



WHAT'S NEW IN NATIVE TITLE

October 2015

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1. Case Summaries

[Gorringe on behalf of the Mithaka People v State of Queensland \[2015\] FCA 1116](#)

27 October 2015, Consent Determination, Federal Court of Australia – Windorah, Queensland, Rangiah J

In this decision, Rangiah J recognised the native title rights and interests of the Mithaka People in relation to land and waters covering approximately 33, 752 square kilometres of primarily pastoral lease tenures in south-western Queensland.

The claim was filed on 28 November 2002 and registered on 24 December that year. The claim has been amended three times to accurately reflect the written description and map now contained in Form 1, to reduce the claim area following mediation with the Wangkangurru/Yarluyandi and Yandruwandha/Yawarrarraka peoples, and finally to amend the applicant and claim group. The respondent parties included the State of Queensland, Barcoo Shire Council, Diamantina Shire Council, as well as a number of pastoralists and mining companies.

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

- a) access, be present on, move about on and travel over the area
- b) camp and live temporarily as part of camping, and for that purpose erect temporary shelters
- c) hunt, fish and gather for personal, domestic and non-commercial communal purposes
- d) take, use and share and exchange Natural Resources for personal, domestic and non-commercial communal purposes
- e) take and use the water for personal, domestic and non-commercial communal purposes
- f) conduct ceremonies
- g) hold meetings
- h) teach on the area the physical and spiritual attributes of the area
- i) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas, by lawful means, from physical harm
- j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation
- k) to be buried and to bury native title holders
- l) be accompanied onto the area by certain non-Mithaka People, being:
 - i) immediate family of the native title holders, pursuant to the exercise of traditional laws acknowledged and customs observed by the native title holders; and
 - ii) people required under the traditional laws acknowledged and customs observed by the native title holders for the performance of, or participation in, ceremonies.

From [13] Rangiah J summarised the history of the Mithaka People. Anthropological evidence revealed that the arrival of European squatters had devastating consequences for the region's Aboriginal inhabitants. For example, violence, disease, sexual exploitation and a loss of control of waters were not uncommon experiences for Aboriginal men and women. This was followed by a period of harsh government control from the late 1890s which saw Aboriginal people removed from camps they had established and placed into reserves. This strict control continued until the 1970s when the Queensland government controlled aspects of Indigenous Australians' lives including withholding their wages and requiring government approval to spend it. In his judgment, Rangiah J noted at [14] that the Mithaka

People were a distinct group united by a sense of shared affinity as well as language. Justice Rangiah summarised the anthropological evidence at [18]-[21] as demonstrating that the Mithaka People have held their rights and interests in the area under their traditional laws and customs since prior to sovereignty and have continued to do so to the present day. Evidence provided demonstrated that the rules of the Mithaka People connected to bush resources, hunting, fishing and gathering are part of land management and ensures the lands' sustainability and regeneration.

The Court was satisfied that it should make the orders agreed to by the parties. Justice Rangiah noted at [5] that the costs of anthropological research were shared by the applicant and the State and at [29] that the State, acting on behalf of the local community, was active in the negotiations process. The Mithaka Aboriginal Corporation is the prescribed body corporate.

Watson on behalf of the Nyikina Mangala People (Nyikina Mangala #2) v State of Western Australia [2015] FCA 1132

29 October 2015, Consent Determination, Federal Court of Australia -- Perth, Western Australia, Barker J

In this case, Barker J recognised the native title rights and interests of the Mithaka People in relation to land and waters covering approximately 12.4 square kilometres of land and waters around Udialla, south of Derby.

The application was filed in the Federal Court of Australia on 2 February 2015 over areas of land and waters that were not included in the consent determination recognised on 29 May 2014 in [*Watson on behalf of the Nyikina Mangala People v State of Western Australia \(No 6\) \[2014\] FCA 545*](#) (see AIATSIS case summary in [May 2014 edition of What's New in Native Title](#)). The claimed area includes ten lots of land, three of which are freehold and one leasehold, all held by the Nyikana Mangala Aboriginal Corporation. These areas were excluded in the determination made in 2014 on the basis [s 47A of the Native Title Act 1993 \(Cth\)](#) ('NTA') may apply. The claimed area wholly overlaps the non-determined portion of that decision. The Applicant and the State were the only parties involved in the application.

The Court noted at [12]-[15] that there was sufficient anthropological, ethnographical and historical evidence to demonstrate both the People's connection to, and continued physical presence in the area. Both parties agreed that s 47A of the NTA should apply so as to allow the Court to disregard any prior extinguishment of any native title rights and interests in the area.

The native title rights and interests in relation to each part of the area set out in [Schedule 3](#) of the decision are:

- a) except in relation to flowing and underground waters, the right to possession, occupation, use and enjoyment of that part of the area to the exclusion of all others and
- b) in relation to flowing and underground waters, the right to use and enjoy the flowing and underground waters, including:
 - i) the right to hunt on, fish from, take, use, share and exchange the natural resources waters for personal, domestic, cultural or non-commercial communal purposes; and
 - ii) the right to take, use, share and for personal, domestic, cultural or non-commercial communal purposes

These rights and interests are subject to conditions including that:

The native title rights and interests referred to in paragraphs (b) do not confer possession, occupation, use and enjoyment of those parts are on the native title holders to the exclusion of all others, nor a right to control the access of others to the land or waters of those parts.

The Walalakoo Aboriginal Corporation is the prescribed body corporate.

Burragubba v State of Queensland [2015] FCA 1163

29 October 2015, Costs Disposition, Federal Court of Australia -- Brisbane, Queensland, Edelman J

In this case, the Court ordered that Mr Adrian Burragubba pay the costs that Adani Mining had 'thrown away' as a result of him amending the originating application for judicial review. Mr Burragubba's proposed amendments dropped significant grounds of review in the original application filed on 24 July 2015 for judicial review of a decision made by the National Native Title Tribunal.

Section 85A of the *Native Title Act 1993 (Cth)* ('NTA') requires that unless the Court orders otherwise, each party should bear their own costs. Mr Burragubba accepted that this case did not fall within the rule of the section. However, Mr Burragubba submitted that an order as to costs in relation to his proposed amendments should not be made because:

- the 'spirit' of s 85A of the NTA is relevant to the exercise of the Court's jurisdiction to award costs under s 43 of the *Federal Court of Australia Act 1976 (Cth)*
- he had acted reasonably, seeking to make the amendments five weeks after first engaging representation; and
- s 11(6) of the *Administrative Decisions Judicial (Review Act) 1977 (Cth)* ('ADJR Act') does not limit an applicant to the grounds of review included in his originating application.

The Court accepted that Mr Burragubba's second submission. It also stated at [10] that the third factor even if relevant had little significance and would not be examined. However, the first submission required a more detailed examination.

Justice Edelman reviewed two previous cases where the 'spirit' of s 85A limited the Court's exercise of discretion in some judicial review cases. However, as Edelman J observed at [25] both those cases were applications under the ADJR Act involving the construction of the NTA. He stated at [27] that there were 'strong reasons' why the scope of s 85A's 'spirit' should be limited to those particular circumstances. At [31] Edelman J concluded that even if s 85A was applied, to do so in the circumstances of the costs of the amendment to a judicial review application including amendments to both the factual claims and concerning a denial of procedural fairness would 'be beyond any legitimate application'.

Justice Edelman noted at [32] that if the amendments were merely a reformulation of the original application as Mr Burragubba claimed, the costs he would have to pay would not be significant.

Raymond William Ashwin (dec) and Others on behalf of Wutha v William Carlton Dunlop and Others [2015] NNTTA 46

14 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of a prospecting licence is an 'act attracting the expedited procedure' under [s 237 of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers an area of approximately 0.742 square kilometres and is situated about 2 kilometres east of Cue in the Shire of Cue. The proposed grant is situated wholly overlapped by both the Wutha native title claim and the Yugunga-Nya native title claim. Both native title claim parties lodged objections but the Yugunga-Nya native title claimants withdrew their objection on 16 July 2015. The decision has the consequence that Mr Dunlop and Mr D'Agostino can prospect without prior negotiation with the Wutha claimant.

On 5 June 2015, the Tribunal directed that all contentions and evidence be provided on or before 17 July 2015. The Statement provided by the Wutha native title claimants' contended that the grant of the licence would directly interfere with the social or community activities carried on in the area, would likely interfere with sites of particular significance to the group, and that it is likely to involve, or create rights whose exercise is likely to involve, major disturbance to land or waters. They also proposed to call upon nine witnesses to provide oral evidence. The Tribunal denied an oral hearing as it was satisfied the matter could be determined on the basis of written materials provided. At the listing hearing on 10 September 2015, the Wutha representative stated the parties had reached an agreement and that the objection

would be withdrawn. However, this failed to occur and at a status conference on 30 September 2015 the Wutha representative stated that the objection would not be withdrawn.

In examining the contentions from the Wutha claimant, the Tribunal observed that there was no specific information as to what community or social activities are carried out on the licence, nor were any particular sites identified, and no evidence was provided that the grant would likely involve, or create rights whose exercise would likely cause major disturbance to land or waters. The State had indicated that conditions would be placed on the grant which relate directly to the activities that may or may not be carried out in the licence area.

Yurriyangem Taam v Baibao Resources Pty Ltd and Another [2015] NNTTA 47

14 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence is an 'act attracting the expedited procedure' under [s 237 of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers an area of approximately 241.8 square kilometres and is located 110 kilometres north-west of Halls Creek in the shires of Derby-West Kimberley and Halls Creek. The Yurriyangem Taam claim entirely overlaps the licence. The decision has the consequence that Baibao Resources can explore the licence area without prior negotiation with the Yurriyangem Taam people.

The Yurriyangem Taam representative, Ms Lulu Trancollino, contended in her affidavit that the grant would interfere directly with the group carrying on its community and social activities. Evidence provided demonstrated that activities conducted over the licence area included fishing, hunting goanna, turkey and emu, as well as the gathering of food from the fig trees, native honey and roots from palm trees. Due to the rough road, access to the area was limited to periods of good weather in the dry season. Two existing pastoral leases overlap the licence area and the Tribunal was satisfied pastoral activities had likely interfered. The evidence did not state the frequency of visits, the number of people who travel there or that these activities are particularly tied to or limited to the licence area. As a result, the Tribunal determined that the grant was unlikely to substantially or directly interfere with Yurriyangem Taam activities.

While several sites were identified as sacred, special or very important to Yurriyangem Taam, the Tribunal was not satisfied that they were of 'particular significance' because evidence did not link them to the traditions of the group; or they fell outside the licence area concerned and no clear nexus was demonstrated between the potential activities of Baibao Resources and interference with the site.

The native title claimants voiced their concerns that the exploration activities may damage water sources, bush tucker and special trees. Ms Trancollino observed at [36] that the licence was 'right in the middle of our watershed for the major rivers in the Kimberley'. However, the Tribunal was satisfied that the regulatory regime the State proposed was sufficient and that there was no evidence Baibao Resources would not comply with it.

Walalakoo Aboriginal Corporation RNTBC v William Robert Richmond and Another [2015] NNTTA 48

23 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence was not an 'act attracting the expedited procedure' under [s 237 of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers an area of approximately 13 square kilometres which is around 120 kilometres south of Derby in the Kimberly. Walalakoo Aboriginal Corporation ('WAC') holds the native title rights and interest on behalf of the Nyikina Mangala People. As a result, the State and Mr Richmond must negotiate with WAC about the grant.

WAC contended that community and social activities carried out by the Nyikina Mangala people are likely to be interfered with directly through the grant. These activities included hunting and fishing, collecting bush medicine such as wattle seeds, bush foods like sugarbag honey and other products, camping, caring for the country and for special places and teaching children about the people's knowledge. Some of these activities are carried out outside the licence area adjacent to the South East portion of the licence. However, the Tribunal was satisfied that there was a clear nexus between these activities and those carried out on the licence. Thus there was likely to be substantial and direct interference with the Nyikina Mangala people's activities.

WAC contended that there were a number of sites of particular significance within or next to the licence, namely Clanmyra Pool and Geegully Creek. As noted in [42] these places are considered very special under traditional law and used for camping, hunting, teaching younger people, as well as a 'place where we help the troubled young people to get better'. However, the Tribunal held that Mr Richmond's activities on the licence would be unlikely to interfere with the sites of particular significance because they are located adjacent to the licence and he is aware of their significance.

Isaac Hale and Others on behalf of Bunuba #2 v Mings Mining Resources Pty Ltd and Another [2015] NNTTA 49

23 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence was not an 'act attracting the expedited procedure' under [s 237 of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers an area of 9,805.49 hectares, and is located approximately 87 kilometres north of Fitzroy Crossing in the Shire of Derby-West Kimberley. The Bunuba Dawangarri Aboriginal Corporation RNTBC ('BDAC') is the registered native title holder for the majority of the licence on behalf of the Bunuba people. The remaining 0.1 per cent of the licence is subject to the Bunuba #2 registered native title claim.

The Tribunal disagreed with the State's submission that because BDAC rather than Bunuba #2 held the native title rights and interests in the licence area other than the overlap, the objection should be dismissed. The applicant, Bunuba #2 contended that the grant of the licence was likely to interfere with areas or sites of particular significance to the Bunuba people.

In making the decision, the Tribunal referred to evidence from previous Tribunal decisions regarding some of the same areas. The Tribunal was satisfied that evidence showed there were two sites of particular significance to the Bunuba people, Gunbi and Turtle Hole, and that it was likely burial sites were also likely situated on the licence. There was insufficient evidence in relation to other proposed sites. While the Tribunal accepted that Mings understood its legal obligations and would take steps to minimise the risk of interfering with sites of particular significance, the proposed measures were not adequate in relation to Gunbi. Therefore there was a real risk of interference with particular sites or areas of significance.

AGL Loy Yang Pty Ltd and Another v Gunaikurnai Land & Waters Corporation RNTBC [2015] NNTTA 50

28 October 2015, Inquiry into a Future Act Determination Application, National Native Title Tribunal – Brisbane, Queensland, JR McNamara, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of a retention licence to AGL may be done. The licence covers an area of approximately 1,640 hectares in the Latrobe Valley in the Gippsland Basin, Victoria. The licence covers the same area as AGL's current exploration licence. Gunaikurnai Land and Waters Aboriginal Corporation ('GAC') holds native title over

part of the licence. The Gunaikurnai people's native title claim was determined in October 2015.

AGL submitted that there was no evidence the grant of the licence would have an adverse effect on the members of GAC's enjoyment of their native title rights and interests. AGL and the State both argue that there is no direct evidence that the licence will have any greater impact on the enjoyment of native title rights and interests than the current arrangements. AGL also argued that the grant of the licence would not extinguish native title rights and interests. In return, GAC contends that the environmental impact of burning brown coal will impair their enjoyment of their native title rights and interests. The Tribunal concluded that given the non-exclusive nature of the native title rights and interests, the history of extensive exploration activity on the area, the existence of the previous exploration licence, the nature of the planned activity and the absence of evidence of how native title claimants' enjoy their native title rights and interests, it is unlikely that the enjoyment of the registered rights and interests will be significantly affected by the grant of the licence.

Having examined each aspect of [s 39 of the Native Title Act 1993 \(Cth\)](#), the Tribunal ultimately concluded that while GAC raised environmental concerns, they did not relate directly to the particular future act in consideration. The Tribunal also held that the evidence of the act's potential economic significance and public interest, although not particularly strong, and despite resistance from GAC, supported the determination that the act may be done. The Tribunal also noted at [109] that if AGL wants to have the ability to mine on the area, they will have to apply for a mining tenement, which will require an additional and separate future act process.

Murray on behalf of Yilka v Gold Road Resources and Another [2015] NNTTA 51

30 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the National Native Title Tribunal ('the Tribunal') determined that the proposed grant of an exploration licence was not an 'act attracting the expedited procedure' under [s 237 of the Native Title Act 1993 \(Cth\)](#) ('NTA'). The licence covers 1209 hectares and is located approximately 82 kilometres east of the Cosmo Newberry mission. The Yilka registered native title claim entirely overlaps the licence.

The Yilka native title claimants contend that they undertake social and community activities in the area including hunting. However, the Yilka people only provided general details. In light of this context, as well as the limited number of days and number of explorers who will access the licence, it is unlikely that the activities will be

directly interfered with by the activities of Gold Road. The Tribunal was satisfied that there are areas of particular significance to the Yilka claimants in the north east and south west of the licence, that the boundaries of those areas are recognised as exclusion zones by Gold Road, that ground disturbing activities including drilling will likely take place close to these areas and that the requirements in the States regulatory regime and agreements to mitigate the effects of these works. Therefore, the activities of Gold Road are likely to interfere with areas or sites of particular significance to the Yilka people.

Raymond William Ashwin (dec) and Others on behalf of Wutha v Ross Frederick Crew [2015] NNTTA 52

30 October 2015, An Inquiry into an Expedited Procedure Objection Application, National Native Title Tribunal – Perth, Western Australia, H Shurven, Member

In this matter, the Tribunal dismissed an objection against the proposed grant of a prospecting licence attracting an expedited procedure to Mr Crew. The Wutha native title claim wholly overlaps the licence.

On 25 August 2015, the Tribunal made directions requiring all parties to provide contentions and evidence by 6 October 2015. The Wutha people failed to produce either. As a result, the State requested that the objection be dismissed. The Tribunal wrote to both parties requesting their response by 16 October. Mr Crew provided contentions on 19 October 2015. However, the Wutha people failed to respond to a second request to provide evidence or to request an extension.

2. Legislation

New South Wales

Fisheries Management Amendment Bill 2015

Status: The Bill was initially introduced to the Legislative Council on 21 October 2015, the second reading speech took place on the same day.

Stated purpose: The purpose of the Bill is to amend the *Fisheries Management Act 1994* (NSW) to allow for the management of fishery resources.

Native title implications: A similar bill was passed by the Legislative Assembly in November 2014. However, it did not progress through the Legislative Council.

The Bill contains provisions relating to Aboriginal cultural fishing, advisory committees, possession limits, and the Aboriginal Trust Fund.

The Bill establishes the Aboriginal Fishing Trust Fund. Fees for services provided by the Department, fees for permits, and other money received by the Department for the purposes of enhancing, maintaining, or protecting Aboriginal cultural fishing shall

be paid into the trust. Funds for providing economic development opportunities for Aboriginal communities in relation to fishing or fishing-related activities will also be paid into the Fund. The Fund may be used for enhancing, maintaining, or protecting Aboriginal cultural fishing, or for providing fishing or fishing related economic development opportunities.

The Minister may approve the taking and possession of fish or marine vegetation including for the purpose of Aboriginal cultural fishing, which remains, by definition, non-commercial. The Minister cannot grant an approval for Aboriginal cultural fishing if the authorised fishing activities would be inconsistent with native title rights and interests under an approved determination. The Minister can impose possession limits for fish, in addition to existing regulatory possession limits but must consult any relevant advisory group or council about any proposal to specify or change daily catch limits.

The Bill abolishes the Management Advisory Committee and allows the Secretary to establish and abolish advisory groups under the Act. In relation to proposed management plans, the Minister is to consult with any advisory councils or groups representing commercial or recreational fishers' interests, Indigenous interests, or conservation interests. The Act also contains a provision authorising the Minister to make orders requiring live abalone holders to implement specified measures to minimise the risk of declared disease transmission.

For further information please see the [Second Reading Speech](#) from the Legislative Council.

[Mining Act 1992](#)

Status: This Act has been amended by three bills passed on the 21 October 2015; [Mining and Petroleum Legislation Amendment \(Grant of Coal and Petroleum Prospecting Titles\) Bill 2015](#), [Mining and Petroleum Legislation Amendment \(Harmonisation\) Bill 2015](#), and [Mining and Petroleum Legislation Amendment \(Land Access Arbitration\) Bill 2015](#).

Stated purpose: The purpose of these amendments is to consolidate all mining and petroleum legislation in NSW into one act, make provisions for the competitive selection of coal and petroleum title, and improve the negotiation, mediation and arbitration processes between landowners and coal and petroleum companies.

Native title implications: The amendments introduce a regulatory framework for the allocation of coal and petroleum titles. The amendments make the entire State a controlled area, which means that the Government must decide where and when it wishes to release areas for exploration. It is only after the Government has released a piece of land for exploration that a company may apply for a licence to that land. Exploration licences will be granted by way of a competitive selection process.

The amendments also provide the Government with broader powers to impose and vary conditions attached to exploration titles and broader grounds on which mining authorisations and petroleum titles may be granted, suspended, or cancelled.

The amendments also provide provisions on how land access agreements are to be negotiated between landowners and companies. During mediation and arbitration, parties have an express right to legal representation, and both parties must act in good faith throughout the process. Landholders' costs incurred in the negotiation, mediation, or arbitration are to be met by titleholders; however, this amount is capped to ensure it remain reasonable. Lastly, the arbitrator has an express right to undertake a site inspection, either as part of mediation or arbitration.

The amendments may affect native title holders in relation to future acts, and in the negotiation, mediation and arbitration of land access agreements.

For further information please see the [Second Reading Speech](#) from the Legislative Assembly.

Petroleum (Onshore) Act 1991

Status: This Act has been amended by three bills passed on the 21 October 2015; [Mining and Petroleum Legislation Amendment \(Grant of Coal and Petroleum Prospecting Titles\) Bill 2015](#), [Mining and Petroleum Legislation Amendment \(Harmonisation\) Bill 2015](#), and [Mining and Petroleum Legislation Amendment \(Land Access Arbitration\) Bill 2015](#).

Stated purpose: This act was amended to bring it in line with the Mining Act 1992.

Native title implications: The amendments to this act will have the same implications as the Mining Act 1992 because these two Acts are now in line with one another.

For further information please see the [Second Reading Speech](#) from the Legislative Assembly.

Protection of the Environment Operations Act 1997

Status: This Act was amended by the [Protection of the Environment Operations Amendment \(Enforcement of Gas and Other Petroleum Legislation\) Bill 2015](#) passed on the 21 October 2015.

Stated purpose: The amendment established the Environmental Protection Agency as the lead regulator responsible for compliance and enforcement of environmental conditions including water, land, and noise pollution and rehabilitation.

Native title implications: The Environmental Protection Agency will be responsible for the compliance and enforcement of conditions imposed upon companies relating to the environment that may impact on native title lands impacted by coal and petroleum activities.

For further information please see the [Second Reading Speech](#) from the Legislative Assembly.

Queensland

[Nature Conservation and Other Legislation Amendment Bill 2015](#)

Status: The Bill was introduced on 27 October 2015 and referred to Committee the same day.

Stated purpose: The Bill amends several pieces of legislation which impact on the administration and management of protected areas managed by the Queensland Parks and Wildlife Service.

Native title implications: The current legislation has its objective as ‘the conservation of nature’ but allows for reference to other objectives including ‘the involvement of Indigenous people in the management of protected areas in which they have and interest under Aboriginal tradition or Island custom’. The Bill will amend the *Nature Conservation Act 1992* so that it has a sole objective, ‘the conservation of nature’. The Bill also reinstates national parks (scientific) as a class of protected area and the requirement that only Parliament’s resolution can either revoke or lessen the applicable protection level. The classes ‘conservation park’ and ‘resources reserve’ will also be reinstated. The result is that different use and management approaches will apply to each distinct class. Additionally, this Bill removes the exemption from undertaking public consultation on proposed amendments to management plans.

Part 3 of the Bill amends the *Aboriginal Land Act 1991* to set up a process to make regional parks on the Cape York Peninsula transferrable under regulations and to improve the process for converting regional parks to jointly managed national park as Cape York Peninsula Aboriginal land. The Explanatory Notes state that the amendments do not apply to areas outside the Cape York Peninsula Region and that the intention is not to make all protected areas on the Peninsula transferrable.

The amendment to the *Environmental Protection Act 1994* in Part 4 of the Bill defers the expiration of existing eligibility criteria and standard conditions for mining activities for one year until 31 March 2017. There are also consequences for rolling term leases within nature conservation areas and particular national parks.

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

[North Stradbroke Island Protection and Sustainability \(Renewal of Mining Leases\) Amendment Bill 2015](#)

Status: The Bill was introduced on 27 October 2015 by Katter’s Australian Party and was subsequently referred to Committee.

Stated purpose: This Bill amends the existing legislation by ending mining activities in the North Stradbroke Island Region by the end of 2024 and to provide time for the land’s rehabilitation until the end of 2029.

Native title implications: The existing legislation states that the mining leases will end over the land in 2019. Under the proposed changes, the mining lease in the North Stradbroke Island Region would end after 31 December 2024. As a result, after that date ‘the winning of a mineral’ from the area of the lease is not an authorised activity for the lease. The mining lease ends at the end of 31 December 2029 and cannot be renewed after that date. The Bill also defines a ‘restricted mine path’ which is designed to promote the area’s rehabilitation.

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

Victoria

[Crown Land Legislation Amendment \(Canadian Regional Park and Other Matters\) Bill 2015](#)

Status: The Bill was introduced on 20 October 2015 and was moved for a Second Reading on the following day.

Stated purpose: The Bill has several purposes including the creation of new parks and wildlife reserves, as well as amending the *National Parks Act 1975* to alter the boundaries of several existing parks.

Native title implications: Part of the Bill amends the *National Parks Act 1975*. Section 38 of the Bill states that these amendments are not intended to affect native title rights and interests, unless they are affected or authorised to be affected under the *Native Title Act 1993* (Cth).

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

Western Australia

[Noongar \(Koorah, Nitja, Boordahwan\) \(Past, Present, Future\) Recognition Bill 2015](#)

Status: The Bill was introduced into the Legislative Assembly on the 14 October 2015 and the Second Reading took place on the same day.

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 the [Second Reading Speech](#).

3. Native Title Determinations

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

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC/PBC
Nyikina Mangala #2	Watson on behalf of the Nyikina Mangala People (Nyikina Mangala #2) v State of Western Australia	29/10/2015	WA	Native title exists in parts of the determination area	Consent	Claimant	N/A
Mithaka People	Gorringe on behalf of the Mithaka People v State of Queensland	27/10/2015	WA	Native title exists in the entire determination area	Consent	Claimant	N/A

4. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

[The Native Title Research Unit](#) within AIATSIS maintains a [RNTBC summary document](#) which provides details about RNTBCs and PBCs in each state/territory including the RNTBC name, RNTBC type (agent or trustee) and relevant native title determination information. The statistics for RNTBCs as of 9 October 2015 can be found in the table below.

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

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

Table 1: National Registered Native Title Bodies Corporate (RNTBCs) Statistics (27 October 2015)

State/Territory	RNTBCs	No. of successful (& conditional) claimant determinations for which RNTBC to be advised
Australian Capital Territory	0	0
New South Wales	6	0
Northern Territory	19	39
Queensland	69	5
South Australia	14	0
Tasmania	0	0
Victoria	4	0
Western Australia	33	3
NATIONAL TOTAL	145	47

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 27 October 2015.

5. Indigenous Land Use Agreements

In October 2015, 2 ILUAs were registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
22/10/2015	<u>Karajarri Traditional Lands Association KSCS Eighty Mile Beach ILUA</u>	WI2015/010	Body Corporate	WA	Co-management, Access
15/10/2015	<u>Ewamian - Etheridge Shire Council (Charleston Dam Project) ILUA</u>	QI2015/046	Body Corporate	QLD	Infrastructure, Community

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

6. Future Acts Determinations

In October 2015, Future Acts Determinations were handed down.

Determination date	Parties	Tribunal file no.	State or Territory	Decision/ Determination
30/10/2015	<u>Harvey Murray on behalf of the Yilka Native Title Claimants (WC2008/005) (native title party)</u> - and - <u>The State of Western Australia (Government party)</u> - and - <u>Gold Road Resources Ltd (grantee party)</u>	WO2014/0813	WA	Objection - Expedited Procedure Does Not Apply
30/10/2015	<u>Raymond William Ashwin (dec) and Others on behalf of Wutha (WC1999/010) (native title party)</u> -and- <u>The State of Western Australia (Government party)</u> -and- <u>Ross Frederick Crew (grantee party)</u>	WO2015/0345	WA	Objection - Dismissed
28/10/2015	<u>Gunaikurnai Land & Waters Aboriginal Corporation RNTBC (VCD2010/001) (native title party)</u> - and - <u>The State of Victoria (government party)</u> - and - <u>AGL Loy Yang Pty Ltd (grantee party)</u>	VF2015/0001	VIC	Future Act - May be done
23/10/2015	<u>Walalakoo Aboriginal Corporation RNTBC (native title party)</u> - and - <u>The State of Western Australia (Government party)</u> - and - <u>William Robert Richmond (grantee party)</u>	WO2015/0020	WA	Objection - Expedited Procedure Does Not Apply

Determination date	Parties	Tribunal file no.	State or Territory	Decision/ Determination
23/10/2015	<u>Isaac Hale and Others on behalf of Bunuba #2 (WC2012/004) (native title party)</u> - and - <u>Mings Mining Resources Pty Ltd (grantee party)</u> - and - <u>The State of Western Australia (Government party)</u>	WO2013/1345	WA	Objection - Expedited Procedure Does Not Apply
14/10/2015	<u>Raymond William Ashwin (dec) and others on behalf of Wutha (WC1999/010) (native title party)</u> - and - <u>William Carlton Dunlop (first grantee party)</u> - and - <u>Tony Carmello D'Agostino (second grantee party)</u> - and - <u>The State of Western Australia (Government party)</u>	WO2015/0095	WA	Objection - Expedited Procedure Applies
14/10/2015	<u>Peggy Patrick & Others on behalf of Yurriyangem Taam (WC2010/013) (native title party)</u> - and - <u>The State of Western Australia (Government party)</u> - and - <u>Baibao Resources Pty Ltd (grantee party)</u>	WO2014/0589	WA	Objection - Expedited Procedure Applies

7. Native Title in the News

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

8. Related Publications

Publications

Queensland South Native Title Services

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

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

Media Releases, News Broadcasts and Podcasts

Central Land Council

Australia owes traditional owners for their successful campaign to protect Watarrka

On the evening of 24 November traditional owners celebrated a well-deserved victory to save Watarrka (Kings Canyon) National Park from mining oil and gas. The Central Land Council has supported the traditional owner's opposition to Palatine Energy's application, and endorsed the engagement of the Environmental Defenders Office to make a last minute application to protect their country in accordance with federal heritage laws.

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

CLC to consult neighbours of shortlisted nuclear waste site

The Central Land Council (CLC) plans to consult Aboriginal communities living on the Mpewelarre Aboriginal Land Trust in relation to a proposed nuclear waste dump. The CLC is 'currently preparing information materials while seeking details about the proposal, the process and the compensation package for local projects.'

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

Northern Land Council

NLC puts NT Government on notice

The Northern Land Council (NLC) has warned the Northern Territory Government that the weakening of the Sacred Sites Act will be opposed. The Northern Territory Government is set to engage a consultancy firm to provide advice on reducing the bureaucratic processes of the Act, which will provide more confidence for other economic development interests. The NLC are also currently preparing a submission to Parliament that will discard any changes to the Act. NLC Chairman Samuel Bush-Blanasi said 'sacred sites are at the heart of our Aboriginal culture and customary law. Any attempts to put development before the protection of our culture will be condemned absolutely.'

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

Native Title recognised at Booraloola

Approximately 300 traditional owners and native title holders and their families came together on the McArthur River in the township of Borrooloola to celebrate the Federal Court's decision to recognise native title rights over six pastoral leases covering more than 15,000 square kilometres of Gulf country. At the ceremony, the Northern

Land Council's Chairman Mr Bush-Blanasai said 'that Aboriginal people of the Gulf country ha[ve] a long history of attempting to get their rights organised, against a sorry history of brutal and often bloody occupation.'

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

Land Councils urge Senate support for positive Land Rights Act amendments

The Northern and Central Land Council have endorsed the Federal Government's proposal for significant amendments to the Aboriginal Land Rights Act (ALRA) which will allow for 'some of the land council's functions to be delegated to Aboriginal corporations.' The amendments will ensure that any potential delegation to an Aboriginal corporation occurs with traditional owner consent, and the cooperation of the land council.

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

Queensland South Native Title Services

Mithika People Celebrate Huge Queensland Native Title Win

The Mithika People have been recognised in the Federal Court of Australia as the Native Title Holders of land and water spanning more than 33,800 square kilometres in Queensland's south-west. Mithika Elder, Scott Gorringer said 'the milestone achievement opens new doors that will empower Indigenous communities across the region.'

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

Yamatji Marlpa Aboriginal Corporation

New Agreement Signed with Banjima People

The Banjima People in Western Australia and BHP Billiton have recently signed a new native title agreement. The determination area covers 8,263 square kilometres in the south of the Pilbara. Simon Hawkins, CEO of Yamatji Marlpa Aboriginal Corporation, the native title representative body for the Banjima People, said 'this agreement between BHP Billiton Iron Ore and the Banjima People is a positive outcome after many years of negotiation. It shows that mining and traditional owners can co-exist if parties are willing to listen and work co-operatively.'

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

9. Training and Professional Development Opportunities

AIATSIS

Australian Aboriginal Studies

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

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

10. Events

AAS Pre-Conference Assembly

Pre-Conference Assembly for Native Title Anthropologists

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

Date: 1 December 2015

Location: University of Melbourne

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

Children's Healthcare Australasia and National Rural Health Alliance

Caring for Country Kids Conference

Children's Healthcare Australasia (CHA) and the National Rural Health Alliance (NRHA) are joining forces to host a national Conference on quality healthcare for children and young people living in rural, regional and remote communities across Australia.

Date: 17-19 April 2016

Location: Alice Springs Convention Centre, NT

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

History Council of NSW

Aboriginal History Prize 2016 – Call for Submissions

The inaugural History Council of NSW's Aboriginal History Prize will be awarded in 2016. The purpose of this award is to encourage students and early career historians to write Australian Aboriginal history from original sources.

Date: Deadline for Nominations is 31 March

Location: History Council of NSW

For further information, please contact admin@historycouncilnsw.org.au

InASA: International Australian Studies Association

Call for Paper – Indigenous Intervention into 'Indigenous Narrative'

The Institute of American Indian Arts in the Indigenous Liberal Studies Department is convening an interdisciplinary conference exploring the notion of 'Indigenous Narrative', focusing on ideas related to Indigenous experiences of narrative in culture, literature, philosophy, history, politics, economics, film, television, art, music, social theory and business.

Date: March 31 – April 2, 2016

Location: The Institute of American Indian Arts, Indigenous Liberal Arts Department, Sante Fe, USA

For further information, please contact swall@iaia.edu.

NAISA 2016

2016 Annual Meeting

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

Date: 18-21 May 2016

Location: University of Hawaii, Honolulu

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

University of Tasmania and the Australian National University

Indigenous Peoples & Saltwater/ Freshwater Governance for a Sustainable Future

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

Date: 11-12 February 2016

Location: University of Tasmania, Hobart

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

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.

