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AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES

WHAT'S NEW IN NATIVE TITLE

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1. Case Summaries

I.S (Deceased) on behalf of the Wajarri Yamatji People (Part A) v State of Western Australia [2017] FCA 1215

19 October 2017, Consent Determination, Federal Court of Australia, Western Australia, Griffiths J

In this matter, Griffiths J made orders by consent recognising the native title rights and interests of the Wajarri Yamatji people in relation to Part A of the claim area. The claim area is approximately 225km east of Carnarvon and approximately 400km north of Perth. It covers approximately 68,743km^2 of land and waters in the City of Greater Geraldton and the Shires of Chapman Valley, Cue, Meekatharra, Mount Magnet, Murchison, Northampton, Shark Bay, Upper Gascoyne and Yalgoo. The respondent parties were the Western Australian and Commonwealth governments, the Shires of Meekatharra, Mount Magnet and Yalgoo, Telstra Corporation Limited, 56 pastoral lessees and Yamatji Marlpa Aboriginal Corporation.

The application was separated into Part A and Part B, the latter being overlapped by the Wajarri Yamatji #2, Mullewa Wadjari Community and Widi Mob Applications. The Part A determination area contains 56 pastoral leases as well as areas of Crown reserve and unallocated Crown land. It also includes the area subject to the lease granted to the Commonwealth Scientific and Industrial Research Organisation

(CSIRO) pursuant to the Murchison Radio-astronomy Observatory Agreement, as well as a large number of mining tenements.

The Wajarri Yamatji application is the result of the combination between 1999 and 2005 of seven native title determinations filed in the Court or lodged with the National Native Title Tribunal. Since the consolidation, the Wajarri Yamatji Application has been amended four times.

Griffiths J made the following observations at [48]: 'Under Wajarri Yamatji traditional laws and customs, the determination area is, and has been since prior to sovereignty, the traditional country of the Wajarri Yamatji…While the Wajarri Yamatji attracted the attention of early ethnographers, it is not possible to definitively state the nature and content of the normative body of laws and customs under which rights and interests in land were held at sovereignty. It is likely that they comprised local family groups whose territories (or "runs") were associated with a series of sites and waterholes (bimara). These ritually and mythologically important sites were the focus of cultural activity including the transmission of knowledge from one generation to the next. The local family group had subsistence rights in respect of the territory comprising that family's run. While the local family groups may have been discrete in terms of their membership, their respective territories were not. There was a degree of overlap. A number of sites and waterholes were known throughout the region.'

His Honour continued at [50]: 'Today, rights in Wajarri Yamatji country are still localised, but within the proposed determination area decision-making occurs at a sub-group level. The sub-groups are themselves comprised of a number of "station groups". Authority within the Wajarri society is dependent upon having first-hand knowledge of, and experience of, the country to which one is entitled by birth. [51] For most of the 20th century, Wajarri Yamatji continued to subsist in traditional ways and look after their country while they were engaged in full-time labour on the pastoral stations. They have passed this knowledge on to their family members over successive generations.'

The parties reached an agreement in accordance with s 87A of the *Native Title Act 1993* (Cth) (NTA) as to the terms of a determination. Griffiths J noted that the Court may make the relevant order under either s 87 (see ss 87(1)(a)(ii) and (3)) or s 87A of the NTA. The repeal of s 87 (1)(d) of the NTA, means that the Court no longer has to first consider whether the order should be made under s 87A rather than s 87 of the NTA. The parties submitted that where it is possible for an order to be made under both ss 87 and 87A it is preferable to use 87A. This is because the balance of the Wajarri Yamatji Application (i.e. the portion overlapped by the Wajarri Yamatji #2, Mullewa Wadjari Community and Widi Mob Applications) will then be deemed to be amended to remove the area covered by the proposed determination (s 64(1B) NTA) and will also be exempt from the re-application of the registration test (s 190A(1A) NTA). The application will remain registered following the amendment, and the Native Title Registrar will be obliged to amend the Register of Native Title Claims even though the registration test has not been re-applied (s 190(3)(a) NTA).

His Honour was satisfied that the proposed determination was appropriate and within the power of the Court and made orders under s 87A declaring the determination.

The parties informed the Court that the applicant is not in a position to seek a determination that their native title be held in trust by a prescribed body corporate at this time. Accordingly, the Court was not requested to make a determination in accordance with ss 55, 56 and 57 of the NTA.

Lyndon on behalf of the Budina People v State of Western Australia **[2017] FCA 1214**

16 October 2017, Consent Determination, Federal Court of Australia, Western Australia, Griffiths J

In this matter, Griffiths J recognised the non-exclusive native title rights of the Budina people. The traditional country of the Budina people is approximately 150km east of Coral Bay, to the south east of Exmouth in Western Australia. The claim area covers approximately 4,096 square kilometres of land in the Yamatji region and is located in the Shires of Ashburton, Carnarvon and Upper Gascoyne. Griffiths J made the determination at an on country hearing held on Lyndon Station. The respondent parties were the State of Western Australia, Shire of Carnarvon, DBNGP (WA) Nominees Pty Ltd and a number of pastoral lessees.

The application was filed in the Court on 18 June 2004 and amended in 2005. It borders the Thalanyji determination area to the north, the Thudgari determination area to the east and south, and the Gnulli claim area to the west. The claim area includes the majority of Towera and Lyndon stations, parts of Emu Creek and Uaroo stations, and very small portions of Middalya, Mangaroon and Maroonah stations. It is bisected northwest to southeast by the Yannarie River, and includes a portion of the Lyndon River in the south.

The native title rights and interests include the rights of access, to hunt, fish, gather, take and use traditional resources, and engage in cultural activities on the land.

The pastoral group number four respondents in respect of Emu Creek station, Lyndon station, Middalya station and Towera station agreed to the terms of the determination, on the basis of each having reached agreement with the applicant in relation to those portions of their respective pastoral leases that are situated within the determination area. Following the determination, the agreements will be executed and applications will be made for the agreements to be registered as Indigenous Land Use Agreements on the Register of Indigenous Land Use Agreements pursuant to s 24BG of the *Native Title Act 1993* (Cth) (NTA).

Pursuant to s 87(1) of the NTA, the parties filed an agreement setting out the terms of the determination. Pursuant to s 87(2) of the Act, the parties requested that the Court determine the application without holding a hearing.

Griffiths J made the following observations at [22]: ‘The Budina People's connection to country is inherently religious and spiritual. The spirits of Budina old people reside in Budina land and waters and imbue the land and waters with power over the living. Their presence regulates behaviour toward kin and country. The Budina People's belief that their ancestors inhabit the landscape provide them with the connection to land from which their rights in land arise. This foundational religious belief affects the behaviours and experiences of Budina People today. The Budina People today are descended from Budina ancestors, who occupied Budina country at or before effective sovereignty. Budina People must have a connection to Budina country, and be recognised by other Budina People as being Budina.’

His Honour was satisfied that the proposed determination was appropriate for an order under s 87 NTA and made orders by consent accordingly. The Budina Aboriginal Corporation (ICN 8705) will hold the determined native title in trust for the native title holders pursuant to s 56(2)(b) NTA.

K.D. (deceased) on behalf of the Mirning People v State of Western Australia (No 4) **[2017] FCA 1225**

24 October 2017, Consent Determination, Federal Court of Australia, Western Australia, Robertson J

In this matter, Robertson J made orders by consent recognising the native title rights and interests of the Mirning people in relation to an area in south eastern Western Australia. The respondent parties included the Western Australian and Commonwealth governments, City of Kalgoorlie-Boulder, Brie McClure Campbell and Colin John Campbell, Roderick Steel Campbell, CC Cooper & Co Pty Ltd, Clare Elizabeth Lewis and Matthew Rodney Lewis, and Telstra Corporation Limited. The application was filed in February 2001.

The traditional country of the Mirning native title claimants comprises a strip of coastal country, which includes high cliffs of the western portions of the Great Australian Bight, as well as extensive coastal dunes. To the north the area includes portions of the limestone plateau and parts of the Nullarbor Plain. The eastern boundary of the Mirning application area is the South Australian border.

The non-exclusive native title rights and interests include rights to access and use the land and waters and resources of the area, to practice traditional religious customs and maintain and protect from harm particular sites and areas of significance. The rights and interests in relation to the exclusive rights area confer the right to possession, occupation, use and enjoyment to the exclusion of all others.

His Honour observed at [6] that: ‘whilst all of the Mirning native title claimants currently live outside of the determination area, they continue to access the area as often as they are able, to take and use resources and to teach their children about the determination area. There is a shared acknowledgement that under traditional

law and custom the permission of the Mirning native title claimants is needed to enter the determination area in order to avoid danger to persons and to country.'

Robertson J stated at [44]: 'I am satisfied that the parties have freely and on an informed basis come to an agreement. In this respect I note that the Applicant and the State have each been legally represented throughout the case management process and it is apparent that the State has taken "a real interest in the proceeding in the interests of the community generally": *Munn for and on behalf of the Gunggari People* [2001] FCA 1229 at [29]. I accept that in so doing, the State (acting in the interests of the community generally, including the claimants), having regard to the requirements of the *Native Title Act*, and having made its assessment of the sufficiency of the evidence, has satisfied itself that the determination is justified in all the circumstances.'

His Honour concluded stating at [44]: 'I refer in this respect to *Western Bundjalung People v Attorney General of New South Wales* [2017] FCA 992 at [20], where Jagot J spoke of "ensuring prima facie cogent claims are resolved by agreement in a timely and fair manner, at a reasonable and proportionate cost to claimant groups" as being an important part of the public interest the State is intended to protect and promote.' The Court made orders by consent which recognised that the Mirning native title claimants have, and always have had, native title rights and interests in land within the area the subject of the application.

Taylor v State of Western Australia (No 2) [2017] FCA 1255

27 October 2017, Consent Determination, Federal Court of Australia, Western Australia, McKerracher J

In this matter, McKerracher J made orders by consent recognising the native title rights and interests of the Kulyakartu people in relation to Part B of their native title application over an area of the Great Sandy Desert in the East Pilbara region of Western Australia. The respondent parties included the Western Australian and Commonwealth governments.

In September 2016 Barker J made orders separating native title determination applications WAD 293 of 2005 and WAD 720 of 2015 (collectively, the Kulyakartu applications) into Part A and Part B. Part B comprises the land subject to petroleum exploration permit EP448. In October 2016 a consent determination was made in relation to Part A: *Taylor v State of Western Australia* [2016] FCA 1191.

The land covered by this consent determination is subject to Petroleum Exploration Permit EP448 issued on 16 June 2006 under the *Petroleum and Geothermal Energy Resources Act 1967 (WA)* (the PGERA). Part B was put on hold pending the outcome of litigation in Ngurra Kayanta Part B, which concerned an issue that was also in dispute between the parties in the Kulyakartu applications – whether s 47B of the *Native Title Act 1993* (Cth) (NTA) was disapplied by the petroleum exploration

permits granted pursuant to the PGERA. In May 2017, Barker J delivered judgement in Ngurra Kayanta Part B: *Helicopter Tjungarrayi on behalf of the Ngurra Kayanta People v State of Western Australia (No 2)* [2017] FCA 587. His Honour held that s 47B NTA applied to disregard prior extinguishment over areas covered by two petroleum exploration permits granted pursuant to the PGERA.

The determination recognises the native title rights and interests to possess, occupy, use and enjoy the determination area to the exclusion of all others on the premise that s 47B of the NTA applies to the land the subject of the determination and thus the creation of any prior interests in the land must be disregarded. McKerracher J observed at [4] that 'apart from that issue, there was no dispute between the parties in relation to all other issues which needed to be resolved in order for the Court to make a determination of native title in respect of Part B. In particular, there was (and remains) no dispute that one or more members of the native title claim group in respect of native title determination application WAD 720 of 2015 occupied Part A and Part B, within the meaning of s 47B(1)(c) of the *Native Title Act*, at the date application WAD 720 of 2015 was made.'

The Commonwealth has appealed to the Full Federal Court (WAD 442 of 2017) in respect of the Ngurra Kayanta Part B determination in which it contends that Barker J in *Helicopter* erred in finding that the petroleum exploration permits were not 'permissions or authorities' pursuant to s 47B(1)(b)(ii) of the NTA. As such, there is still legal uncertainty as to the application of s 47B NTA over the Kulyakartu Part B application. The Commonwealth recognised that the resolution of the legal uncertainty may take some time and agreed to consent to a determination of native title in Part B that reflects Barker J's decision in *Helicopter*. The agreement is subject to the proviso that, following final judicial consideration of Barker J's rulings in *Helicopter*, the Commonwealth may seek a variation of the proposed determination in accordance with s 13(1) and s 13(5) of the NTA so that the determination would not recognise any native title right to control access to Part B.

The State of Western Australia has also filed an appeal to the Full Federal Court (WAD 444 of 2017) in respect of the Ngurra Kayanta Part B determination in which it contends that Barker J erred in holding that the petroleum exploration permits in respect of that determination area were not 'leases' pursuant to s 47B (1)(b)(i) of the NTA. Notwithstanding that appeal, the State consented to a determination that reflects the current state of the law as per Barker J's decision in *Helicopter*.

A prescribed body corporate had not been established at the date of judgement and consequently the Court did not make a determination in accordance with ss 55, 56 and 57 NTA. The determination will take effect upon the making of a determination under s 56(1) or s 57(2) NTA.

Buurabalayi Thalanyji Aboriginal Corporation v Onslow Salt Pty Ltd [2017] FCA 1240

20 October 2017, Practice and Procedure – Contract, Federal Court of Australia, Western Australia, McKerracher J

In this matter McKerracher J considered the construction of the dispute resolution clause in a development deed between Onslow Salt and the Thalanyji people. His Honour ordered that Onslow Salt's application for a stay of proceedings be dismissed and that the company pay the applicant's costs. His Honour noted that none of the matters represented findings of the Court, but were taken purely from the statement of claim, comprising some ninety (90) pages.

The Buurabalayji Thalanyji Aboriginal Corporation (BTAC) commenced proceedings, on various grounds, against Onslow Salt Pty Ltd and the State of Western Australia. Central to the dispute was a deed, described as a development deed, executed by Onslow Salt and various native title claimants (who are now represented by BTAC) in March 1996. Onslow Salt complained that BTAC, by commencing proceedings, failed to comply with the requirements of a dispute resolution clause (DRC) within the deed. Onslow Salt sought a stay of the proceedings.

The complaint that BTAC did not confer or refer the dispute to an expert in the manner and terms designated in the DRC was not disputed. However, the requirement to do so was challenged. It was contended that the nature of the dispute is not one to which the DRC is directed and further that it would be impossible on any realistic assessment for an expert to resolve the issues that arose in the dispute.

The statement of claim

Since September 2008, BTAC has held the non-exclusive native title rights and interests of the Thalanyji people on trust. By the Onslow Salt Agreement entered into on 2 November 1992 between Onslow Salt and the State, and ratified by the *Onslow Solar Salt Agreement Act 1992* (Cth), the State agreed to grant a mining lease to Onslow Salt under the *Mining Act 1978* (WA) for evaporites in respect of the land in the salt mining area as described under the Agreement. The Agreement was designated as being one of the 'Other Interests' in the determination area, specifically, tenement AM 7000273 (the Mining Lease), held by Onslow Salt from the date of grant, being 16 April 1996.

By clause 7 of the Agreement, Onslow Salt was entitled to submit, for approval by the Minister, additional proposals to allow it to significantly expand, modify or otherwise vary its activities beyond approved activities or for the development of the area specified in that clause. Any such mining lease was to be substantially in the form of the schedule to the Onslow Salt Agreement. Onslow Salt was to pay rent and could surrender to the State any portion of the salt mining area with the approval of the Minister. It was to pay royalties to the State on all salt produced and transported

under the Onslow Salt Agreement. Under circumstances described in the Onslow Salt Agreement, the State could resume any part of the salt mining area.

It was argued that the power of the Minister to approve any additional proposal under cl 7 of the Agreement was subject to conditions, implied by law, that such power could only be validly exercised to approve a genuine and accurate additional proposal submitted to the Minister; in a bona fide manner and not for any ulterior or improper purpose; and subject to the terms and conditions of the Mining Lease.

On 14 April 1996, the Minister, pursuant to the Agreement, granted the Mining Lease which covered the salt mining area. The salt mining area is located to the southwest of the town of Onslow, near the coast. The Thalanyji native title area covers the salt mining area.

It was further argued that Chevron Australia Pty Ltd had planned for and, since 2011, operated the land based part of its Wheatstone liquefied natural gas project (Wheatstone Project) adjacent to and to the west of the salt mining area in the Ashburton North Strategic and Industrial Area (ANSIA).

Since 18 September 2008 BTAC has been a party to the deed pursuant to s 24EA(1)(b) of the *Native Title Act 1993* (Cth) (NTA). In addition, there was a land agreement, under which Onslow Salt agreed to surrender part of the area covered by the Mining Lease to Chevron to be used by the latter as part of its Wheatstone Project. Such a surrender had to take place upon Chevron notifying Onslow Salt that it required the whole or a specified portion of the surrender area. Chevron was to pay Onslow Salt $250,000 (GST exclusive) on the effective date of the Land Agreement being 12 January 2010. A further $400,000 (GST exclusive) would be payable upon the satisfaction of other parts of the agreement. Chevron was also under positive obligations to mitigate flooding and Onslow Salt was required to surrender the whole of the required area to the State on 12 September 2012.

Two further agreements were pleaded as the Ostensible Agreements, being the ostensible fill agreement and the ostensible varied Land Agreement. The ostensible varied Land Agreement provided for payments by Chevron to Onslow Salt of $15 million (GST exclusive) payable within 20 business days of the date upon which Onslow Salt complies with its obligations under relevant clauses of the Land Agreement. A total of $60 million (GST exclusive) was payable after Chevron had made its final investment decision (FID) to proceed with the Wheatstone project.

It was pleaded that the Ostensible Agreements were ‘sham agreements’ as their true purpose was to provide Chevron with fill for the Wheatstone Project and there was never any flood risk which required treatment. It was said that the true agreement, described in the statement of claim as ‘the real fill extraction agreement’, was for Chevron to be able to remove 10 million cubic metres of fill material from the salt mining area in return for payment of $75 million to Onslow Salt. It was pleaded that in furtherance of the Ostensible Agreements, Onslow Salt applied on or about 18 January 2012 to the Minister for approval of the additional proposal.

According to the statement of claim, the additional proposal application did not disclose, as was the fact, that the sole or substantial purpose of the additional proposal was to supply Chevron with fill material. It was further pleaded that a report dated January 2012 (2012 Flood Mitigation Report), in effect, stated that hydrological modelling indicated that for all modelling scenarios, flood water mitigation works would assist to manage flooding impacts. This statement was said to be misleading or deceptive in that any such risk was minimal only and, in any event, flood mitigation works would have no or only a negligible impact on flood events. The additional proposal application did not disclose the fact that Chevron was planning to pay Onslow Salt $75 million for the fill, but represented, in effect, that Chevron would remove the fill to some undisclosed destination at its own cost without making any payment to Onslow Salt and simply as a contractor for Onslow Salt.

It was further pleaded that on 13 February 2012, the Minister purportedly approved the additional proposal application under the power granted to him in cl 6(1)(a) of the Onslow Salt Agreement. This purported approval, it was said, is contrary to the terms of the Onslow Salt Agreement and beyond the power granted to the Minister. It was also said that it was contrary to the Mining Lease, which only provided for the mining of salt by Onslow Salt in the salt mining area and did not permit the quarrying, mining and monetising of a significant volume of material.

It was pleaded that Chevron, sometime after, excavated and removed up to 10 million cubic metres of fill material from the salt mine site and deposited it at its Wheatstone Project and duly made payments of $70 million or $75 million between 13 February 2012 and 31 March 2012.

BTAC pleaded that as the real fill extraction agreement was in fact a future act, the only way of lawfully implementing it was by the future act process under the NTA. Further, as it was a future act, the State breached its obligation under s 29(1) and s 29(2)(a) NTA owed to BTAC by failing to give it notice of the real fill extraction agreement. Consequently, on a proper construction of the NTA, the State committed the tort of breach of statutory duty with regard to BTAC. The relevant future act proceeded, it was said, without notification to BTAC and in negation of BTAC's procedural rights, as defined under s 253 NTA, to enter into and conclude bona fide negotiations with the State and Onslow Salt and to enter into an Indigenous Land Use Agreement (ILUA) under the NTA with Onslow Salt and/or the State. In consequence, loss and damage was sustained, being loss of a chance on the part of BTAC to negotiate with Onslow Salt to enter into an ILUA to consent to the relevant future act by which it would have received payment at the level of about $12 million.

It was also contended that there was intentional interference by Onslow Salt with the native title rights held by BTAC because the Minister's approval was void and Onslow Salt had no other authority or permission to implement or allow the excavation works. Consequently BTAC pleaded that Onslow Salt's conduct constituted a tortious interference with the native title rights and economic interests held by BTAC.

It was also pleaded that there was a tortious conspiracy between the State and Onslow Salt, relying upon the knowledge of the Minister. It was asserted that the additional proposal application by Onslow Salt to the Minister and his approval constituted a course of concerted conduct involving Onslow Salt and the State and an agreement or understanding between Onslow Salt and the State with the purpose and aim of negating the procedural rights of BTAC under s 253 NTA to conclude bona fide negotiations for an ILUA.

As an alternative plea, BTAC also argued that if the Minister did not have the knowledge as pleaded in para 52.2 of the statement of claim, Onslow Salt's conduct with respect to the State was misleading or deceptive. It was said to be misleading and deceptive conduct within the meaning of s 18 of the Australian Consumer Law. If the Minister did not have the knowledge, it was pleaded that Onslow Salt engaged in misleading and deceptive conduct causing the Minister to grant the purported approval and not to give the notice under s 29(1) and s 29(2)(a) NTA to BTAC of the relevant future act causing BTAC the loss and damage pleaded

It was also pleaded that the State owed BTAC a duty of care at common law in dealing with native title rights and interests and in breach of the duty of care the State failed to give BTAC any notice of the real fill extraction agreement as a future act and did so negligently. It was also pleaded there was misleading or deceptive conduct by Onslow Salt with respect to BTAC. Finally, it was asserted that there was a breach of the deed due to the failure by Onslow Salt to consult BTAC in regards to the safeguarding and monitoring of the environment.

A variety of relief was sought, including a declaration that the purported approval of the Minister is void and of no effect at law, a declaration that in causing the fill to be removed from the salt mining area, Onslow Salt acted without any valid authorisation or permission, and damages against Onslow Salt and the State.

Onslow Salt's contentions

Pursuant to cl 2.4 of the deed, Onslow Salt did not admit that native title existed over the claim area, but agreed that if it does exist, the deed would not operate so as to extinguish it. By cl 2.5, in light of the prospective benefits and opportunities afforded by the project to the native title claimants agreed to the suspension of the operation and enjoyment of native title over the salt mining area whether currently the subject of the claim or not, for the duration of the project and Onslow Salt Agreement and until Onslow Salt declares in writing to the native title claimants that the salt mining area is no longer required by it for the project or any related reason.

By cl 4.1, the native title claimants agreed to grant any mining lease and any related interests at the request of Onslow Salt, to execute an agreement with Onslow Salt and the State allowing the grant of the mining leases and related interests in the form of a schedule to the deed and to the production of the deed and any agreement thereunder to the National Native Title Tribunal. The native title claimants also agreed to assist Onslow Salt to contest any competing native title claim by third

parties and agreed to execute a supplementary deed to be prepared by Onslow Salt to address certain matters of detail.

In response, Onslow Salt agreed to pay into a trust account held for the native title claimants the sum of $50,000 on the project commencement date and on each anniversary, while Onslow Salt held or operates the mining leases and related interests, a further sum calculated by reference to a formula. The main purpose of the trust was to assist with the development of economic educational and cultural programs for the benefit of the Thalanyji people. Undertakings were given by Onslow Salt for employment and training of members of the local community, particularly, the Thalanyji people and, in particular, in relation to the Thalanyji recycling business.

Onslow Salt also undertook to contribute various community amenities, to assist with the social and economic development of the local community and to support a proposal to upgrade the existing school. Obligations were specified in relation to sites of significance and the effect of the *Aboriginal Heritage Act 1972* (WA). There was to be a liaison officer and certain obligations on the part of the Thalanyji people in relation to dialogue generally and specifically concerning heritage and cultural issues. Onslow Salt undertook to use its best endeavours to ensure the project was conducted so as to comply with the then existent environmental proposal and to otherwise conserve and protect the environment associated with the salt mining area by minimising pollution and waste. In particular, by cl 11.2, Onslow Salt undertook to consult with the native title claimants and the local community in regards to Onslow Salt's compliance with the environmental proposal and the possible involvement with the Thalanyji people and the local community in safeguarding and monitoring the environment associated with the salt mining area.

Onslow Salt sought a stay of the proceedings on the basis that:

1. by the DRC, the parties agreed to conferral and to expert determination of any 'dispute, question or difference'. This terminology is so broad, Onslow Salt says, that the dispute clearly falls within the clause;
2. where parties have, by contract, agreed to follow a particular dispute resolution procedure, they must adhere to that procedure unless the party wishing to abandon it can show good reason for that course: *Savcor Pty Ltd v New South Wales* (2001) 52 NSWLR 587 (at [42]). Onslow Salt says that no cogent reason is advanced as to why the dispute resolution procedure should not be followed by BTAC; and
3. BTAC had not established that it will suffer any prejudice by reason of the proceeding being stayed and the DRC being followed. There is no compelling reason for this dispute immediately to be 'determined' by this Court instead of by an expert as agreed between the parties.

The State was not a party to the deed, but Onslow Salt noted that the DRC does not preclude third parties from participating in the expert determination process. McKerracher observed at [49] that 'Onslow Salt submitted, and it is so, that the Court

had a wide discretionary power to stay legal proceedings, pending compliance with a DRC. The starting point is a "strong bias" in favour of contracting parties being held to the terms of their bargain: *Huddart Parker Ltd v Ship Mill Hill* (1950) 81 CLR 502 (at 508-509), more recently confirmed in *Savcor* (at [42]), *Zeke Services Pty Ltd v Traffic Technologies Ltd* [2005] 2 Qd R 563 (at [21]) and *Lipman Pty Ltd v Emergency Services Superannuation Board* [2011] NSWCA 163 (at [6]-[7]). Onslow Salt pointed out that in *Badgin Nominees Pty Ltd v Oneida Ltd* [1998] VSC 188 (at [26]-[36]), in which a party to a domestic dispute attempted to bring judicial proceedings instead of proceeding with an expert determination, it was held by Gillard J (at [36]) that the Court had jurisdiction to stay the proceedings before it on the simple basis that a "contract is a contract" and (at [134]) "they put it in place, it binds them". There were two obligations, at least, on BTAC if the DRC was binding. The first was to confer in relation to it and the second was to refer the dispute for consideration by an independent expert.'

His Honour further stated at [51]: 'It is common ground that where the parties to a commercial contract agree to a particular dispute resolution procedure, they must adhere to that procedure unless the party wishing to abandon it in favour of recourse to the courts can show good cause: *Savcor* (at [42]). The matter was considered in *Mineral Resources Ltd v Pilbara Minerals Ltd* [2016] WASC 338 (at [103]) where Banks-Smith J held that the contracting party had bargained away its right to have its day in court in favour of the finality of an expert determination and that in that particular case, on the relevant facts, the second plaintiff had not met the heavy onus of establishing why a stay should be refused.'

Onslow Salt submitted that the circumstances in which a stay would not be granted would be rare, but such a circumstance may be where it would be unjust to deprive a plaintiff of the right to have its claim determined judicially.

While the State is not a party to the deed, Onslow Salt noted that it and the State are parties to the Onslow Salt Agreement. Under the deed, the contractual relationship between Onslow Salt and BTAC is established as well as the terms on which the project is to proceed in the claim area and the terms on which the respective current and future interests of Onslow Salt and BTAC will be exercised. Thus, it is that one of the things achieved under the deed was the suspension of the operation and enjoyment of native title over the salt mining area, without any admission of its existence.

There can be no doubt, Onslow Salt contended, that the dispute falls within the ambit of the DRC. It applies to disputes, questions or differences between Onslow Salt and BTAC with respect to 'any matter'. The parties agreed that this does not mean any matter at large, but any matter arising under or affected by the deed. Onslow Salt contended that having regard to the purpose and subject matter of the deed and the breadth of the DRC, BTAC's allegations must fall within the scope of it. Its broad scope demonstrates that the parties did not intend to limit the issues that would be

subject to expert determination, Onslow Salt said, relying on *Cable & Wireless Plc v IBM United Kingdom Ltd* [2002] 2 All ER (Comm) 1041 (at 1052).

Findings

McKerracher J stated at [66]: 'BTAC argues that on the proper construction of the deed, the dispute which is the subject of the proceedings does not fall within the ambit of the DRC. If that construction is incorrect, BTAC argues that in order to do justice between the parties, the stay application should be dismissed on the discretionary grounds identified by Hammerschlag J in *Dirty Dancing Investments* …and *Zeke Services Pty Ltd v Traffic Technologies Ltd* [2005] 2 Qd R 563. Particularly in relation to the proper construction of the DRC, BTAC points to *Electricity Generation Corporation t/as Verve Energy v Woodside Energy L*td (2014) 251 CLR 640.'

The central issues in dispute between BTAC and Onslow Salt on the pleading are:

1. whether Onslow Salt could authorise the removal of fill material by a third party (Chevron) when this was not a future act recognised by the grant of the M273SA;
2. whether the real fill extraction agreement as defined in the statement of claim, was a future act within the meaning of s 233(1)(c)(i) NTA, which could only be implemented by the grant of the new mining lease;
3. whether the real fill extraction agreement affected BTAC's native title rights and interests;
4. whether the purported approval of the Minister was void and of no effect at law;
5. whether Onslow Salt entered into and implemented the real fill extraction agreement using the additional proposal procedure for the purpose of avoiding negotiations with BTAC and undermining BTAC's procedural rights under the NTA;
6. whether the additional application proposal and the purported approval of the Minister was a cause of concerted conduct or an agreement or understanding between Onslow Salt and the State for the purpose of negating BTAC's procedural rights under the NTA;
7. whether Onslow Salt engaged in misleading conduct causing the Minister to grant the purported approval and not to give BTAC notice under s 29(1) and s 29(2)(a) NTA of the relevant future act;
8. whether Onslow Salt failed to disclose to BTAC the existence of the real fill extraction agreement and the actual nature of the additional application proposal thereby engaging in misleading or deceptive conduct; and
9. whether, by cl 11.2 of the deed, Onslow Salt had an obligation to consult with and notify BTAC of the real fill extraction agreement and the additional proposal application and, if so, whether the failure to do so breached cl 11.2 of the deed.

His Honour observed at [72]: ‘There is no doubt that the general principles in relation to stay applications in circumstances such as the present are well settled. Courts will generally hold the parties to the bargain in relation to dispute resolution clauses. Such clauses do not oust the discretion of the Court to hear a matter: see *Zeke Services* at [10]-[15]. Further, there is no suggestion by either party that the DRC purports to oust the jurisdiction of the Court. However, as a general proposition, a stay would not be granted if it would be unjust to deprive an applicant of its right to have its claim judicially determined (*Dirty Dancing Investments* at [54]), but this will all depend very much on the nature of the dispute, the parties to the dispute, the nature of the agreement in which the dispute resolution clause is contained and the conduct of the actual clause.’

And further at [78]: ‘If a part of these proceedings which relates to the Deed is stayed, the result would be that the balance of the proceedings would be continued against both respondents, but with a separate procedure under the DRC being conducted in tandem with respect to those parts of the proceedings relating to the Deed. After this, BTAC, if the matters were not resolved, would be able to proceed in this Court with its claims relating to the Deed. As BTAC submits, even if all of the proceedings against Onslow Salt were stayed, the proceedings would still continue against the State, with the DRC operating in relation to Onslow Salt only. If the matter was not resolved as a result of that process, BTAC would then continue in this Court with its claims against Onslow Salt.’

At [81]: ‘It is fundamentally important to note that the DRC does not produce a determination or any binding outcome at all. It only produces an opinion. I accept that it does so in relative privacy, which is a factor I most certainly take into account in favour of Onslow Salt. Most of the cases (including *Mineral Resources*) on which Onslow Salt relies, however, are clauses from which a determination by, not an opinion of, an expert is the outcome. Nothing in cl 15.3 makes the independent expert’s opinion binding on the parties to the Deed, let alone the State. It does not, in fact, provide an alternative method for the binding determination of any dispute between the parties, but simply spells out a private step that needs to be undertaken before the parties may refer a relevant matter to the Court. It is an entirely commendable process which has been recognised and respected by the Courts on many occasions, except where there are exceptional circumstances. The nature of this case falls into that exceptional category.’

McKerracher J ordered that the stay application should be refused.

2. Legislation

Commonwealth

Fisheries Legislation Amendment (Representation) Bill 2017

Status: Passed on 26 October 2017 and received assent on 6 November 2017

Stated purpose: The Bill amends the objectives of the *Fisheries Management Act 1991* (Cth) and the *Fisheries Administration Act 1991* (Cth) to explicitly recognise recreational and Indigenous fishers, strengthen their engagement in the management of Commonwealth commercial fisheries and ensure that the interests of those stakeholder groups are appropriately taken into account in Australian Government decision-making processes.

The Bill requires the minister, Australian Fisheries Management Authority (AFMA) and Joint Authorities established under the *Fisheries Management Act* to have regard to ensuring that the interests of all fisheries users are taken into account in Commonwealth fisheries management decisions and in the performance of their functions.

The Bill is in response to the Marine Fisheries and Aquaculture inquiry. Key points made by the Productivity Commission in the draft report included:

- the impacts of recreational and indigenous customary fishing activity are largely uncounted in Commonwealth, state and territory fishery management regimes
- there is relatively poor input from Indigenous people in fishery management and Indigenous customary fishing should be incorporated into fisheries management systems.

Other minor amendments in the Bill allow for increased opportunities for membership of AFMA advisory bodies and extend the eligibility criteria for serving on the AFMA Commission to include expertise in matters relating to recreational and Indigenous fishing. It will not alter AFMA's ability to pursue existing objectives, or to extend AFMA's powers to regulate the recreational and Indigenous fishing sectors.

Native title implications: AFMA is responsible for the management of Commonwealth commercial fisheries, which are the waters that surround Australia from three nautical miles to 200 nautical miles out to sea. The interests of Aboriginal and Torres Strait Islander fishers will be represented under this legislation.

For further information, please see the explanatory memoranda and second reading speeches.

New South Wales

Fisheries Management Amendment (Aboriginal Fishing) Bill 2017

Status: Passed on 18 October and received assent on 24 October 2017

Stated purpose: The stated object of the Bill is to amend the *Fisheries Management Act 1994* to enable payments to be made out of the Aboriginal Fishing Trust Fund established under that Act, to provide assistance to Aboriginal communities in relation to cultural and commercial fishing activities. The role of the Fund is to provide monetary support for cultural fishing and fishing businesses.

The assistance is proposed to be provided through grants and loans, and the acquisition of fishing assets for the use and benefit of Aboriginal communities. The Minister is to obtain and have regard to the advice or recommendations of any relevant advisory council on Aboriginal fishing before approving a program.

Native title implications: The intention of the Bill is to make the trust fund operational so that it will be of benefit to future generations. Payments from the funds are available to Aboriginal people, including native title claimants and holders and may assist groups in participating in commercial fishing on their country.

For more information, please see the explanatory notes and second reading speeches.

Natural Resources Access Regulator Bill 2017

Status: Introduced and read for a second time on 18 October 2017. Debate was adjourned until 15 November 2017.

Stated purpose: This Bill establishes an independent Natural Resources Access Regulator to improve accountability, transparency and effectiveness of water compliance and enforcement in the Barwon-Darling region and the state more broadly. The regulator will perform a role in putting in place new standards to ensure effectiveness and transparency of compliance activities at an individual, water-sharing plan and State level. The regulator will be led by an independent board, whose role is to determine whether the Government should institute proceedings for breaches of water legislation, and to have oversight of all water compliance. In order to give the regulator oversight, and to ensure independence from the customer service sensibility of a state-owned corporation, it is also proposed that compliance functions be moved from Water NSW to the regulator.

The regulator will be allocated a broad range of functions under natural resources management legislation including preparing strategies, policies and procedures relating to enforcement powers; advising and reporting to the Minister or any relevant Minister on any matter relating to administration of natural resources management legislation, or any other advice or reports as the Minister may request; publishing details of convictions and prosecutions for offences; and any other functions imposed through the regulations or by other legislation. The regulator will be the

body that decides whether proceedings for any offence under natural resources management legislation should be instituted by the Crown.

The Bill was drafted in response to the Matthews report, which was highly critical of aspects of water administration in NSW, particularly compliance and enforcement. The report highlighted the urgent need to address a number of issues to improve the accountability, transparency and performance of the compliance and enforcement framework and operations.

Native title implications: Enforcing water compliance in the Barwon-Darling basin will contribute to maintaining the health of the Murray-Darling River and increase the ability of Aboriginal groups to practise their rights on country.

For further information, please see the explanatory notes and second reading speech.

3. Native Title Determinations

In October 2017, the NNTT website listed 4 native title determinations.

Short Name (NNTT)	Case Name	Date (NNTT)	State	Outcome	Legal Process	Type	RNTBC/ PBC
Kulyakartu AND Kulyakartu #2	Taylor v Western Australia (No 2)	27/10/2017	WA	Native title exists in the entire determination area	Consent	Claimant	N/A
WA Mirning People	K.D. (deceased) on behalf of the Mirning People v Western Australia (No 4)	24/10/2017	WA	Native title exists in parts of the determination area	Consent	Claimant	N/A
Wajarri Yamatji	I.S. (Deceased) on behalf of the Wajarri Yamatji People (Part A) v Western Australia	19/10/2017	WA	Native title exists in parts of the determination area	Consent	Claimant	N/A
Budina People	Lyndon on behalf of the Budina People v Western Australia	16/10/2017	WA	Native title exists in parts of the determination area	Claimant	Consent	Budina Aboriginal Corporation

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 10 November 2017 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.

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	26	2
Queensland	82	0
South Australia	15	0
Tasmania	0	0
Victoria	4	0
Western Australia	44	1
NATIONAL TOTAL	**177**	**3**

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 10 November 2017.

5. Indigenous Land Use Agreements

In October 2017, 1 ILUA was registered with the National Native Title Tribunal.

Registration date	Name	Tribunal file no.	Type	State or Territory	Subject matter
20/10/2017	Badu Island Supermarket and Cafe/Storage ILUA	QI2017/008	Body Corporate	WA	Commercial

For more information about ILUAs, see the NNTT website and the ATNS Database.

6. Future Act Determinations

In October 2017, 12 Future Act Determinations were handed down.

Date	Parties	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
31/10/2017	Elsa Derschow & Others on behalf of Palyku (WC1999/016) and Mt Stewart Resources Pty Ltd and Western Australia	WO2017/0007	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).
30/10/2017	Raymond William Ashwin (dec) & Others on behalf of Wutha (WC1999/010) and Diversified Asset Holdings Pty Ltd and Western Australia	WO2016/0555	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).
30/10/2017	Raymond William Ashwin (dec) & Others on behalf of Wutha (WC1999/010) and Diversified Asset Holdings Pty Ltd and Western Australia	WO2016/0558	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).

Date	Parties	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
27/10/2017	Kevin Allen & Others on behalf of Njamal (WC1999/008) and Peter Romeo Gianni and Western Australia	WO2017/0354	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).
27/10/2017	Raymond William Ashwin (dec) & Others on behalf of Wutha (WC1999/010) and CNN Investments Pty Ltd and Western Australia	WO2016/0957 WO2016/0959	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).
27/10/2017	Raymond William Ashwin (dec) & Others on behalf of Wutha (WC1999/010) and Ross Alan Neve and Western Australia	WO2016/0958	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).
27/10/2017	Derrick Smith & Ors on behalf of Gnaala Karla Booja (WC1998/058) and Ransberg Pty Ltd and Western Australia	WF2017/0016	WA	Future act – May be done	The parties filed joint submissions stating that negotiations had been carried out in good faith and that the native title party and the grantee party had reached agreement regarding the grant but that it had not been possible to execute it under s 31 of the *Native Title Act 1993* (Cth) because one of the registered applicants comprising the native title party was deceased. Member Shurven made a determination under s 38 of the Act that M70/1240 may be granted to the grantee party without conditions.

Date	Parties	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
23/10/2017	POZ Minerals Ltd and Timothy Carter & Others on behalf of Warrwa (WC2014/004) and Bunuba Dawangarri Aboriginal Corporation RNTBC (WCD2015/0009) and Western Australia	WF2017/0009 WF2017/0012	WA	Future act – May be done	Following negotiations with POZ, Bunuba Dawangarri withdrew their objections prior to the hearing. At the hearing, it was advised that following negotiations, Warrwa consented to a determination being made that the acts may be done without conditions. Neither native title party made submissions in relation to the s 39 Native Title Act 1993 (Cth) criteria. POZ submitted that their activities will be conducted in accordance with best industry practice and as per the *Aboriginal Heritage Act 1972* (WA). Member Shurven determined that the granting of the mining leases were future acts that are permitted.
12/10/2017	POZ Minerals Ltd and Bunuba Dawangarri Aboriginal Corporation RNTBC (WCD2015/0009) and Western Australia	WF2017/0010 WF2017/0011	WA	Future act – May be done	At the hearing, BDAC's representative indicated that it had made submissions in accordance with the directions as required by the inquiry process, but had now reached a point with POZ where they were happy to withdraw their submissions. POZ argued that factors such as the interests, rights, ceremonies, social, cultural or economic structures of BDAC would not be significantly interfered with or affected by the mining activities of POZ, as those activities would be conducted in accordance with best industry practice and as per the *Aboriginal Heritage Act 1972* (WA). As there was no evidence to the contrary from BDAC, Member Shurven determined that the future acts may be done.

Date	Parties	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
11/10/2017	Miriam Atkins & Ors on behalf of Gingirana (WC2006/002) and Cosmopolitan Minerals Limited and Western Australia	WO2016/0643	WA	Objection – Expedited procedure applies	The Gingirana people argued that the grant of the leases would have an impact upon their community or social activities and sites of significance. The State contended that previous exploration activity in the area continued to affect the extent to which community and social activities could be carried out in the relevant area. Gingirana's contentions in reply stated that the historical grant of exploration tenure over the licence did not necessarily mean exploration activities have occurred and therefore that the State should not conflate the two. They submitted that no evidence had been provided that any prior mineral exploration had occurred. Cosmopolitan submitted that it would abide by the relevant cultural heritage laws. The State supported the submissions and asserted the presumption of regularity in its favour. Gingirana challenged the presumption, contending that parties are required to produce evidence to support their contentions, particularly where the facts are peculiarly within their own knowledge. Member Shurven considered that Gingirana's argument was not supported by the weight of jurisprudence. Member Shurven noted that the activities of Gingirana on the licence appear to be confined to a discrete area which can be avoided by Cosmopolitan. Member Shurven considered that there was insufficient evidence to establish that the sites of significance were of particular significance to Gingirana, and Member Shurven was not satisfied that the grant of the licence would be likely to directly or substantially interfere with the community or social activities described by the group.
05/10/2017	IS (name withheld for cultural reasons) & Ors on behalf of Wajarri Yamatji (WC2004/010) and Doray Minerals Limited and Western Australia	WO2016/0864	WA	Objection - Dismissed	Member Shurven did not receive any contentions from the 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. The objection application was dismissed pursuant to s 148(b) of the Native Title Act 1993 (Cth).

Date	Parties	Tribunal file no.	State or Territory	Determination	Reasons for the Determination
05/10/2017	Kevin Allen & Ors on behalf of Njamal (WC1999/008) and Mt Stewart Resources Pty Ltd and Western Australia	WO2016/0812	WA	Objection - Dismissed	Member Shurven did not receive any submissions from the native title group as to why the objection to the expedited procedure application should not be dismissed: nor was there a request for extension of time made in order to comply with directions. Member 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. The objection application was dismissed pursuant to s 148(b) of the *Native Title Act 1993* (Cth).

7. Publications

Annual reports

The **2016/2017** annual reports of the following organisations are now available:

AIATSIS: To view, visit the AIATSIS website.

High Court of Australia: To view visit The High Court of Australia website

Federal Court of Australia: To view visit The Federal Court of Australia website

National Native Title Tribunal: To view, visit the NNTT website.

Central Desert Native Title Services: To view, visit the CDNTS website.

Central Land Council: To view, visit the CLC website.

Kimberley Land Council: To view, visit the KLC website.

Northern Land Council: To view, visit the NLC website.

North Queensland Land Council: To view, visit the NQLC website.

Office of the Registrar of Indigenous Corporations: To view visit the ORIC website.

Yamatji Marlpa Aboriginal Corporation: To view, visit the YMAC website.

South Australian Native Title Services

Aboriginal Way

The Spring 2017 edition of Aboriginal Way is now available. To view, visit the SANTS website.

Central Land Council

Land Rights News

The October edition of Land Rights News is now available. To view, visit the CLC website.

Northern Land Council

Land Rights News, Northern Edition

The October edition of Land Rights News, norther edition is now available. To view, visit the NLC website.

8. 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.

ORIC

ORIC provides a range of training for Aboriginal and Torres Strait Islander corporations about the *Corporations (Aboriginal and Torres Strait Islander) Act* 2006 (CATSI Act), the corporation's rule book and other aspects of good corporate governance. More information on upcoming training is outlined below.

Upcoming training courses

Course	Location	Dates	Applications Close
Building strong stores workshops	Katherine, NT	5-6 December	17 Nov
Diploma in business (governance)	TBC	28 Jan – 2 Feb 2018	30 Nov
Introduction to corporate governance workshop	Hobart, Tas Geraldton, WA	6-8 Feb 2018	12 Jan 13 Jan

For more information or to apply, visit the ORIC website.

9. Events

AIATSIS

National Native Title Conference 2018

In 2018 the annual National Native Title Conference will be convened by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) and the Kimberley Land Council (KLC), hosted by the Yawuru people on their traditional lands in Broome, Western Australia.

Date: 5-7 June 2018

Location: Cable Beach Resort, Broome WA

Call for papers and registrations will open soon. For more information, visit the AIATSIS website.

NTRB Legal Workshop 2018

Native Title Representative Body and Service Provider (NTRB) lawyers are at the forefront of native title law, policy and practice. This workshop provides a space for NTRB lawyers to share and develop their knowledge of contemporary native title legal issues.

In 2018, AIATSIS will partner with the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney to offer unique professional development and networking opportunities.

The call for papers is now open. If you would like to present, please send an abstract of no more than 200 words to stacey.little@aiatsis.gov.au by **Friday, 8 December 2017.** Suggestions for topics to be covered at the workshop are also welcome.

Date: 21-22 February 2018

Location: University of Technology Sydney, NSW

For more information or to register, please visit the AIATSIS website.

Australian Linguistic Society (AAS), Annual Conference

Date: 4-7 December 2017

Location: University of Sydney

The Department of Linguistics at the University of Sydney is excited to host the 48th annual meeting of the Australian Linguistics Society, corresponding with the 50th anniversary of the Society. The conference will run from 4-7 December 2017.

Please find a link to the conference website and program here.

Australian Anthropological Society (AAS), Association of Social Anthropologists (ASA) and Association of Anthropologists of Aotearo/New Zealand (ASAANZ)

AAS / ASA / ASAANZ Conference 2017 - Shifting Shapes

Three anthropology associations (AAS, ASA and ASAANZ) are collaborating to put on an international conference in December 2017, bringing together anthropologists and members from across Australia, New Zealand, the UK and Commonwealth and beyond. The conference includes a number of panel sessions on native title, including ‘Australian anthropology and post-colonialism’ and ‘The Australian Nation State and Native Title’, as well as the AAS Pre-Conference Forum for Native Title Practitioners. Keynote speaker, Suzi Hutchings will deliver ‘Inside Out: Indigeneity in the era of Native Title in Australia’.

Date: 11-15 December 2017

Location: University of Adelaide

To view the program and register, please visit the conference website.

Australian Archaeological Association

Island to Inland: Connections across land and sea – 2017 Conference

The AAA2017 Conference will be hosted by La Trobe University, coinciding with its 50th Anniversary. The conference theme is 'Island to Inland: Connections across land and sea.' Island to Inland represents the journey of the First Australians through Wallacea to Sahul. Since then, people have successfully adapted to life in the varied landscapes and environments that exist between the outer islands and arid interior. Despite this diversity, connections run deeply through Australia and its surrounding islands. These include connections to objects and places, across generations, between landscapes and seascapes, and to Country. The conference theme aims to encourage exploration of connections that transcend across time and space, from island to inland.

Date: 6-8 December 2017

Location: La Trobe University, Melbourne

For more information and to register, please visit the conference website.

Australian Indigenous Governance Institute

Indigenous Women in Governance Master Class

Featuring Indigenous women experienced in governance and leadership, this one day Masterclass focuses on effective strategies for promoting gender equality and cultural diversity.

The masterclass will include presentations from keynote Speakers June Oscar AO, Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Jackie Huggins AM, Co-Chair of National Congress of Australia's First Peoples, and Michelle Deshong, CEO of the Australian Indigenous Governance Institute. Panel discussions will be held with a range of Indigenous female CEO's of community organisations as well as a practical workshop on gender strategies in governance.

Date: Thursday 30 November 2017

Location: Lendlease, International Towers, Sydney

To register, visit the event page.

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.