



## WHAT'S NEW IN NATIVE TITLE

### MAY 2016

1. Case Summaries _____	1
2. Legislation _____	10
3. Native Title Determinations _____	13
4. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate ____	13
5. Indigenous Land Use Agreements _____	14
6. Future Acts Determinations _____	15
7. Native Title in the News _____	17
8. Publications _____	17
9. Training and Professional Development Opportunities _____	18
10. Events _____	19

### 1. Case Summaries

#### **[Gomeri People v Attorney-General of New South Wales](#) [2016] FCAFC 75**

**30 May 2016, Appeal, Full Federal Court, New South Wales, Reeves, Barker and Bromberg JJ**

This matter concerned the replacement of the solicitor representing the Gomeri People and whether the replacement was valid. The validity of the replacement related to whether a meeting convened by NTSCORP was appropriately held. NTSCORP had been representing the Gomeri People but the applicants later sought the assistance of Mr Hegney. At issue at the primary hearing was whether there was an “expectation” that the applicant retain the original solicitor with the primary Judge convening the claim group to consider the “expectation”. Central to this finding was a resolution passed by the Gomeri People expressing an “expectation” that the Applicant “may not attempt to terminate the services of NTSCORP Limited or the Legal Practice funded by NTSCORP as solicitor acting on behalf of the Gomeri People native title claim group”. The primary Judge dismissed the interlocutory applicant and ordered that NTSCORP facilitate a meeting of the Gomeri People

At issue on appeal is whether the primary Judge lacked power to make those orders and whether the claim group can direct an applicant's choice of legal representative. Reeves and Barker JJ delivered separate judgements in which both ruled that the appeal should be allowed. Bromberg J found that the appeal should be dismissed.

### **Reeves J**

Reeves J characterised the primary issue as whether there was any real dispute about the authorisation of the Gomeri Applicant which attracted the Court's jurisdiction under s 81 of the *Native Title Act 1993* (Cth) (NTA) such that it became necessary and appropriate to exercise that power.

Reeves J found one effect of the primary Judge's decision was to enforce a policy decision of NTSCORP to facilitate a meeting and secondly that the orders were not directed to resolving an existing dispute in the proceeding. Since the expectation issue was dismissed by the primary Judge and no further evidence had been produced to show a further dispute. Therefore, there was nothing to support the primary Judge's exercise of the Court's jurisdiction under s 81 of the NTA.

### **Barker J**

Barker J found that there was little doubt that the powers of an applicant under s 62A NTA included that power to instruct lawyers to act on behalf of the applicant in making and maintain a claimant application. However, this does not mean that the claim group may not limit the authority of the applicant effectively to act on its behalf, if it so wishes.

Barker J found that the significance of s 66B NTA is that it recognises the power of the claim group to limit the authority given to the applicant. His Honour noted that the resolution did not, and did not purport to, comprise a term of contract of retainer made by the applicant with NTSCORP or its solicitor. However, Barker J agreed with the primary Judge in finding that it would be open to claim group under s 66B to authorise the replacement of the applicant for exceeding the authority that the claim group had given to the applicant.

Barker J agreed with Reeves J in finding that the Court's jurisdiction was not relevant as there was no issue within the claim group over the appropriateness of the decision of the applicant to change lawyers.

### **Bromberg J**

Bromberg J characterised the central issue on this appeal as whether the primary judge had the power to order a native title representative body to convene a meeting of a native title claim group. Bromberg J focused on whether the primary Judge's orders were "appropriate" and supported by the power conferred by s 23 of the FCA or "necessary" and supported by the Court's implied power, and noted that these must be considered in the context of the proceeding.

Section 203BB of the NTA confers upon representative bodies "facilitation and assistance functions". The circumstances of the proceedings further included that the

resolution made it clear that the applicant had engaged in conduct that was contrary to the “expectation” expressed in the resolution. This creates an underlying problem and evidences a discord between the applicant’s conduct and the last-expressed wishes of the Gomeroi People.

Section 203BK provides NTSCORP with the power to convene a meeting, and so a question arises as to why the primary Judge ordered one. Bromberg J provides that “the primary Judge was concerned that, without the assistance of an order of the Court, there was a risk that any attempt by NTSCORP to convene and hold a meeting of the Gomeroi People would be frustrated by the Applicant or Mr Hegney, or both”. His Honour notes that this is required in order to protect the interests of those within the Gomeroi claim group who do not constitute the applicant.

### **CG (Deceased) on behalf of the Badimia People v State of Western Australia [2016] FCAFC 67**

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**18 May 2016, Appeal, Full Federal Court of Australia, Western Australia, North, Mansfield, Reeves, Jagot and Mortimer JJ**

In this matter, the Full Federal Court considered the power of the Federal Court to make a negative determination of native title in relation to a claimant application. There were three grounds of appeal at issue.

#### **The power issue**

The appellants contend that the Federal Court does not have the power to make a negative determination with regard to a claimant application. The appellants submit that the *Native Title Act 1993* (Cth), properly construed, only authorises the making of a determination that native title does not exist in response to a non-claimant application and does not authorise any such determination in response to a claimant application.

The Full Court engaged in extensive statutory interpretation of the NTA. The Court examined closely the purpose and objectives of the act as well as provisions relating to claimant and non-claimant applications, and determinations.

The Full Court found that the construction put forward by the appellants is inconsistent with the object of the Act of establishing a mechanism for determining claims to native title, because the mechanism provided would be incomplete, impractical and incompatible with the scheme of the Act. The Full Court further noted at [66] that:

“If the Court is satisfied that all the potentially competing claimants for the recognition of native title in respect of the claim area have participated in the hearing, and all have failed, a negative determination could be made if the Court is satisfied that there is no native title that can be recognised and protected.”

This ground of appeal was dismissed.

### **Procedural fairness**

The second ground of appeal related to a lack of procedural fairness brought about by a failure to notify the applicants that a negative determination could be made. This ground of the appeal was dismissed on the basis that a negative determination may be made in relation to any claimant application and thus it is not possible to accept that the appellant did not know of this possibility.

### **Discretion**

The appellant contended that the primary judge's exercise of discretion amounted to a miscarriage of justice. This ground of appeal was dismissed because the primary judge asked the correct question in relation to whether it was proved that native title did not exist, and considered all relevant factors.

## **[Ashwin on behalf of the Wutha People v State of Western Australia \(No 3\) \[2016\] FCA 606](#)**

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### **25 May 2016, Application to Remove Parties, Federal Court, Western Australia, Barker J**

This matter involved the removal of a respondent under s 84(8) of the *Native Title Act 1993* (Cth). On 9 February 2016, the Court ordered that Mr Evans file submissions outlining his interest in the proceedings. Mr Evans failed to provide submissions on two occasions and a hearing was set to determine his removal. The only submission received was that of the State who contended that there was no reason why Mr Evans should remain a party. The Court ordered that Mr Evans be removed as a party to the proceedings.

## **[Lansen v Northern Territory of Australia \[2016\] FCA 567](#)**

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### **20 May 2016, Application to Replace Parties, Federal Court, Northern Territory, White J**

This matter concerned the replacement of the applicant under s 66B of the *Native Title Act 1993* (Cth). The Court ordered that the new applicant, namely Asman Rory, Christopher Pluto, and Tom Hume replace the original applicant who is now deceased. The Court noted that all respondents except the third respondent, the holder of a pastoral lease, had consented to the order.

The Northern Lands Council had provided the third respondent with a copy of the interlocutory application and the respondent sought further information about the replacement applicant. The Court directed that any parties wishing to make oral submissions in the matter should notify the Court accordingly. Justice White directed

that should no oral submissions be received, the matter would be determined on the papers.

The Northern Land Council then attempted to provide the respondent with further hearing dates via email and hard copy. Justice White noted that in each case, delivery failed. The Court from these circumstances that the third respondent had changed their address and thus the Court made their decision on the papers of the application.

The replacement applicants were found to be authorised by members of the claim group with the authorisation being made through a traditional decision making process.

### **[Collins on behalf of the Wongkumara People v Harris on behalf of the Palpamudramudra Yandrawandra People](#) [2016] FCA 527**

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**16 May 2016, Interlocutory Application, Federal Court, Queensland, Jagot J**

This case concerns an application by the Wongkumara People to have the Palpamudramudra Yandrawandra claim (PY claim) struck out under s 61 of the *Native Title Act 1993* (Cth).

#### **Background**

The PY claim includes an area which overlaps another area of land subject to a native title claim known as the Wongkumara native title claim. The Wongkumara applicants were joined as respondents to the PY claim in March 2016 and now make the claims sought.

#### **Authorisation**

The minutes of a meeting was provided as the only evidence of authorisation of the PY claim. All but one of the PY applicants were present at the meeting with the absent member submitting an apology. Justice Jagot found that it was not possible to discern from the minutes the identity of the native title claim group. Justice Jagot relied on the reasoning of French J in *Bolton on behalf of the Southern Noongar Families v State of Western Australia* [\[2004\] FCA 760](#) (*Bolton*) where there was an application to replace an applicant under s 66B. French CJ found at [46] that ‘the evidence is insufficient to demonstrate that there has been notification to members of the native title claim group as defined or that those who attended belonged to it’ and found that there was ‘no evidence that the meetings were, in any sense, fairly representative of the native title claim groups concerned.’: [46]

It was found that ‘the present case it is clear that the claim is not made by a native title claim group because nothing enables such a group to be identified’: [27]. Justice Jagot relied on the reasoning of Besanko J in *Brown v State of South Australia* [\[2009\] FCA 206](#) at [19]:

‘A native title determination application does not comply with s 61 of the NTA [Native Title Act] if it is clearly established that it is not made by a native title claim group. A native title claim group is a group consisting of all the persons who, according to their traditional laws and customs, had the common or group rights or interests comprising the particular native title claimed. These propositions follow from the provisions of ss 61(1) and (4), 251B and 253 of the NTA and have been stated in the cases’.

### **Notification**

Justice Jagot found that the notification of the initial claim group meeting was not adequate. A copy of the notice was sent to as many people as one of the applicants could identify as relevant, stating:

“Persons who hold or may hold native title in relation to the lands and waters in the claim area as depicted in the map set out below.”

Justice Jagot found that the notice did not provide information about the criteria for membership of the group, and further assumes that any recipient of the notice will know if they hold or may hold native title based purely on the contents of the map. Therefore Justice Jagot found that the notification did not comply with ss 61(1) and (4) of the NTA and that the non-compliance could not be rectified. . Based on these reasons the proceedings were summarily dismissed under s 84C NTA.

## **Thardim v Northern Territory of Australia [2016] FCA 407**

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### **10 May 2016, Interlocutory Application, Federal Court, Northern Territory, Mansfield J**

The case concerns six claims related to the recognition of native title rights and interests over the Town of Batchelor.

### **Background**

In 2001, a claim was made over the Town of Batchelor on behalf of eight clans collectively known as the Finnis River Brinkin Group (FRBG) - the Batchelor No 1 claim. A second claim was made over the Town of Batchelor in 2005 by Petherick and others on behalf of three of the FRBG clans - the Batchelor No 2 claim. In 2014, the Batchelor No 2 claim was struck out after an application to do so was made by the applicants of the Batchelor No 1 claim. This decision is known as the Town of Batchelor 2014 judgment. Mansfield J held that the findings of the *Town of Batchelor 2014 judgment* could be adopted in this judgment for efficiency in time and resources. Five of the current six claims list nine clan groups as claimants. The Bynoe No 2 claim however, lists only eight of those nine clan groups as claimants.

## **The present claims**

The Northern Territory government is attempting to have each of the claims summarily dismissed under s 84C(1) of the *Native Title Act 1993* (Cth) (NTA) where they do not comply with ss 61, 61A, or 62 on the basis of the composition of the claim groups, a lack of connection and a lack of authorisation. In each of the claims, the applicant applied to replace a deceased person or persons as part of the applicant, and to amend the native title determination application, including by changing the composition of the claim group. It is accepted that these issues are common with the applications to be heard together with the evidence in each of them overlapping with evidence in other claims.

## **Composition of the claim groups**

Justice Mansfield noted that an order to strike out the claim should be approached with caution. An application should only be dismissed where the claim is untenable upon the version of the evidence favourable to the applicant generally without any weighing of conflicting evidence or of the inferences which might be drawn from conflicting evidence.

In determining whether the applications should be struck out, Justice Mansfield noted that there is considerable authority for the proposition that a claim for native title rights and interests by a subset of the native title holding group is contrary to s 61 of the NTA and cannot succeed. In his undertaking the relevant factual analysis, Justice Mansfield examined the affidavit of Mr Petherick, and anthropological evidence from the Batchelor No 2 claim to determine that there were between 20-25 clans identified as asserting native title rights and interests in the relevant area.

Each of the claimants in the present claims comprises either eight or nine clans. There was no evidence to show that those eight or nine clans constituted the native title claim group rather than the 20-25 clans identified earlier. Accordingly, Justice Mansfield accepted the evidence of the Northern Territory government finding that the claim groups in the present cases are a subset of the native title holding group and thus contrary to s 61.

## **Evidence of connection**

The second basis for summarily dismissing the six claims was a lack of evidence of connection. In the *Town of Batchelor 2014 judgment*, it was found the FRBG or the broader 20 or so clans did not hold native title rights and interests in the vicinity of Batchelor. The material available in this case is within the area to which the evidence and findings of the *Town of Batchelor 2014 judgment* applied. There is no relevant evidence presented in this case to counter Batchelor No 1. Further, the present claims rely on the ER Petherick thesis which was shown in the *Town of Batchelor 2014 judgment* not to accord with available anthropology, ethnography, or earlier findings. On this basis, Mansfield J found that the six claims do not have any real prospect of succeeding.

## Authorisation

The Northern Territory contends that in the circumstance where the nine clans from the present claims comprise the native title holding group, the proposed claim in Bynoe No 2 is not properly authorised because it is only authorised by members of eight of the nine clans. Alternatively, the other five claims are not properly authorised because there is no evidence that the ‘two-step’ authorisation process necessary has not been. Those two steps are that the existing claim group meet and determine how the claim group is to be reconstituted, and that the reconstituted group meet and decide to authorise a new applicant to make the claim on behalf of the new claim group. Mansfield J found that the authorisation evidence does not demonstrate that either of these steps occurred.

## Conclusion

The six applications to amend the applications are refused.

### [Wanirr v Northern Territory of Australia](#) [2016] FCA 409

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#### **10 May 2016, Interlocutory Application, Federal Court, Northern Territory, Mansfield J**

This case concerned an application by the Northern Territory to have the application struck out under s 84C of the *Native Title Act 1993* (Cth). This claim area includes the Town of Batchelor. The strike out application is made on the same basis as the one in Bynoe No 2, as above in *Thardim v Northern Territory of Australia* [2016] FCA 407. Mansfield J found this claim also had no realistic prospects of succeeding as a matter of fact, and found that the authorisation process was flawed. The application is struck out under s 84C NTA.

### [Hazelbane v Northern Territory of Australia](#) [2016] FCA 408

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#### **10 May 2016, Interlocutory Application, Federal Court, Northern Territory, Mansfield J**

This matter concerned an application to dismiss an application for the determination of native title rights and interests over the Town of Batchelor. There are two long-standing native title claims to the town of Batchelor, one by Hazelbane and others, and one by Petherick and others.

The claim by Petherick and others has been previously struck out ([Town of Batchelor 2014 judgment](#)). Mr Petherick has now filed an affidavit in support of an application to strike out the present claim by Hazelbane and others.

Justice Mansfield ruled that since Mr Petherick was not a party to the application, he did not have the status to apply to strike out the application. The application to have the Hazelbane application struck out is dismissed.

**[JT on behalf of the Njamal People v State of Western Australia](#) [2016]  
FCA 458**

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**3 May 2016, Application to Replace Parties, Federal Court, Western Australia, Barker J**

This matter concerned the replacement of the applicant under s 66B of the *Native Title Act 1993* (Cth). The Court ordered that the new applicant, namely Kevin Allen, Willie Jumbo, Alice Mitchel, Tony Taylor and Jean Walker, replace the current applicant.

**Authorisation**

Barker J discussed the issue of authorisation. He noted under s 251B(b), where there is no traditional decision-making process, that this does not import a requirement for all members of the claim group to be involved in the decision-making process, or that the vote be unanimous. Barker J stated at [12] that:

“it requires giving to persons whose whereabouts are known, and have capacity to authorise, a reasonable opportunity to participate in the adoption of a particular process and the making of decisions pursuant to that process.”

**[PC on behalf of the Njamal People v State of Western Australia](#) [2016]  
FCA 462**

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**3 May 2016, Application to Replace Parties, Federal Court, Western Australia, Barker J**

This matter concerned the replacement of the applicant under s 66B of the *Native Title Act 1993* (Cth). The Court ordered that the new applicant, namely Doris Eaton, Alice Mitchell and Doris Monaghan replace the current applicant Doris Eaton, Alice Mitchell, Doris Monaghan, TA (deceased), PC (deceased), and CG (deceased). The orders are made on the basis that they are authorised and that TA, PC, and CG are deceased (s 66B(1)(a)(ii)).

## 2. Legislation

### Australian Capital Territory

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#### *Planning, Building and Environment Legislation Amendment Act 2016 (No 2)*

**Status:** This Act was introduced on 7 April 2016 and was passed on 3 May 2016.

**Stated purpose:** This is an Act to amend legislation about planning, building, and the environment.

**Native title implications:** The Act includes significant amendments to the *Heritage Act 2004* (ACT). The amendments offer protection of information relating to Aboriginal places and objects requiring that the council be satisfied the releasing the information will not diminish the heritage significance of, or damage the place or object. A further requirement is that the information must be used for a specified purpose, including academic research, assessing heritage significance, or used in connection with planning, land management, or a development proposal. The amendments also require a conservation management plan to be adopted and approved setting out the conditions of future use of an Aboriginal place or object. The plan must identify any threats and set out a plan of management for those threats, and include relevant descriptions, details, and history of the Aboriginal place or object.

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

### New South Wales

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#### *National Parks and Wildlife Amendment (Adjustment of Areas) Bill 2016*

**Status:** This Bill was introduced on 4 May 2016 with the Second Reading taking place on 11 May 2016. The Bill was passed on 31 May 2016.

**Stated purpose:** The purpose of this Bill is to amend the *National Parks and Wildlife Act 1974* (NSW) to change the reservation status of certain land.

**Native title implications:** The reservation status of Ben Halls Gap, Khappinghat, Jervis Bay, Kosciuszko, Ku-ring-gai Chase, Lane Cove, Middle Brother, Morton, Penrith Lakes, Royal, and Wollemi Nationals Parks as well as Gwydir Wetlands State Conservation Area and Yaegl Nature Reserve are changed or revoked. The Act specifically provides that land currently forming part of Ku-ring-gai Chase National Park and Middle Brother National Park must not be transferred without adequate compensation. Native title holders of any part of these National Parks should be aware of the areas that have been changed or revoked. Native title holders should also be aware of the extent to which they may be eligible for compensation. Notably, 86 hectares of Macquarie Pass State Conservation Area is transferred to the Illawarra Local Aboriginal Land Council under the *Aboriginal Land Rights Act 1983* (NSW).

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

## Queensland

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### [Planning Act 2016](#)

**Status:** This Act was passed on 11 May 2016. The Act will not come into effect for another 12 months because it will take the Department of Infrastructure, Local Government and Planning that amount of time to implement the new administrative arrangements for planning in Queensland.

**Stated purpose:** The purpose of this Act is to streamline State and local planning instruments and the legislative planning scheme.

**Native title implications:** The Act states that any entity performing a function under the Act must advance the purpose of the Act. These purposes include 'valuing, protecting and promoting Aboriginal and Torres Strait Island knowledge, culture and tradition,' 'conserving places of cultural heritage significance,' and the promotion of sustainable resource use. This is significant as the Act applies to the whole of Queensland not just native title, or statutory Aboriginal or Torres Strait Islander land grants. This will provide Aboriginal and Torres Strait Islanders an opportunity to hold State and local governments accountable to the impact of their planning activities on Aboriginal and Torres Strait Islander peoples' knowledge, culture and tradition. Native title bodies may have to conform to the new planning scheme when carrying out activities on their land. Please see the [Explanatory Speech](#) and [Explanatory Notes](#) for more information.

## Victoria

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### [National Parks and Victorian Environmental Assessment Council Acts Amendment Bill 2016](#)

**Status:** This Bill was introduced on 24 May 2016 with the Second Reading occurring on the same day.

**Stated purpose:** The purpose of the Bill is to amend the *National Parks Act 1975* (Vic) in relation to the Greater Bendigo National Park, and the Victorian *Environmental Assessment Council Act 2001* (Vic) to confer additional functions on the Victorian Environmental Assessment Council (VEAC) in relation to the conduct of assessments or the provision of advice.

**Native title implications:** This Bill gives the Minister powers in relation to VEAC including requiring VEAC carry out an investigations or create Community Reference Groups when requested to do so by the Minister. VEAC is required to submit a written report to the Minister on the results of an assessment, and the Government

must respond to this report. There may be an opportunity for native title holders to take part in Community Reference Groups in order to give input into environmental assessments.

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

## Western Australia

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### *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016*

**Status:** This Act received assent on 16 May 2016.

**Stated purpose:** The purpose of this Bill is to recognise the Noongar people as the traditional owners of the Noongar lands.

**Native title implications:** Practically, this Bill forms part of the settlement of the native title claims made by the Noongar people in the South West of the State. The Noongar people are made up of a number of different groups. The settlement agreement includes six Indigenous Land Use Agreements, each relating to a different area and is made with groups composed of particular groups in the Noongar nation.

The Bill also recognises the special relationship that the Noongar people have with their lands and the significant contribution that they have made, are making and will continue to make to the State's heritage, cultural identity, community and economy.

The Act includes a statement from the Noongar people describing their relationship with their lands. The boundaries of their territory are outlined in Schedules 2 and 3 of the Bill.

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

### *Land Administration (South West Native Title Settlement) Act 2016*

**Status:** This Act received assent on 16 May 2016.

**Stated purpose:** This bill provides for the implementation of certain provision of the native title settlement reached between the State and Noongar people in the south west of the State.

**Native title implications:** The passage of this bill is a precondition to the commencement of the settlement under 6 Indigenous Land Use Agreements (ILUAs) entered into with the Noongar people. These ILUAs provide a comprehensive package of benefits to the Noongar people as compensation for the surrender, loss, or impairment of any native title rights and interests in relation to land and water in the south west. In particular, the bill provides for the implementation of the Land

Base Strategy for the establishment of the Noongar Land Estate, and for the grant of land access licences.

The Noongar Land Estate is allocated to the Noongar Boodja Trust to be held in trust for the Noongar people. This will include up to 20,000 hectares of freehold land and up to 300,000 hectares of Crown land. Land access licences will be granted to the six Regional Corporations that are to be established to represent the relevant Noongar people under each settlement ILUA. The access licences will allow those people to access and undertake customary activities on certain unallocated Crown land and unmanaged reserves.

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

### 3. Native Title Determinations

In May 2016, the NNTT website listed no new native title determinations.

### 4. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

The [Native Title Research Unit](#) within AIATSIS maintains a [RNTBC summary document](#) which provides details about RNTBCs and PBCs in each state/territory including the RNTBC name, RNTBC type (agent or trustee) and relevant native title determination information. The statistics for RNTBCs as of 2 June 2016 can be found in the table below.

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

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

**Table 1: National Registered Native Title Bodies Corporate (RNTBCs) Statistics (2 June 2016)**

State/Territory	RNTBCs	No. of successful (& conditional) claimant determinations for which RNTBC to be advised
Australian Capital Territory	0	0
New South Wales	6	0
Northern Territory	20	8
Queensland	74	1
South Australia	15	0
Tasmania	0	0
Victoria	4	0
Western Australia	36	1
<b>NATIONAL TOTAL</b>	<b>155</b>	<b>10</b>

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

**Source:** <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> and Registered Determinations of Native Title and RNTBCs as at 2 June 2016.

## 5. Indigenous Land Use Agreements

In May 2016, 4 ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
18/05/2016	<a href="#">Blackwater ILUA</a>	QI2015/088	Area Agreement	QLD	Government, Extinguishment
18/05/2016	<a href="#">Wandoan and Taroom ILUA</a>	QI2015/087	Area Agreement	QLD	Extinguishment, Tenure resolution
18/05/2016	<a href="#">Moranbah ILUA</a>	QI2015/086	Area Agreement	QLD	Government, Infrastructure
05/05/2016	<a href="#">Batchelor ILUA</a>	DI2015/001	Area Agreement	NT	Extinguishment

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

## 6. Future Acts Determinations

In May 2016, 3 Future Acts Determinations were handed down.

Date	Parties	Coverage	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
23/05/2016	<a href="#">Raymond William Ashwin (dec) &amp; Others on behalf of Wutha v State of Western Australia</a>	-	WO2015/1018	WA	Objection - Dismissed	Member Shurven did not receive any contentions from the Wutha claim group as to why the objection to the expedited procedure application should not be dismissed, nor was a request for extension of time made in order to comply with directions. Ms Shurven considered the group had been given sufficient opportunity to comply with directions set by the Tribunal, and it would be unfair to prejudice the other parties with further delays.
20/02/2016	<a href="#">Keith Narrier and Others on behalf of Tjiwarl v State of Western Australia</a>	60.71%	WO2015/0186	WA	Objection - Expedited Procedure Does Not Apply	Member Shurven was not satisfied that the native title parties had established that social or community activities occur on the proposed licence to such an extent that they would be interfered with. Ms Shurven concluded that there was a site of particular significance to the native title holders that was at risk of interference, and so the expedited procedure should not apply. There is no evidence the grant of the licence, or the exercise of any rights created by the grant, is likely to involve major disturbance to the land or waters concerned.

Date	Parties	Coverage	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
02/05/2016	<u>Barbara Sturt and Others</u> v <u>State of Western Australia</u>	100 %	WO2015/0288	WA	Objection – Expedited Procedure Does Not Apply	Member Shurven was not satisfied that the native title parties had established that social or community activities occur on the proposed licence to such an extent that they would be interfered with. Ms Shurven concluded that burial sites of particular significance to the native title holders were at risk of interference, and so the expedited procedure should not apply.

## 7. Native Title in the News

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

## 8. Publications

### AIATSIS

#### ***The right to protect sites: Indigenous heritage management in the era of native title***

The right to protect sites edited by Pamela McGrath brings together a range of authors who explore native title and Indigenous heritage regimes around the country, and charts the history of advocacy and policy development, highlighting the successes, limitations, inequalities and opportunities of current arrangements.

To access this publication, please visit [AIATSIS online publications](#).

#### ***PBC Training and Funding Guides 2016***

The NTRU has compiled 2016 guides for Prescribed Bodies Corporate (PBCs). These toolkits have been created to assist native title holders to access information and resources regarding funding and training opportunities that may be relevant to their RNTBCs.

The 2016 guides are available nationally or for each native title state.

To download the training and funding guides, please visit the [PBC website](#).

### Department of Prime Minister and Cabinet (PM&C)

#### ***Consolidated report on Indigenous Protected Areas following Social Return on Investment analyses***

A recent report on five Indigenous Protected Areas (IPAs) and associated ranger programmes found success across a broad range of outcomes, including improving Indigenous disadvantage.

To read the report, please visit the [PM&C website](#).

### Australian National University (ANU)

#### ***The work of rights: the nature of native title labour***

Resulting from a research project conducted by Pam McGrath in collaboration with Nyangumarta Warrarn Aboriginal Corporation and Yamatji Marlpa Aboriginal Corporation, this publication captures the amount of time and social capital that the

Nyangumarta people have spent over the past 15 years on different aspects of their native title work.

To view this publication, [please visit the ANU E Press website.](#)

### ***Engaging Indigenous Economy - Debating Diverse Approaches***

This collection of essays edited by William Sanders marks the retirement of Jon Altman and includes contributions from the disciplines of economics, anthropology and political science focused on the engagement of Indigenous Australians in economic activity.

To view this publication, [please visit the ANU E Press website.](#)

### ***Let's talk about success: exploring factors behind positive change in Aboriginal communities***

This paper by Janet Hunt draws on interviews with leaders of successful Aboriginal organisations to understand the factors behind the successes that they are achieving in their communities.

This paper is useful for post-determination native title communities. To view this publication, [please visit the CAEPR website.](#)

## **Queensland South Native Title Services**

### ***Annual Report***

Queensland South Native Title Service's [Annual](#) Report for 2014-2015 is now available for download.

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

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

### **AIATSIS**

#### ***Australian Aboriginal Studies***

Australian Aboriginal Studies (AAS) is inviting papers for coming issues. AAS is a quality multidisciplinary journal that exemplifies the vision where the world's Indigenous knowledge and cultures are recognised, respected and valued. Send your manuscript to the Editor by emailing [aasjournal@aiatsis.gov.au](mailto:aasjournal@aiatsis.gov.au).

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

## ORIC

### ***Introduction to Corporate Governance workshop***

ORIC is offering an Introduction to Corporate Governance workshop in Adelaide on 19-21 July 2016.

For native title claimants or PBC members interested in the training, please register with ORIC before 8 July 2016.

For further details and application forms, [please visit the ORIC website.](#)

## 10. Events

### SWALSC

#### ***Survey on genealogical research and information management in native title***

Senior Anthropologist Janet Osborne, SWALSC, is conducting a short survey on genealogical research and information management in native title. The survey will be used to inform NTRBs on issues of resourcing and managing genealogical materials from native title claims.

The survey can be accessed [here](#) and takes approximately 10 minutes to complete.

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 @AIATSIS on Twitter](#) or ['Like' AIATSIS on Facebook](#).

