

WHAT'S NEW IN NATIVE TITLE

OCTOBER 2013

1. Case Summaries.....	1
2. Legislation	7
3. Indigenous Land Use Agreements	9
4. Native Title Determinations	10
5. Future Acts Determinations	11
6. Registered Native Title Bodies Corporate	12
7. Native Title in the News	13
8. Related Publications	13
9. Training and Professional Development Opportunities.....	16
10. Events.....	17

1. Case Summaries

[*Cheinmora v State of Western Australia \(No 2\) \[2013\] FCA 768*](#)

[*Cheinmora v State of Western Australia \(No 3\) \[2013\] FCA 769*](#)

7 August 2013, Consent determination, Federal Court of Australia - Wyndham

Gilmour J

Cheinmora #2 concerned recognition of the Balanggarra people's native title rights and interest over approximately 26,025 square kilometres of land and sea in the northern Kimberley region of Western Australia.

Two native title applications, originally filed in 1995, were amended and combined in 1999 to form Cheinmora #2. The claim area included the Kalumburu, Oombulgurri and Forrest River Aboriginal reserves, Carson River pastoral lease, parts of the Drysdale River National Park and unallocated crown land at Cape Londonderry, Carson River and the Cambridge Gulf coast. The northern boundary runs through sea country and encompasses a number of islands near the coast, including the Sir Graham Moore Islands, Adolphus Island and Reveley Island.

The respondents to Cheinmora #2 were the State Of Western Australia, the Commonwealth, Paspaley Pearling Company Pty Ltd, Roebuck Pearl Producers Pty Ltd and Telstra Corporation Limited.

Cheinmora #3 concerned the recognition of the Balanggarra people's native title rights and interests over approximately 4,318 square kilometres of land and waters, including areas of the Cambridge Gulf and islands located in the northern Kimberley region of Western Australia. The claim area for Cheinmora #3 included two major land areas: an eastern component, which includes Wyndham, and a western component, which includes parts of Home Valley pastoral station. The eastern and western components of Cheinmora #3 are separated by the southern portion of Cheinmora #2.

The respondents to Cheinmora #3 were the State Of Western Australia, the Commonwealth, Delaware North El Questro Pty Ltd and Telstra Corporation Limited.

The parties in both matters reached agreement in relation to only part of the land and waters over which the Balanggarra people sought recognition of native title. The parties agreed that no determination would be made over the remaining area where no agreement had been reached and that those areas would continue in case management.

For the areas subject to the parties' agreement, in both matters, the Court recognised that the Balanggarra people had exclusive native title rights, except where those rights had been extinguished. Acts of extinguishment included some 393 grants of estate in fee simple at Wyndham Port.

Some past extinguishment was disregarded by operation of ss 47, 47A or 47B of the *Native Title Act 1993* (Cth) (NTA). Cheinmora #3 contained detailed descriptions of some 35 general locations subject to s 47B of the NTA.

In both matters, the Court recognised non-exclusive rights as being held by the Balanggarra people over part of the Wyndham Port area and Traveller & Stock reserves and the Drysdale River National Park. The creation of a reserve in 1963 in the Drysdale River National Park extinguished the Balanggarra people's rights to hunt, fish and take flora. However, some non-exclusive native title rights and interests in that area were recognised including:

- the right to enter, travel over and remain on the land;
- the right to live and camp on the land including erecting shelters and other structures for those purposes;
- the right to light fires for domestic purposes;
- the right to engage in cultural activities on the land including visiting and protecting places of cultural or spiritual importance, conducting and participating in ceremony and ritual, holding meetings and passing on knowledge.

The Balanggarra people acknowledged that their native title rights and interests, both exclusive and non-exclusive, in relation to Boorroongoong, do not affect the Gajerrong, Doolboong and Wardenybeng native title holders' ability to access Boorroongoong, in accordance with the determination in *Attorney-General (NT) v Ward* (2003) 134 FCR 16 (Ward) and that the Gajerrong, Doolboong and Wardenybeng people's native title is held on trust by the Miriuwung and Gajerrong #1 Native Title (Prescribed Body Corporate) Aboriginal Corporation

The Court was satisfied that the material presented, including evidence considered in *Ward*, was strongly indicative of the maintenance of connection according to traditional laws and customs in Cheinmora #2.

The Court discussed the potential defect with authorisation on the basis that three of the 10 named applicants had died and the identified native title holding group was not the exact claim group in Cheinmora #2 and Cheinmora #3 (although the claim groups had not been amended since 21 October 2004 and 8 August 2000 respectively).

Justice Gilmour made the determinations, despite any perceived defect in authorisation, under s 84D(4)(a) of the NTA, on the basis of:

- the evidence presented;
- the pursuit of a satisfactory resolution of Cheinmora #2;
- there being no dispute over any defect in authorisation;
- the wide notification of the description of the native title holding group;
- the State being satisfied;
- appropriate measures having been taken with respect to the Balanggarra community authorising the description of the proposed native title holding group; and
- authority of *Barunga v State of Western Australia* [2011] FCA 518.

The Court made consent orders over parts of the claim areas, pursuant to s 87A of the NTA, on the basis that agreements between the parties were freely entered into on an informed basis and that the State had taken steps to satisfy itself that there was a credible basis for the applications.

The Court made orders that the Balangarra Aboriginal Corporation is to be the Prescribed Body Corporate (PBC) pursuant to s 56(2) of the NTA to hold the determined native title in trust for the native title holders.

[**Congoo on behalf of the Bar-Barrum People #4 v State of Queensland \[2013\] FCA 1113**](#)

19 September 2013, Application for leave to intervene, Federal Court of Australia, Brisbane

Logan J

In this matter the Court considered an application by Shereene Currie and others on behalf of the Butchulla People (the Butchulla Applicant), who are applicants in another proceeding, to intervene in an upcoming matter involving the Bar-Barrum People, that Justice Logan has referred to the Full Court.

The matters to be considered by the Full Court (set to be heard in November by North, Logan and Jagot JJ) are:

1. Whether Military Orders made under the National Security Regulations purported to effect an acquisition of the property of the Bar-Barrum People otherwise than on just terms contrary to s 51(xxxi) of the Constitution;
2. If yes, whether the Regulations underpinning the Military Orders constitute “past acts” under the *Native Title Act 1993 (Cth)* (the NTA) and, if so, whether those past acts were validated under the NTA; and
3. Whether making the Military Orders extinguished native title rights and, if not, whether being in occupation pursuant to the Military Orders, extinguished native title rights and interests.

The Butchulla People’s matter concerns land on Fraser Island that was affected by an order under the National Security Regulations, that it be used for a commando school. The Court stated this use was of a like kind to the Bar-Burrum matter.

The Butchulla Applicant’s leave to intervene was sought subject to a number of conditions, including:

- the written submission not exceed 10 pages for each of the three questions;
- the oral submission would be limited to 30 minutes; and
- any judicially determined result of the Bar-Burrum matter apply to the Butchulla People’s native title proceedings.

The Bar-Burrum People supported the intervention of the Butchulla Applicant, providing the hearing of the application would not unduly affect the hearing of the case stated.

The State of Queensland opposed the granting of leave to intervene. The Commonwealth (already an Intervenor) did not oppose the Butchulla application. However, both parties questioned whether any determination in the Bar-Burrum matter could or should apply to the Butchulla matter.

In refusing the Butchulla People’s application, Justice Logan considered a detailed analysis of High Court precedent in *Levy v Victoria* (1997) 189 CLR 579 and concluded that the Butchulla Applicant had an indirect rather than direct interest in the outcomes of the Bar-Burrum matter.

His Honour also considered that the Butchulla Applicant’s contribution would not be ‘useful’, in the sense that the Bar-Burrum matter would deal with all possible permutations that the Butchulla People would raise.

Another reason provided by Justice Logan for refusing the Butchulla Application was that, as the Northern Territory had decided to intervene, as was its right, the intervention of a fourth party would result in the hearing of the case elongating beyond two days.

By dismissing the application on these reasons, the Court did not find it necessary to consider whether or not it could or should make an order that any judicially determined result of the Bar-Burrum matter would apply to the Butchulla People’s native title proceeding.

[**A.D. \(deceased\) on behalf of the Mirning People v State of Western Australia \(No 2\) \[2013\] FCA 1000**](#)

3 October 2013, Application for Joinder as a Respondent, Federal Court of Australia – Perth

McKerracher J

This matter (**AD No 2**) involved the dismissal of Mr Michael Alfred Laing's application, brought under s 84(5) of *Native Title Act 1993* (Cth) (the NTA), to be joined as a respondent to the Mirning Claim.

Section 84(5) of the NTA provides that a person may be added as a party to proceedings, if their interests may be affected by the determination and it is in the interests of justice to do so.

For the application for joinder to be successful, Mr Laing had to prove a relevant interest that may be effected by a determination. In this case, Justice McKerracher found that the circumstances accorded with Indigenous recognition that Mr Laing had elements of Mirning identity but not connection per se to the Mirning claim area. His Honour could not clearly define Mr Laing's interest and found, in the circumstances, it was not in the interest of justice for Mr Laing to be made a respondent to the Mirning claim.

Important to considerations in this case was that Mr Laing's Native Title application was dismissed in *Laing v State of South Australia (No 2)* [2012] FCA 980 (see WN September 2012). This application was made on behalf of descendants of Mr Gordon Charles Naley, and partially overlapped with three existing unsettled claims:

1. the Ngadju claim in Western Australia;
2. the Mirning claim in Western Australia; and
3. the Far West Coast claim in South Australia.

The Native Title application was dismissed because it was held to not be made by a native title claim group or by persons authorised by all the persons constituting that group, as required by ss 61 and 251B of the NTA. Mr Naley was not recognised as one of the apical ancestors for the Mirning Claim and the Naley descendants were considered, at best, a subset or a sub-group of the Mirning People.

The Court also considered that Mr Laing had also been unsuccessful in previous applications to be joined as a respondent to:

1. the Ngadju claim (see case summary of *Graham on behalf of the Ngadju People v State of Western Australia* [2012] FCA 1003 in WN September 2012); and
2. the Far West Coast Claim (see case summary of *Far West Coast Native Title Claim v State of South Australia (No 5)* [2013] FCA 717 in WN August 2013).

In his application to be joined to the Mirning claim, Mr Laing supported his application with reports by two historians and an anthropological report contending that the Naley family share Mirning cultural rights and interests. Mr Laing also sought to present gender specific evidence, which was refused on the basis that to do so, particularly with respect to Mr Laing's unexplained time delays in bringing the application, would prejudice the Mirning Applicant.

In considering the evidence, Justice McKerracher noted several instances where Mr Laing's assertions were not appropriately supported and, while accepting that Mr Laing was a descendant of Mr Naley, the Court found that Mr Naley's permanent departure from the claim area 110 years ago meant Mr Laing's connection with the claim area was remote.

[**A.D. \(deceased\) on behalf of the Mirning People v State of Western Australia \(No 3\) \[2013\] FCA 1134**](#)

31 October 2013, Order for Costs, Federal Court of Australia – Perth

McKerracher J

This matter involves an application for costs brought by the Mirning Applicant native title group in relation to the interlocutory application brought by Mr Michael Alfred Laing, discussed at AD No 2, above. Justice McKerracher stated that the reasons for his decision on costs should be read in conjunction with AD No 2.

Section 85A of the Native Title Act 1993 (Cth) (the NTA) states:

1. Unless the Federal Court orders otherwise, each party to a proceeding must bear his or her own costs.

Unreasonable conduct

2. Without limiting the Court's power to make orders under subsection (1), if the Federal Court is satisfied that a party to a proceeding has, by any unreasonable act or omission, caused another party to incur costs in connection with the institution or conduct of the proceeding, the Court may order the first mentioned party to pay some or all of those costs.

Justice McKerracher remained of the view that the late filing of Mr Laing's ancillary application was unreasonable within the meaning of s 85A (2) of the NTA on the basis that:

- Mr Laing failed to provide adequate evidence in support of his ancillary application;
- Mr Laing sought relief that did not allow for any male member of the Mirning Applicant or claim group to attend the proposed restricted hearing, to read the manuscript, to allow for instructions to be sought or for evidence to be obtained from male members of the Mirning Applicant or claim group in response;
- Mr Laing sought to present gender specific evidence that would have excluded both counsel and instructors for the Mirning Applicant; and
- Mr Laing gave no detail as to the broad substance of the proposed restricted oral evidence.

Justice McKerracher ordered Mr Laing to pay two-thirds of the Mirning Applicant's costs with respect to matters raised in AD No 2, above.

[STRAITS EXPLORATION \(AUSTRALIA\) PTY LTD & ANOR v KOKATHA UWANKARA NATIVE TITLE CLAIMANTS & ORS \(No 2\) \[2013\] SASCFC 103](#)

14 October 2013, Order of costs for Appeal, Full Bench of the Supreme Court of South Australia

Kourakis CJ, Gray and Stanley JJ

This case involved an unsuccessful application by Straits Exploration that Kokatha Uwankara native title claimants pay costs for Straits' successful appeal to a decision before the Environment, Resources and Development Court.

A primary reason for allowing the appeal was the Judge's misapprehension as to the nature of his jurisdiction (see [Straits Exploration \(Australia\) Pty Ltd & Anor v Kokatha Uwankara Native Title Claimants & Ors](#) [2012] SASCFC 121 where the Full Bench of the Supreme Court found that, among other errors, the Trial Judge had ignored the strong evidence that the native title right to exclusively control all access to the land had been extinguished by the prior grant of a pastoral lease and the creation of the Lake Torrens National Park).

The Court found that, as the misapprehensions arose in the course of the hearing of the appeal, both parties should bear responsibility for the events that followed from that misapprehension.

The Court also referred to s 16B of the *Native Title (South Australia) Act 1994* (SA) (NTA (SA)) which states that, unless the Court otherwise orders, each party to proceedings is to bear its own costs of the proceedings to the extent the proceedings involve a native title question.

The Court found that, although the proceeding was not under the NTA (SA), native title considerations were at the forefront of the hearing and, therefore, s 16B applied.

In making its decision to make no order as to costs (with each party bearing its own costs), the Court also considered as significant that the Judge in the Environment, Resources and Development Court made no order as to costs and applied heavy criticism to Straits.

29 October 2013, Consent Determination, Federal Court of Australia, Mataranka

Mansfield J

- (a) [Largut v Northern Territory of Australia \[2013\] FCA 1069](#)
- (b) [Largut v Northern Territory of Australia \[2013\] FCA 1070](#)
- (c) [Largut v Northern Territory of Australia \[2013\] FCA 1072](#)
- (d) [Johns v Northern Territory of Australia \[2013\] FCA 1073](#)

- (e) [*Johns v Northern Territory of Australia* \[2013\] FCA 1074](#)
- (f) [*Johns v Northern Territory of Australia* \[2013\] FCA 1075](#)
- (g) [*Johns v Northern Territory of Australia* \[2013\] FCA 1076](#)
- (h) [*Johns v Northern Territory of Australia* \[2013\] FCA 1077](#)
- (i) [*Morgan v Northern Territory of Australia* \[2013\] FCA 1078](#)
- (j) [*Johns v Northern Territory of Australia* \[2013\] FCA 1079](#)
- (k) [*Brown v Northern Territory of Australia* \[2013\] FCA 1080](#)
- (l) [*Wavehill v Northern Territory of Australia* \[2013\] FCA 1081](#)
- (m) [*Brown v Northern Territory of Australia* \[2013\] FCA 1082](#)
- (n) [*Brown v Northern Territory of Australia* \[2013\] FCA 1083](#)
- (o) [*Brown v Northern Territory of Australia* \[2013\] FCA 1084](#)
- (p) [*Wavehill v Northern Territory of Australia* \[2013\] FCA 1086](#)

These matters are all consent determinations that non-exclusive native title rights and interests exist over land and waters, within the bounds of the following pastoral leases to the south east of Mataranka in the Northern Territory:

- (a) an area of some 600 square kilometres making up the Tarlee Pastoral Lease (Tarlee), brought on behalf of the Liwaja Group, descended from the late Waytpawala;
- (b) an area of some 1590 square kilometres making up the Avago Pastoral Lease (Avago), brought on behalf of the Liwaja Group and the Badpa (Daly Waters) Group;
- (c) an area of some 1030 square kilometres making up the Western Creek Pastoral Lease (Western Creek), brought on behalf of the Liwaja Group;
- (d) an area of some 590 square kilometres making up the Lakefield Pastoral Lease (Lakefield) brought on behalf of the Jalalabayn Group, the Beregunmayin Group and the Bobobingga Group;
- (e) an area of some 450 square kilometres making up the Cow Creek Pastoral Lease (Cow Creek) brought on behalf of the Jalalabayn Group;
- (f) an area of some 700 square kilometres making up the Gorrie Pastoral Lease (Gorrie), brought on behalf of the Jalalabayn group and the Liwaja group;
- (g) an area of some 700 square kilometres making up the Larrizona Pastoral Lease (Larrizona) brought on behalf of the Lalabayn Group and the Beregunmayin Group;
- (h) an area of some 430 square kilometres making up the Wyworrie Pastoral Lease (Wyworrie) brought on behalf of the Jalalabayn Group;
- (i) an area of some 400 square kilometres making up the Sunday Creek Pastoral Lease (Sunday Creek), brought on behalf of the Badpa (Daly Waters) Group;
- (j) an area of some 580 square kilometres making up the Bloodwood Downs Pastoral Lease (Bloodwood Downs), brought on behalf of the Jalalabayn Group and the Beregunmayin Group;
- (k) an area of some 670 square kilometres making up the Dry River Pastoral Lease (Dry River), brought on behalf of the Beregunmayin Group;
- (l) an area of some 770 square kilometres making up the Birdum Creek Pastoral Lease (Birdum Creek), brought on behalf of the Wubalawun Group and the Badpa (Daly Waters) Group;
- (m) an area of some 530 square kilometres making up the Providence Pastoral Lease (Providence), brought on behalf of the Beregunmayin Group and the Liwaja Group;

- (n) an area of some 780 square kilometres making up the Nenen Pastoral Lease (Nenen), brought on behalf of the Beregunmayin Group and the Jalalabayn Group;
- (o) an area of some 610 square kilometres making up the Margaret Downs Pastoral Lease (Margaret Downs), brought on behalf of the Beregunmayin Group; and
- (p) an area of some 600 square kilometres making up the Middle Creek Pastoral Lease (Middle Creek), brought on behalf of the Wubalawun Group, the Jalalabayn Group, the Badpa (Daly Waters) Group and the Liwaja Group.

In order to remove any overlap other applications with respect to parts of Tarlee, Avago, Western Creek, Lakefield, Cow Creek, Gorrie, Larrizona, Wyworrie, Sunday Creek, Bloodwood Downs, Dry River, Birdum Creek, Providence, Nenen, Margaret Downs were amended or withdrawn.

In making consent orders, under s 87 of the NTA, Justice Mansfield considered the conditions in s 87(1) of the NTA, concluding that in all cases:

- The notice period requirement under s 66 of the NTA was met;
- The requirement that the agreements relate to the proceedings was met;
- The agreements were appropriately recorded and filed with the Court;
- Making the orders, consistent with the agreements, was within the Court's power; 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) of the 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) of the NTA
- that there be no order to costs; and
- that the parties may apply to establish:
 - the precise location and boundaries of public works and adjacent land;
 - the precise location of the boundaries of pastoral improvements; and
 - whether any pastoral improvements referred to in the agreement had been constructed lawfully.

2. Legislation

Review of the roles and functions of Native Title Organisations (Aus.)

The Australian Government has initiated a Review of native title organisations to ensure that these organisations continue to meet the evolving needs of the native title system and are well positioned to respond to the needs of native title holders after claims have been resolved. Deloitte Access Economics has been contracted to undertake the Review and is being assisted in this task by a Reference Group. The [terms of reference](#) for the review can be found at the reviews homepage.

Deloitte Access Economics have released submissions received in response to the Review. Confidential submissions are not published. You can access the submission to the Review [online](#).

For more information, see [Deloitte Access Economics online](#)

Aboriginal Cultural Heritage Reform (NSW)

The New South Wales Government has released a model for stand-alone Aboriginal cultural heritage legislation which was developed in response to the recommendations provided by an independent ACH Reform Working Party. The Government encourages interested parties to consider the proposed model and offer their feedback on this important matter.

To find out information, see:

- [The proposed Government model](#)
- [The reform process](#)
- [Attend a workshop](#)
- [Resource centre](#)
- [Have your say](#)
- [Independent Working Party](#)

For more information, see [NSW Department of Environment and Heritage online](#).

Proposed Aboriginal Heritage Protection Legislation (Tas.)

The Aboriginal Heritage Protection Bill 2013 and the Aboriginal Heritage Protection (Consequential Amendments) Bill 2013 have been tabled in the Tasmanian Parliament. The proposed legislation aims to establish a fair, balanced and modern framework for the protection and management of Aboriginal heritage in Tasmania, and address the significant deficiencies of the present *Aboriginal Relics Acts 1975*.

The proposed legislation aims to achieve the best outcomes for the protection and management of Aboriginal heritage while also providing clearer procedures and certainty for landowners and developers than exist under the current system.

To view the Bills progress, see [Parliament of Tasmania website](#).

For more information, see the [Department of Primary Industries, Parks, Water and Environment website](#).

Aboriginal Lands Trust Bill 2013 (SA)

On 11 September 2013, the Minister for Aboriginal Affairs and Reconciliation, the Hon Ian Hunter MLC, introduced the Aboriginal Lands Trust Bill 2013 into Parliament.

The Bill represents a major reform to the structure and focus of the Aboriginal Lands Trust and its relationship with Aboriginal people and the Government by providing a foundation for the Trust to operate as an independent and professional land holding body.

The Aboriginal Lands Trust will also be given more autonomy in its dealings with Trust land, and there will be a new process for Aboriginal community involvement in decision-making, as well as supporting new opportunities for future cultural and residential development.

To view the Bill, see [Department of Premier and Cabinet website](#).

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 October 2013, **12** ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
11/10/2013	Budina and Emu Creek Station ILUA	WI2013/006	AA	WA	Pastoral
11/10/2013	Budina and Lyndon Station ILUA	WI2013/004	AA	WA	Pastoral
11/10/2013	Budina and TOWERA Station ILUA	WI2013/005	AA	WA	Pastoral
11/10/2013	Budina and Middalya Station ILUA	WI2013/003	AA	WA	Pastoral
11/10/2013	Bularnu, Waluwarra and Wangkayujuru Peoples Urandangi Tenure Resolution ILUA	QI2013/029	AA	Qld.	Tenure resolution
16/10/2013	Dja Dja Wurrung and Dusan Gorjance for PL1008 ILUA	VI2013/003	AA	Vic.	Exploration Mining
16/10/2013	Dja Dja Wurrung and Chum Street Car Park Sale ILUA	VI2013/005	AA	Vic.	Commercial Development
24/10/2013	Dja Dja Wurrung Settlement Agreement ILUA	VI2013/002	AA	Vic.	Access Co-management Commercial Communication Community Community living area
24/10/2013	Jangga People and Ergon Energy ILUA	QI2013/027	BCA	Qld.	Access Energy Infrastructure
25/10/2013	Tableland Yidinji Protected Areas ILUA	QI2013/026	AA	Qld.	Co-management Commercial Communication Community Community living area Consultation protocol
28/10/2013	Carpentaria Shire Council Tagalaka People #2 ILUA	QI2013/035	BCA	Qld.	Development Government
28/10/2013	Tagalaka People and Ergon Energy ILUA	QI2013/034	BCA	Qld.	Access Co-management Energy

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 October 2013, **12** native title determinations were handed down.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type
De Rose Hill Compensation Application	De Rose v State of South Australia [2013] FCA 988	01/10/2013	SA	Native title does not exist	Consent determination	Claimant
Middle Creek Pastoral Lease	Wavehill v Northern Territory of Australia [2013] FCA 1086	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Margaret Downs Pastoral Lease	Brown v Northern Territory of Australia [2013] FCA 1084	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Nenen Pastoral Lease	Brown v Northern Territory of Australia [2013] FCA 1083	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Providence Station Pastoral Lease	Brown v Northern Territory of Australia [2013] FCA 1082	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Birdum Creek Pastoral Lease	Wavehill v Northern Territory of Australia [2013] FCA 1081	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Dry River Pastoral Lease	Brown v Northern Territory of Australia [2013] FCA 1080	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Bloodwood Downs Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1079	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Sunday Creek Pastoral Lease	Morgan v Northern Territory of Australia [2013] FCA 1078	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Wyworrie Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1077	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Larrizona Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1076	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Gorrie Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1075	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Cow Creek Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1074	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Lakefield Pastoral Lease	Johns v Northern Territory of Australia [2013] FCA 1073	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Western Creek Pastoral Lease	Largut v Northern Territory of Australia [2013] FCA 1072	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Avago Pastoral Lease	Largut v Northern Territory of Australia [2013] FCA 1070	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Tarlee Pastoral Lease	Largut v Northern Territory of Australia [2013] FCA 1069	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant

Broadmere Pastoral Lease	Tonson v Northern Territory of Australia [2013] FCA 1087	29/10/2013	NT	Native title exists in parts of the determination area	Consent determination	Claimant
Tanumbirini Pastoral Lease	Fulton v Northern Territory of Australia [2013] FCA 1088	29/10/2013	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 \(NNTT\)](#).

In October 2013, **12** Future Acts Determinations were handed down.

Determination date	Parties	NNTTA number	State or Territory	Decision/Determination
1/10/2013	Fabian Tucker & Ors on behalf of Kurrku – (WC2010/018) (native title party) -and- The State of Western Australia (Government party) -and- Goldphyre Resources Limited (grantee party)	NNTTA 143	WA	Objection - Dismissed
1/10/2013	John Graham & Ors on behalf of Ngadju – (WC1999/002) (native title party) -and- The State of Western Australia (Government party) -and- Baracus Pty Ltd (grantee party)	NNTTA 144	WA	Objection - Dismissed
2/10/2013	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 142	WA	Objection - Dismissed
11/10/2013	Western Desert Lands Aboriginal Corporation (WCD2002/002) (native title party) - and - The State of Western Australia (Government party) - and - White Cliff Minerals Ltd (grantee party)	NNTTA 145	WA	Objection - Dismissed
15/10/2013	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 146	WA	Objection - Dismissed
17/10/2013	Wilma Freddie and Others on behalf of Wiluna (WC1999/024) (Wiluna native title party) - and – Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) on behalf of Birriliburu (WCD2008/002) (Birriliburu native title party) - and – The State of Western Australia (Government party) - and - Geological Resources Pty Ltd (grantee party)	NNTTA 147	WA	Objection - Expedited Procedure Applies

21/10/2013	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 148	WA	Bulk Dismissal
22/10/2013	Alec Tucker & Ors on behalf of Banjima (native title party) - and - The State of Western Australia (Government party) - and - BHP Billiton Minerals Pty Ltd (grantee party)	NNTTA 149	WA	Objection - Expedited Procedure Applies
23/10/2013	Jack Britten and Others on behalf of the Purnululu People (WC1994/0011) (Purnululu native title party) - and - The State of Western Australia (Government party) - and - Geological Resources Pty Ltd (grantee party)	NNTTA 151	WA	Objection - Expedited Procedure Does Not Apply
23/10/2013	Yindjibarndi Aboriginal Corporation (WCD2005/001) (native title party) - and - The State of Western Australia (Government party) - and - FMG Pilbara Pty Ltd (grantee party)	NNTTA 150	WA	Objection - Expedited Procedure Applies
30/10/2013	Nyangumarta Warrarn Aboriginal Corporation (WCD2009/001) (native title party) -and- The State of Western Australia (Government party) - and - Diatreme Resources Limited (grantee party)	NNTTA 152	WA	Objection - Expedited Procedure Does Not Apply
31/10/2013	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 153	WA	Bulk Dismissal

6. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

The [Native Title Research Unit](#) within AIATSIS maintains a [RNTBC summary document](#) which provides details about RNTBCs and PBCs in each state/territory including the RNTBC name, RNTBC type (agent or trustee) and relevant native title determination information.

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

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

7. Native Title in the News

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

8. Related Publications

Yamatji Marlpa Aboriginal Corporation (YMAC)

2012-13 Annual Report

The Yamatji Marlpa Aboriginal Corporation (YMAC) Annual Report details highlights of the 2012-13 financial year including the National Native Title Conference, the Yamatji Connection Project and Geraldton Alternate Settlement Agreement (ASA). The Annual Report also addresses the Government of West Australia's pledge to increase the pace of resolution of native title claims.

Download full report at [YMAC online](#).

Torres Strait Regional Authority (TSRA)

2012-13 Annual Report

The Torres Strait Regional Authority (TSRA) has released its 2012-13 Annual Report. The Report covers highlights and achievements of the past twelve months throughout the Torres Strait. The Report also discusses opportunities and challenges for the people in the Torres Strait going into the future.

Download full report at [TSRA online](#).

Native Title Services Victoria (NTSV)

2012-13 Annual Report

Native Title Services Victoria (NTSV) has released its 2012-13 Annual Report covering a range of topics from planning framework, discussing NTSV's roles and functions and strategic plan. NTSV also highlight some of the years successes, including the Dja Dja Warrung settlement agreement.

Download full report at [NTSV online](#).

J.K. Weir, Ross, S. L., Crew, D. R. J. & Crew, J. L. –

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

'Cultural water and the Edward/Kooley and Wakool river systems'

Indigenous people in south-east Australia have developed strategies and theories around the allocation of cultural water and the broader notion of 'cultural flows' in response to two key triggers: the poor environmental health of the inland river country and the historic and contemporary failure of the Australian state and common law to recognise the property rights and political status of Australia's first nations peoples. In the Murray–Darling Basin, the very recent marked decline in river health and long history of agricultural settlement and colonisation are felt acutely by the traditional owners, whose ancestral homes are now inseparable from the new communities based on the agricultural and irrigation industries. In this paper we consider the experiences of the Wamba Wamba and Perrepa Perrepa people and the work of one of their key organisations, Yarkuwa Indigenous Knowledge Centre Aboriginal Corporation. The discussion does not encompass the whole of Wamba Wamba country but focuses on the Edward/Kooley and Wakool rivers and the town of Deniliquin, where Yarkuwa is based.

Available for download at [AIATSIS online](#).

Lauder, G. & Strelein, L. – Precedent: Focus on Indigenous Issues

'Akiba: the Torres Strait Sea Claim' – September/October 2013

On 7 August 2013, the High Court of Australia unanimously held that the native title rights of the Torres Strait Regional Seas Claim Group (the Seas Claim Group) to take fish and other aquatic life for any purpose, including trade

or sale, had not been extinguished by fisheries legislation. *Akiba on behalf of the Torres Strait Seas Claim Group v Commonwealth of Australia and Ors* ('Akiba') was the first native title case to come before the High Court for some years. This article examines the issues brought to the High Court in this case against the backdrop of 20 years of native title.

Lauder, G. and Strelein, L. 'Native title and Commercial Fisheries: The Torres Strait Sea Claim', *Precedent*, Indigenous Issue No. 118 (September/October 2013), Australian Lawyer's Alliance.

Kerins, S. – Centre for Aboriginal Economic Policy Research (CAEPR)

'Social enterprise as a model for developing Aboriginal Lands'

Common property (communal land) is often viewed negatively with some claiming that communal land ownership and the absence of private property rights more generally have been insurmountable barriers to Indigenous enterprise. This paper provides a brief overview of common property resources and explores how Aboriginal common property is being used by some Aboriginal groups to develop social enterprises that provide benefits to remote communities, the environment and wider Australia. It notes that while some conservation and philanthropic organisations recognise this and have begun to work with and invest in these enterprises, government support often remains risk averse.

Kerins, S. 'Social enterprise as a model for developing Aboriginal Lands', *Centre for Aboriginal Economic Policy Research (CAEPR)*, Topical Issue 4/2013

Available for download at [CAEPR online](#).

Central Land Council (CLC)

'Land Reforms in the Northern Territory' – October 2013

There has been substantial debate about the role tenure reform plays in facilitating greater economic development and home ownership opportunities on Aboriginal Lands. This paper looks back over the last seven years of land tenure reform and demonstrates that the underlying policies of secure tenure were ideological rather than evidence based. The latter part of the paper looks forward and highlights that with land tenure formalisation in communities almost completed in Central Australia, there remains three major challenges to facilitating development in communities on Aboriginal land: regularising and expanding the delivery of infrastructure; ensuring that there is access to finance for economic development; and, in some communities, formalising negotiated settlements between residents and traditional owners.

Available for download at [CLC online](#).

Northern Land Council (NLC)

'Land Rights News – Northern Edition' – October 2013

The latest edition of *Land Rights News – Northern Edition* is out now. This edition includes news, views and happenings from across seven regions that make up the Northern Land Council's (NLC) areas. Reports include the Barunga and Garma festivals, the development of the Katherine to Grove Pipeline, and a closer look at the Bootu Creek decision.

Available for download at [NLC online](#).

Yamatji Marlpa Aboriginal Corporation (YMAC)

'YMAC News Issue 22' – 24 October 2013

Issue 22 of Yamatji Marlpa Aboriginal Corporation (YMAC) newsletter discusses a number of topical issues in central Western Australia. These include the recognition of native title for the Banjiima People, scholarships for Yugunganya students and visiting the Carnarvon Rangers.

Available for download at [YMAC online](#).

Media Releases

National Native Title Tribunal (NNTT)

‘Shared country, shared future’ – 4 October, 2013

The National Native Title Tribunal (NNTT) has adopted a new vision: *Shared country, shared future*.

Shared country, shared future encompasses a vision of an organisation which:

- Solves problems, working towards a shared country, shared future for all Australians – an organisation which looks for ways to do and to achieve good things
- Is outward looking and expansive in its thinking
- Focuses on developing its staff and members, creating succession plans and career pathways
- Motivates individuals and teams to strive for innovative and ground breaking solutions that enhance the way we do things and create opportunities for growth
- Is collegiate and in which genuine respect for others – internally and externally – is always shown.

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

Prime Minister and Cabinet (PM&C)

‘Review of Indigenous Training and Employment’ – 8 October, 2013

In line with an election commitment, the Prime Minister has announced that the Government has commissioned a review of Indigenous training and employment programmes. This review will provide recommendations to ensure Indigenous training and employment services are targeted and administered to connect unemployed Indigenous people with sustainable jobs. The review will consider ways that training and employment services can better link to the commitment of employers to provide sustainable opportunities for Indigenous peoples.

The Prime Minister announced that the review will be chaired by Mr Andrew Forrest.

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

Queensland Cabinet and Ministerial Directory

‘Island Community to benefit from extension of sand mining’ – 17 October, 2013

The Queensland Minister for Natural Resources and Mines, The Honourable Andrew Cripps, introduced the North Stradbroke Island Protection and Sustainability Amendment Bill 2013 into the Queensland Parliament. The legislation provided for sand mining to continue on North Stradbroke Island until 2035, extending the former agreement which ended in 2019.

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

Northern Land Council (NLC)

‘Northern Land Council welcomes Joe Morrison’ – 21 October, 2013

Chairman of the Northern Land Council, Wali Wunungmurra, has announced that Joe Morrison will become its new Chief Executive Officer (CEO). Mr Morrison, 40, emerged from a strong field of contenders to be chosen for the position of the Northern Land Council (NLC) CEO.

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

Yamatji Marlpa Aboriginal Corporation (YMAC)

‘Badimia people announce Minjar Gold Agreement’ – 31 October, 2013

The Badimia People, traditional owners in mid-west WA, have signed a native title agreement with Minjar Gold for its proposed mining operations and future expansions, approximately 400kms north, north-east of Perth.

The agreement was negotiated over an eight month period and includes financial payments based on production along with employment targets and contracting opportunities for Badimia people. There are also protocols in place to protect Badimia heritage.

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

News Broadcasts and Podcasts

Four Corners

‘No accounting’ – 15 October 2013

The Jawoyn people of the Northern Territory own and manage some of Australia's most picturesque and archeologically rich landscapes. After being granted a history-making land title claim centred on the famous Katherine Gorge, the Jawoyn Association set up tourist ventures and negotiated mining royalty deals. For many it was seen as a role model for self determination in action. But three years ago the Association's financial position began to crumble. Last year it came close to insolvency. The question is why? Matthew Carney investigates, trying to find out what went wrong with a body that has been able to function with the status of a charity.

Available at [ABC online](#).

SBS News

‘Native title amendments “could generate more wealth for communities”’ – 29 October, 2013

The Minerals Council of Australia (MCA) has criticised governance existing in Indigenous communities and is calling on the Abbott government to amend Native Title Laws. The calls are in response to a report released earlier this year by the Treasury about mining royalties and Indigenous communities.

Available at [SBS online](#).

SBS News

‘Call for enquiry into North Stradbroke Island sandmining’ – 30 October, 2013

The Quandamooka people of north Stradbroke Island have requested that the dealings between Premier Newman and sand miner Sibelco, be referred to Queensland's Crime and Misconduct Commission. Sandmining was supposed to end in 2019, as detailed in the Quandamooka's Native Title Agreement, but the Liberal Government is pushing to extend extraction laws until 2035.

Available at [SBS online](#).

National Indigenous Radio Service (NIRS)

‘Stradbroke native title holders ignored on sand mine’ – 31 October, 2013

Quandamooka elders from North Stradbroke Island, say the Queensland Government isn't prepared to listen to traditional owners on the future of sand mining on North Stradbroke Island. The Queensland Government is pushing ahead with plans to increase the life of Sibelco's controversial mine from the original closing date of 2019 to 2035, against the wishes of Quandamooka native title holders.

Available at [NIRS online](#).

9. Training and Professional Development Opportunities

The Aurora Project

[See the Aurora Project: 2013 Program Calendar](#) for information on training and personal development for staff of native title representative bodies, native title service providers, RNTBCs and PBCs.

Monash University Indigenous Australian Archives Scholarship

Monash University, the National Archives of Australia, the Australian Society of Archivists Inc., and the Australian Computer Society (ACS) are offering a scholarship for Indigenous Australians to undertake a Masters degree or Graduate Diploma specializing in Electronic record keeping and archiving.

This scholarship is linked to the Bringing Them Home Report, which recommended that Indigenous Australians archivists be involved in archival projects that enable Indigenous Australians to locate records.

[Applications](#) closing **Friday 21 February 2014 for semester 1, 2014 entry**. For more information, see [Monash University website](#).

Aurora Native Title Research Scholarships

In 2008, the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) conducted a review of funding for the native title system to identify blockages and reallocate funds to target priority areas of need. The review found a shortage of experienced research staff, including anthropologists, cultural heritage researchers and historians, working in native title and a difficulty attracting and retaining junior professionals. In response, the government launched the Native Title Research Scholarship Program in 2010.

Conditions of the scholarship program:

- Funding provided by the scholarship is not fixed. It will depend on the tuition fees that apply for the university and the program undertaken.
- Scholarships are only offered in the year following the expiry of the tenure of the previous recipient. A maximum of three scholarships would run at any point in time and of these two may be PhD scholarships.

This year there are two scholarships being offered. These will be available for:

- Full-time study, with a maximum funding period of one year for a Masters by coursework, two years for a Masters by research and four years for a PhD.
- Part-time study, with a maximum funding period of two years for Masters by coursework and four years for a Masters by research.

For more information, see [Aurora Project website](#). Download an [application form](#) or contact the Aurora team ntrbscholarships@auroraproject.com.au.

10. Events

Launch of the Social Justice and Native Title Report 2013

Date: 13 December 2013

Location: KPMG Level 15/10 Shelley Street, Sydney, NSW

Time: 9:30am for 10:00am start

Phone: (02) 6284 9603

RSVP: 6 December 2013 to: socialjustice@humanrights.gov.au

This year marks 20 years of the Aboriginal and Torres Strait Islander Social Justice Commissioner's role. The Australian Human Rights Commission invites you to celebrate this important milestone with the launch of the Social Justice and Native Title Report 2013. The keynote address will be given by Mr Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner:

'Rights, Relationships and Responsibility- an agenda for change'

The event will also include the Australian launch of the UN Global Compact's Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples.

For more information see [Australian Human Rights Commission website](#).

50 Years On: Breaking Barriers in Indigenous Research and Thinking

Date: 26-28 March 2014

Location: National Convention Centre, Canberra, ACT

In 2014, AIATSIS will be celebrating its 50th year. To celebrate this milestone, AIATSIS will be holding its biennial National Indigenous Studies Conference with the theme '50 years on: Breaking Barriers in Indigenous Research and Thinking'. The conference will celebrate how far we have come in the area of Indigenous studies in Australia in the past 50 years. It will celebrate the 50th anniversary of the legislated establishment of the Australian Institute of Aboriginal Studies (now AIATSIS) as well as 50 years of leadership and excellence in Indigenous studies by AIATSIS.

For more information including Call for Papers and Registration, please see [AIATSIS website](#) or contact Alexandra Muir: (02) 6261 4223

2014 World Indigenous Legal Conference
Remembering the past and looking to the future

Date: 23-27 June 2014

Location: Queensland University of Technology, Garden Point Campus, Brisbane

The 2014 World Indigenous Legal Conference is a biennial conference that brings together Indigenous lawyers, academics and interested parties to discuss issues of critical importance to Indigenous people. The conference will consider a range of topics including relationship to land and waters, indigenous knowledges, women and children, recognition of first nations peoples, economic independence and human rights.

For more information including the latest updates and registration, see [Indigenous Lawyers Association of Queensland Inc.](#)



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.

