <http://dpiwwe.tas.gov.au/about-the-department/aboriginal-heritage-protection-legislation>.

### Queensland

The [Land and Other Legislation Amendment Bill 2014 \(Qld\)](#) proposes amendment to the *Native Title (Queensland) Act 1993* which, supported by amendments to the *Acquisition of Land Act 1967*, provides to provide another way in which non-native title rights and interests can be acquired where native title rights and interests are being compulsorily acquired to assist in meeting requirements under the *Native Title Act 1994* (Cth).

The [Aboriginal Land Act 1991](#) (Qld) was reprinted on 28 March 2014.

### 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 March 2014, **8** ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
28/03/2014	<a href="#">Dja Dja Wurrung and Chewton Dingo Conservation Centre ILUA VI2013/010</a>	VI2013/010	Area Agreement	Victoria	Community Development
25/03/2014	<a href="#">Tjayiwara Unmuru -Tieyon Pastoral ILUA</a>	SI2014/001	Body Corporate Agreement	South Australia	Access Communication Pastoral
25/03/2014	Tjayiwara Unmuru – Ayers Range South Pastoral ILUA	SI2014/002	Body Corporate Agreement	South Australia	Access Communication Consultation protocol Pastoral
20/03/2014	<a href="#">Lot 6, Town Hart Range</a>	DI2013/002	Area Agreement	Northern Territory	Development Extinguishment
14/03/2014	<a href="#">Dja Dja Wurrung and Excalibur Mining ILUA VI2013</a>	VI2013/009	Area Agreement	Victoria	Exploration Mining
13/03/2014	<a href="#">Wallace Rockhole Powerline ILUA</a>	DI2013/003	Area Agreement	Northern Territory	Development Energy
10/03/2014	<a href="#">Gugu Badhun People and Hidden Valley Cabins ILUA</a>	QI2014/002	Body Corporate Agreement	Queensland	Development
04/03/2014	<a href="#">Western Yalanji People and Ergon Energy ILUA</a>	QI2013/086	Body Corporate Agreement	Queensland	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 March 2014, **11** native title determinations were handed down.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type
<a href="#">Yulluna People</a>	Brian Sullivan & Ors on Behalf of the Yulluna People v The State of Queensland & Ors(unreported, FCA, 28 March 2008, Dowsett J)	28/03/2014	QLD	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">Gudjala People</a>	Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland (No 3) (includes Corrigendum dated 19 March 2014) <a href="#">[2014] FCA 231</a>	18/03/2014	QLD	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">Gudjala People #2</a>	Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland (No 3) (includes Corrigendum dated 19 March 2014) <a href="#">[2014] FCA 231</a>  Note: The case for Gudjala People Core Country Claim #2 is contained in the second half of the page in the hyperlink above.	18/03/2014	QLD	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">The Esperance Nyungar</a>	Bullen on behalf of the Esperance Nyungar People v State of Western Australia [2014] FCA 197	14/03/2014	WA	Native title exists in parts of the determination area	Consent determination (conditional)	Claimant
<a href="#">Banjima People</a>	Banjima People v State of Western Australia (No 3) [2014] FCA 201	11/03/2014	WA	Native title exists in parts of the determination area	Litigated determination	Claimant
<a href="#">Alroy Downs Pastoral Lease</a>	Willy v Northern Territory of Australia [2014] FCA 153	06/03/2014	NT	Native title exists in parts of the determination area	Consent determination	Claimant
<a href="#">Brunchilly Pastoral Lease</a>	Morrison v Northern Territory of Australia [2014] FCA 155	06/03/2014	NT	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">Rockhampton Downs Pastoral Lease</a>	Simpson v Northern Territory [2014] FCA 158	06/03/2014	NT	Native title exists in parts of the determination area	Consent Determination	Claimant

<a href="#">Eva Downs Pastoral Lease</a>	Albert v Northern Territory of Australia [2014] FCA 152	06/03/2014	NT	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">Brunette Downs Pastoral Lease</a>	O'Keefe v Northern Territory of Australia [2014] FCA 154	06/03/2014	NT	Native title exists in parts of the determination area	Consent Determination	Claimant
<a href="#">Anthony Lagoon Pastoral Lease #2</a>	Cutta v Northern Territory of Australia [2014] FCA 157	06/03/2014	NT	Native title exists in parts of the determination area	Consent Determination	Claimant

### 5. Future Acts Determinations

The [Native Title Research Unit](#) within AIATSIS maintains summaries of Future Acts Determinations summary which provides hyperlinks to information on the [National Native Title Tribunal \(NNTT\)](#).

Between 1 March 2014 and 31 March 2014, **12** Future Acts Determinations were handed down.

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
31/03/2014	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)	NNTTA 34	WA	Objection - Dismissed
26/03/2014	Les Tullock and Others on behalf of Tarlpa (WC2007/003) (native title party) - and - The State of Western Australia (Government party) - and - Puck Resources Pty Ltd (grantee party)	NNTTA 33	WA	Objection - Expedited Procedure Applies
24/03/2014	Barbara Sturt and Others on behalf of the Jaru Native Title Claimants (WC2012/003) (native title party) - and - Baracus Pty Ltd (grantee party) - and - The State of Western Australia (Government party)	NNTTA 32	WA	Objection - Expedited Procedure Applies
21/03/2014	Western Desert Lands Aboriginal Corporation (native title party) - and - The State of Western Australia (Government party) - and - Spitfire Australia (SWW) Pty Ltd (grantee party)	NNTTA 31	WA	Objection – Dismissed



19/03/2014	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 - Yellow Rock Resources Ltd (grantee party)	NNTTA 30	WA	Objection - Expedited Procedure Applies
10/03/2014	Betty Peterson and Others on behalf of Wunna Niyaparli (WC2012/001) (native title party) - and - The State of Western Australia (Government party) - and - BHP Billiton Minerals Pty Ltd (grantee party)	NNTTA 29	WA	Objection - Expedited Procedure Applies
10/03/2014	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)	NNTTA 28	WA	Objection - Dismissed
07/03/2014	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)	NNTTA 27	WA	Objection - Dismissed
07/03/2014	Yindjibarndi Aboriginal Corporation (WCD2005/001) (native title party) -and- The State of Western Australia (Government party) -and- Kubwa Iron Ore Holdings Pty Ltd (grantee party)	NNTTA 26	WA	Objection – Dismissed
05/03/2014	Yunggora Aboriginal Corporation (WCD2007/002) (native title party) -and- The State of Western Australia (Government party) -and- 142 East Pty Ltd (grantee party)	NNTTA 25	WA	Objection - Dismissed
06/03/2014		NNTA24	QLD	Objection – Application not accepted
04/03/2014	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 - Peter Romeo Gianni (grantee party)	NNTTA 23	WA	Objection - Expedited Procedure Applies

## 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](http://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 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

### **Books, Journals and Reports**

#### **Christine Hansen and Kathleen Butler (eds) – AIATSIS Research Publication**

‘Exploring urban identities and histories’

*Exploring urban identities and histories* was developed from papers presented at the 2009 AIATSIS National Indigenous Studies Conference, where presenters considered a range of questions facing Indigenous people living in urban and semi-urban / regional areas of Australia. While many Aboriginal and Torres Strait Islander people have witnessed cities and towns grow up around them through the course of generations, many have migrated to urban areas. This book considers urban identity, the history of urbanisation, demographic mobility and diverse community experiences.

Available for download from the [research publications](#) on the AIATSIS website.

#### **Bednarik, Robert G - Cultural heritage management, ethics and rock art in Western Australia**

[Australian Aboriginal Studies](#)

[Issue 2 \(2013\)](#)

This report presents a critique of established cultural heritage practices in Western Australia, focusing on the control of the process by corporate proponents and its effects on rock art and stone arrangements. The moderating roles of scholarly societies in questions of ethics are reviewed, and the report concludes with a constructive proposal to end practices that have facilitated large-scale destruction of cultural heritage sites.

#### **O'Brien, Rebecca; Elder, Catriona - New ways for exploring who knows what in a native title case: A sociological approach**

[Australian Aboriginal Studies](#)

[Issue 2 \(2013\)](#)

This paper explores native title legal processes. It seeks to build on earlier scholarship that has investigated what goes on in the tribunal encounter; in particular, it examines what makes it so hard for Indigenous claimants to be heard in the courtroom. Making an intervention into this broad debate, we present a new sociology of knowledge model that can be used to read native title legal processes in a slightly different way - one that brings knowledge and legitimacy to the fore. Drawing on Legitimation Code Theory and postcolonial theory (Homi Bhabha, in particular), we establish some of the structural relations that enable or disable the voices of Indigenous peoples being heard in native title cases. Our key case study is the Yorta Yorta native title case and the interpretation of a squatter's diary, a piece of knowledge that was central to the outcome of the claim.

## **Burnside, Sarah - Mabo in the courts: Islander tradition to native title: A memoir [Book Review]**

### **[Australian Aboriginal Studies](#)**

#### **[Issue 2 \(2013\)](#)**

Review(s) of: Mabo in the courts: Islander tradition to native title: a memoir, by Bryan Keon-Cohen 2011, Australian Scholarly Publishing Pty Ltd, North Melbourne, vii+608pp, ISBN 9781921875212.

## **Barry Morris - Protest Landrights and Riots**

### **[Aboriginal Studies Press](#)**

The 1970s saw the battle for Aboriginal people's struggles for recognition of their postcolonial rights. Rural communities, where large Aboriginal populations lived, were in foment as a consequence of political, economic and major structural change, social fragmentation and unparalleled unemployment. The ensuing so-called riots, protests and law-and-order campaigns captured much of the tense relations that existed between Indigenous people, the police and the criminal justice system.

In Protest Land Rights and Riots, Barry Morris shows how those policies, informed by neoliberalism, targeted those who were least integrated socially and culturally and who enjoyed fewer legitimate economic opportunities.

Amidst intense political debate, struggle and conflict, new forces were unleashed as a post-settler colonial state grappled with its past. Morris captures the contradictory forces and provides a social analysis of the ensuing political effects of neoliberal policy and the way it was subsequently undermined by an emerging new political orthodoxy in the 1990s.

Visit the AIATSIS website at [aiatsis.gov.au](http://aiatsis.gov.au)

## **Tim Pilbrow - The Magic of Narrative in the Emplotment of State-Subject Relations: Who's Telling Whose Story in the Native Title Process in Australia?**

### **Oceania**

**[Volume 83, Issue 3](#)**, pages 221–237, November 2013

Since 1992 Australian Aboriginal communities have been engaged in a complex and fraught legal process for the recognition of their traditional rights to country ('native title'). In this article I argue that it is theoretically and critically illuminating to investigate the broader 'meaning effects' of the native title determination process on the subjective experience of the state in Australia. The article demonstrates this through examining the narrative effects of certain discursive moments through which identities get objectified. Through examining such moments in the discourse and practice of native title from the perspective of a participant-observer, I seek to advance our theoretical understanding of how the narrative properties of speech (or other performative behaviours) in specific contexts structure the subjective experience of the state.

Visit website: [onlinelibrary.wiley.com](http://onlinelibrary.wiley.com)

## **Tiwi Land Council**

### **[The Tiwi: News for Traditional Owners](#)**

The Tiwi Land Council has released its newsletter for February/March 2014 period. The publication highlights the achievements of the Tiwi Land Council over the previous 2 months. This includes details of the Tiwi Plantations Corporation agreement with Mitsui for the trade of woodchips, and updates of the Port Melville Port Corporation.

Download the full newsletter at [Tiwi Land Council online](#).

## **Media Releases**

### **Prime Minister of Australia**

'Government Expands Remote School Attendance Strategy' - 22 March 2014

The Prime Minister of Australia, the Hon Tony Abbott will boost funding for the Remote School Attendance Strategy by \$18 million to help ensure every child attends school every day.

See [Media Release](#) for more details.

### **ABC Local News**

'Esperance Nyungar people to have native title recognised' – 10 March 2014

At a consent determination on March 14 the Federal Court will formally acknowledge native title over an area of almost 29,000 square kilometres surrounding Esperance. The traditional Owners, Esperance Nyungar People, have waited for 18 years for their native title claim to be formally recognised by the Federal Court of Australia.

Available at [ABC Online](#).

### **Yamatji Marlpa Aboriginal Corporation**

Tom Price Office Move

Yamatji Marlpa Aboriginal Corporation Tom Price office has moved to Lot 974 Central Road in Tom Price. Contact the Yamatji Marlpa Aboriginal Corporation for further details.

See [website](#) for further details.

### **Yamatji Marlpa Aboriginal Corporation**

[Traditional owners in the Pilbara region sign Red Hill Iron Ore native title deal](#)

The Kurama and Marthudunera people have signed a native title agreement with Red Hill Iron Ore. Under this agreement financial benefits and compensation for the clearance of native vegetation. The deal also includes provisions for protecting the groups' heritage for the life of the project. The Yamatji Marlpa Aboriginal Corporation CEO says a heritage and monitoring liaison committee will be established to liaise with the mining company to address any concerns as well as look at business development opportunities.

See [media release](#) for more details.

### **Yamatji Marlpa Aboriginal Corporation**

[Banjima People celebrate recognition following Federal Court battle](#)

The Banjima People had their native title recognized on 11 March 2014 by the Federal Court. Their on-country determination was held Karijini National Park in the Central Pilbara. The claim was first lodged in 1998.

See [media release](#) for more details.

### **Kimberley Land Council**

[KLC heads to Canberra to protect ranger jobs](#)

Kimberley Land Council CEO, Nolan Hunter visited Canberra lobbying to secure the long term future of the Kimberley Ranger Network. The Kimberley Ranger network 85 full-time rangers, six part-time admin officers and 129 casual rangers and as well as many elders that are contracted as cultural advisers.

See [media release](#) for more details.

### **Central Land Council**

#### [Regulations not in the interests of Traditional Owners - CLC/NLC](#)

Traditional Owners' rights are further protected following the disallowance by the Senate of regulations made under s28A of the Aboriginal Land Rights (Northern Territory) Act 1976. The protection was welcomed by the Northern and Central Land Councils.

See [media release](#) for more details.

### **South West Aboriginal Land and Sea Council**

#### [Noongar Native Title Settlement Information Meetings for 2014](#)

The South West Aboriginal Land and Sea Council are providing information to the Noongar community about the progress of negotiations with the State Government by holding community engagement meetings.

See [South West Aboriginal Land and Sea Council](#) website for dates.

### **News Broadcasts and Podcasts**

#### **ABC News**

'Government convenes in NT to recognise Native Title' – 6 March 2014

The Federal Government has convened in the Northern Territory to recognise Indigenous Native Title over a large area of land near Tennant Creek.

Available at [ABC Online](#).

#### **National Indigenous Radio Service**

'Arnhem Land TOs push anti-fracking message in Canberra' – 21 March 2014

A delegation of Traditional Owners from Arnhem Land met with Environment Minister, Greg Hunt to lobby for protection of all coastal waters off Arnhem Land. The Maningrida traditional owners have been fighting a push for oil exploration off their coast for more than a year.

Available at [NIRS online](#).

#### **ABC Rural**

'Native title and mining decision may affect pastoral leases' – 13 March 2014

The corporation representing the Ngarla People of Western Australia has described as 'significant' a ruling by the High Court that native title rights and mining can co-exist.

The Yamatji Marlpa Corporation also says the ruling will have implications for native title and pastoral leases.

CEO Simon Hawkins says the WA State Government lost its appeal and it's clear that mining leases and state agreements don't extinguish native title.

Available at [ABC Rural](#).

#### **4ZZZ Online**

Native Title granted to Gudjala people – 19 March 2014

Native title of over 20,000 square kilometres of land in western Queensland has been formally handed over to the Gudjala People. Recognition for the area near Charters Towers has been battled for two decades.

Available at [4ZZZ](#).

## ***9. Training and Professional Development Opportunities***

### **ABC Local Radio Opportunities in WA**

#### **Producer & Presenter – Karratha (2 Positions)**

The ABC are looking for a motivated team to embrace and engage the diverse communities of the Pilbara. Based in Karratha, you'll be at the hub of the mining industry. It's an exciting place with a lot of great stories. You'll enjoy the challenge of breaking news on the North West Morning Program as either the presenter or the producer.

#### **Regional Content Manager - Broome**

We're also looking for a dynamic leader and broadcaster to lead our award winning team in the Kimberley. You'll present a breakfast show and manage the station from our state-of-the-art studios in Broome for one of the most diverse audiences in Australia.

For details visit [abc.net.au/careers](http://abc.net.au/careers)

#### **Indigenous Part-Time Shop Assistant - Melbourne**

We are currently advertising a great opportunity for an Indigenous Part-Time Shop Assistant based in a new ABC Shop in the heart of Melbourne. Providing excellence in sales and service, you will carry out a wide variety of retail functions, stock processing, merchandising, housekeeping and promotional activities.

This vacancy is open only to Aboriginal and Torres Strait Islander applicants, reflecting our commitment to the ABC's Reconciliation Action Plan, ABC Equity and Diversity Plan and the Equal Employment Opportunity (Commonwealth Authorities) Act 1987.

For details visit [http: abc.net.au/careers](http://abc.net.au/careers)

#### **Indigenous Trainee MCR - Darwin**

ABC Darwin is looking for someone who loves gadgets, technology and radio for a 12-month Master Control Traineeship.

As the Trainee in MCR, you'd have it all; you'll get to work with the latest broadcast technology, work with a great team of producers and presenters, meet all the amazing guests who visit the station to be interviewed and even mix fabulous bands.

For more details please visit our website: [abc.net.au/careers](http://abc.net.au/careers)

### **Herbert & Valmae Freilich Foundation Early Career Researchers Small Grants Scheme**

Applications are now open for research grants of up to 3 thousand dollars to Early Career Researchers working on topics that examine the histories and the effects of ethnic, cultural, religious and sexual bigotry and animosity, and to explore how such intolerance can be combatted - and co-existence promoted.

For terms and conditions of the scheme, and information on how to apply please visit <http://freilich.anu.edu.au/herbert-valmae-freilich-foundation-early-career-researchers-small-grants-scheme>

Applications close Friday June 20<sup>th</sup>

### **Opportunity at Why Warriors**

Why Warriors are looking for a Marketing Manager to develop and implement a marketing strategy.

For details please visit: [whywarriors.com.au](http://whywarriors.com.au)

### **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.

Programs currently on offer include:

- Native Title Law
- Structuring Entities to Achieve Group Aspirations
- Community Development Projects
- Participatory process for PBC decision making.

## **10. Events**

### **Centre for Aboriginal Economic Policy Research**

*CAEPR Seminars 2014*

**Date:** Weekly, Wednesday event finishing on 4 June 2014

**Time:** 12.30 pm – 2.00 pm

**Location:** Hanna Neumann Building Room G058, Australian National University, Canberra

Further information regarding the seminar topics can be found on the [CAEPR website](#).

## **AIATSIS Occasional Seminars 2014**

*Integrating measures of Indigenous land management effectiveness - Beau Austin, Charles Darwin University*

**Date:** Friday, 2 May 2014

**Time:** 12.30 p.m.

**Location:** The Mabo Room, AIATSIS, Lawson Crescent, Canberra ACT 2601

Seminars are free and open to the public. Free parking is available.

For more information visit <http://50years.aiatsis.gov.au/>.

## **National Native Title Conference**

*Living with Native Title, from the Bush to the Sea*

**Date:** 2 - 4 JUNE 2014

**Time:** 08:30 – 17:00

**Location:** Novotel Coffs Harbour Pacific Bay Resort

**Enquiries:** For more information, please see [www.aiatsis.gov.au/events/native\\_title/2014/index.html](http://www.aiatsis.gov.au/events/native_title/2014/index.html)

The annual National Native Title Conference will be co-convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and NTSCORP Limited and hosted by the Gumbaynggirr people, the traditional owners of the Coffs Harbour region. The Conference will be held at Novotel Coffs Harbour Pacific Bay Resort from Monday 2 – Wednesday 4 June 2014. The conference is expected to attract some 700 delegates again in 2014.

## **National Sorry Day**

*Sorry – Still Living on Borrowed Time*

**Date:** 26 May 2014

**Time:** Various

**Location:** National

The Australian Parliament passed a motion in 2001, recognising May 26<sup>th</sup> as National Sorry Day. National Sorry Day is an annual commemoration that aims to achieve greater healing for the Stolen Generation. National Sorry Day is scheduled for the 26 May 2014, and events are held across the country. Information about the events taking place in each State and Territory can be found on the [National Sorry Day Committee](#) website.

## **National Reconciliation Week**



## Let's talk Recognition

**Date:** Tuesday 27 May 2014 – Tuesday 3 June 2014

**Time:** Various

**Location:** National

Each year National Reconciliation Week celebrates the rich culture and history of the first Australians. It's the ideal time for people to join the reconciliation conversation and to think about how to turn around the disadvantage experienced by many Aboriginal and Torres Strait Islander people.

National Reconciliation Week takes place from 27 May – 3 June. The week commemorates the anniversary of the successful 1967 Referendum and the High Court decision on Mabo in 1992. Events are taking place across the country during the week, and details can be found on the [National Reconciliation Week](#) 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.

