

WHAT'S NEW IN NATIVE TITLE

NOVEMBER 2013

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1. Case Summaries

[Tonson v Northern Territory of Australia \[2013\] FCA 1087](#)

[Fulton v Northern Territory of Australia \[2013\] FCA 1088](#)

31 October 2013, Consent Determination, Federal Court of Australia, Minyerri

Mansfield J

These matters are consent determinations being heard together due to geographic proximity and at the request of the relevant pastoralists and with the consent of the Northern Territory and of the applicants in both claim groups.

The Court held that non-exclusive native title rights and interests exist over land and waters, within the bounds of the following pastoral leases to the south east of Mataranka in the Northern Territory:

- (a) an area of some 2610 square kilometres contained in Perpetual Pastoral Lease 1046 making up the Broadmere Pastoral Lease (Broadmere), brought on behalf of the Burdal Jilajaja, Burdal Kamanja, Burdal Mingkanyi, Burdal Marrgarani, Guyal Manaburru, Guyal Dumnyungatanyana, Guyal Wandanya, Murrungun Balugnada, Mambaliya Ngubayin/Binda, Mambaliya Nangkuta estate groups; and
- (b) an area of some 5019 square kilometres contained in Perpetual Pastoral Lease 1046 making up the Tanumbirini Pastoral Lease (Tanumbirini), brought on behalf of the Guyal Ambulya, Guyal Muynmin, Budal Labanga, Murrungun Balaganda, Mambaliya Ngubayin and Mambaliya Wungurrindjirr Estate Groups.

In order to remove any overlap, other applications with respect to parts of Broadmere and Tanumbirini were amended or withdrawn.

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

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

The Court also ordered:

- (a) that, in each case, an Aboriginal corporation, yet to be named, would be the prescribed body corporate for the purposes of s 57(2) of the NTA
- (b) that there be no order to costs; and
- (c) that the parties may apply to establish:
 - (i) the precise location and boundaries of public works and adjacent land;
 - (ii) the precise location of the boundaries of pastoral improvements; and
 - (iii) whether any pastoral improvements referred to in the agreement had been constructed lawfully.

[Karpny v Dietman \[2013\] HCA 47](#)

**6 November 2013, Decision on Appeal from Full Court of Supreme Court of South Australia, High Court of Australia
French C J, Hayne, Crennan, Kiefel, Bell, Gaegler and Keane JJ**

Background:

In December 2009, Owen John Karpny and Daniel Thomas Karpny, members of the Narrunga People, were charged under the *Fisheries Management Act 2007* (SA) (the FMA 2007) for having in their possession a quantity of undersize abalone.

The prosecution conceded in the Magistrate's Court that the men had taken the abalone in accordance with the traditional laws and customs of the Narrunga People. The defendants argued that s 211 of the *Native Title Act 1993* (Cth) (NTA) provided a defence to the charges and the prosecution argued that the provisions of the *Fisheries Act 1971* (SA) (the FA 1971), an earlier act which prohibited fishing without a licence, had extinguished the defendants' native title rights to take fish in the circumstances of the alleged offences. The issue became a question of whether, if the FA 1971 did not extinguish native title rights, then did s 211 NTA provide a defence to the FMA 2007?

The Magistrate rejected the prosecution's submissions and dismissed the charges.

The prosecution appealed to the Supreme Court of SA which upheld the appeal and found that the FA 1971 had in fact extinguished native title, in particular that:

1. native title rights were extinguished by enactment of the FA 1971; and
2. the s 211 NTA defence did not apply to the FMA 2007.

For further information on the decision by the Full Court of the Supreme Court of South Australia, see '[NTRU – What's New, May 2012](#)'.

The applicants appealed to the High Court and the appeal was limited to the two issues listed above, namely (paraphrasing):

1. First, whether the FA 1971 extinguished the native title rights of the Narrunga People to take fish which, but for the extinguishment, would have allowed fishing in the circumstances of the case (**'the extinguishment question'**); and
2. Second, if the answer to 1 is no, does s 211 (NTA) override the prohibition in s 72(2)(c) of the FMA 2007 (**'the s 211 question'**)

Findings:

The Full Court of the High Court found in favour of the applicants on both questions.

The extinguishment question:

The issue was whether the FA 1971 prohibited fishing or simply regulated it. That is, whether the Act allowed for exemptions or permits to fish.

The FA 1971 prohibited a person taking fish except as provided by the Act or unless the person holds a special licence. The Act further provided that, in certain circumstances, a person who does not hold a licence may take fish by certain means and "otherwise than for the purpose of sale".

In its joint judgment, the Full Bench of the High Court followed its reasons in *Akiba v The Commonwealth* (for a discussion on this case, see [Native Title Newsletter – August 2013](#)) and found that the FA 1971 did not generally prohibit non-commercial fishing in the relevant waters. Furthermore, the High Court found that the FA 1971 contained a mechanism by which Aboriginal people could continue to exercise their native title right to fish by taking abalone, including undersize abalone, for communal purposes in accordance with their traditional practices.

The High Court held, therefore, that the FA 1971 was not inconsistent with the applicants' native title rights to take fish and, therefore, did not extinguish their native title rights.

The s211 question:

Having found that the FA 1971 did not extinguish native title rights, the High Court considered whether s 211 NTA provide a defence to the FMA 2007?

Section 211 NTA preserves the native title rights and interests in carrying on certain activities (fishing is included in the list of categories under s 211(3) NTA).

Section 211(1)(b) NTA operates to preserve native title rights and interests in the circumstances where a law of a State or Territory requires certain activities to be undertaken only in accordance with an issued licence, permit or other instrument.

Section 211(2) NTA applies to the carrying on of relevant activities (including fishing):

for the purpose of satisfying personal, domestic or non-commercial communal needs; and
in exercise or enjoyment of their native title rights and interests.

The applicants relied on s 115 FMA 2007 to enliven the application of s 211 NTA.

Section 115(1) FMA 2007 provides that:

Subject to this section, the Minister may, by notice in the Gazette—

- (a) exempt a person or class of persons, subject to such conditions as the Minister thinks fit and specifies in the notice, from specified provisions of this Act; or

- (b) vary or revoke an exemption, or a condition of an exemption, under this section or impose a further condition.

Using a narrow interpretation of the wording in s 115 of the FMA 2007, the prosecution argued that no licence, permit or other instrument were available and s 115 FMA 2007 was merely a miscellaneous power that sat outside the regulatory scheme of s 211 NTA.

The High Court held that this was the wrong enquiry. It is not a question of whether a licence is different from an exemption nor whether it only applied in exceptional circumstances. The question is whether it is a 'licence, permit or other instrument' for the purposes of s 211 NTA.

That requires an examination of s 211 NTA not an examination of s 115 FMA 2007. The High Court held that:

The exemption for which [s 115](#) FMA 2007 provides may be granted to individuals or classes of persons for specified activities, on specified conditions and for a specified time. Such exemptions are at least a form of 'other instrument' granted or issued under the relevant law of the State and fall within [s 211\(1\)](#) of the NTA. The defence under [s 211](#) was available to the applicants.

The High Court found that s 211 NTA did provide a defence to the FMA 2007.

[Fisher on behalf of the Ewamian People #2 v State of Queensland \[2013\] FCA 1249](#)

26 November 2013 (+ Corrigendum dated 28 November 2013), Consent Determination, Federal Court of Australia, Georgetown

LOGAN J

This matter recognises the Ewamian People's native title rights and interests over traditional lands in the savannah area of Queensland west of the Great Dividing Range, including the Townships of Georgetown, Forsyth, Mt Surprise and Einasleigh.

The matter was a hearing of two applications:

1. 'Ewamian People # 2' (QUD6009/1999) - a lot specific claim over discrete allotments defined by lot on a plan covering approximately 186 sq kilometres. In determining this application, the Court recognised the Ewamian People's exclusive native title rights to some 2417 hectares, non-exclusive native title rights to some 14430 hectares, including about 13 hectares of non-exclusive town areas; and
2. 'Ewamian People # 3' (QUD6018/2001), - a broad based country claim covering approximately 28,485 sq kilometres. . In determining this application, the Court recognised the Ewamian People's exclusive native title rights to some 15 hectare and non-exclusive native title rights to some 2,589,545 hectares, including about 0.1 hectares of non-exclusive town areas.

Justice Logan heard both applications together due to their geographic proximity and considerations of materially the same anthropological evidence.

The Court upheld the agreement between the parties that native title was extinguished with respect to certain permanent improvements constructed as part of pastoral leases. The Court also held that areas subject to previous exclusive possession acts included cemeteries, rodeo grounds, race courses, airstrips and a water reserve and dam wall.

The Court held that the requirements of ss 223 and 225 of the *Native Title Act 1993* (NTA) were met by reference to evidence of prior occupation found in rock art sites and campsites and anthropological evidence about lifestyle, knowledge and culture, and further evidence in the form of oral histories of the claimants.

His Honour made consent orders, under s 87 NTA, on the basis that agreements between the parties were freely entered into on an informed basis and that the State of Queensland had taken steps to satisfy itself that there was a credible basis for the applications.

Justice Logan also made orders that the Tatampi Puranga Aboriginal Corporation is to be the prescribed body corporate for the purposes of s 57(2) NTA.

The Court recognised other interests, pursuant to ILUAs between the Ewamian People (either through individual representatives or through the Tatampi Puranga Aboriginal Corporation once it becomes registered) and:

- the State of Queensland, with respect to the Ewamian Protected Areas ILUA;
- the State of Queensland, with respect to the towns of Etheridge, Forsayth, Einasleigh, Georgetown and Mount Surprise;
- the Tablelands Regional Council;
- the Etheridge Shire Council;
- Ergon Energy Corporation;
- Telstra Corporation;
- 45 individuals Ewamian People #3 and 3 individuals from Ewamian People #2 holding various term leases, pastoral leases and preferential pastoral leases.

In his Reasons, Justice Logan noted that, 'like many such claims, these claims have been long in their gestation.' His Honour then discussed the Native Title Respondent Funding Scheme, which had provided government funding to pastoralists in the wake of the *Wik* decision. His Honour stated at [8]:

This legal assistance to pastoralists has repeatedly and beneficially contributed to the administration of justice and thus to Parliament's goal of national reconciliation in this important area of the Court's jurisdiction.

His Honour further stated at [9]:

As I noted this year in *Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland (No 2)* [2013] FCA 787 at [4]:

... [T]he collective representation of pastoral respondents enabled by that scheme greatly facilitated the responsible, consensual resolution of native title claims and removed much of the angst such claims might otherwise have occasioned such respondents.

The funding to pastoralists was terminated at the end of 2012 and the current Government has since announced it will be restored.

2. Legislation

2013 Social Justice and Native Title Report

The Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, has endorsed constitutional reform as part of a new agenda recognising rights, responsibilities and relationships in his 2013 [Social Justice and Native Title Report](#), tabled in Federal Parliament. 'Reform of the Australian constitution could re-set the relationship between Aboriginal and Torres Strait Islander Peoples and other Australians and signal to the world that this nation has come to terms with its past,' Commissioner Gooda said. The Australian Human Rights Commission President, Gillian Triggs, said the Commission also supports constitutional reform to recognise Aboriginal and Torres Strait Islander Peoples.

The 2013 Social Justice and Native Title Report marks 20 years of the Aboriginal and Torres Strait Islander Social Justice Commissioner role. 'Looking back over the past 20 years, we have seen improvements in some areas. We are on the right track in working towards health equality, Aboriginal and Torres Strait Islander representation and constitutional reform. Sadly, there is little measureable progress in other areas, like involvement with the criminal justice system,' Commissioner Gooda said.

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

ILC-IBA Review

Federal Indigenous Affairs Minister, Senator Nigel Scullion, has announced a review of the Indigenous Land Corporation (ILC) and Indigenous Business Australia (IBA). Minister Scullion announced that the Federal Government

have engaged Ernst & Young to conduct the independent review, which will make recommendations to the Government about how to improve the effectiveness of these two statutory bodies.

The review will consider and make recommendations on the following:

- a) The effectiveness of Indigenous Business Australia (IBA) and the Indigenous Land Corporation (ILC), as they are currently constituted, in driving Indigenous economic development through employment, training, business development, land acquisition and management and home ownership.
- b) The optimal structure and function of government effort to drive Indigenous economic development. This should include consideration of whether outcomes could be enhanced by integrating IBA and the ILC into a single entity.
- c) If a statutory body is considered the best approach, how to structure arrangements to ensure:
 - i. efficient administration and reduce red tape
 - ii. transparency and accountability of public funds
 - iii. appropriate powers of Ministerial direction or Government control

To view the Review, please see [ILC IBA Review website](#). You can also view the full Terms of Reference online.

[Online submissions](#) to the Review are now being accepted.

Native Title (New South Wales) Act 1994 – New Independent Body

When the *Civil and Administrative Legislation (Repeal and Amendment) Act 2013* (NSW) commences on 1 January 2014, it will (among other things) amend Part 7 of the *Native Title (New South Wales) Act 1994* to make the newly established [Civil and Administrative Tribunal](#) the independent body in NSW for hearing objections under s. 24MD(6B)(d) of the *Native Title Act 1993* (Cwlth).

To view the Bill, see [Parliament of NSW](#) website.

South Australia - Assent to Aboriginal Lands Trust Act 2013 (SA)

Assent was given on 5 December 2013 to the *Aboriginal Lands Trust Act (SA)* (Gazette 78, p 4406). *The Act* will commence on a day to be fixed by proclamation. It is said to be: 'An Act to continue the Aboriginal Lands Trust; to enable the trust to acquire, hold and deal with land for the continuing benefit of Aboriginal South Australians; to repeal the *Aboriginal Lands Trust Act 1966*; to make related amendments to other acts; and for other purposes' in relation to native title, see s. 8 and 44.

To view *The Act*, see [Government of South Australia](#) website.

Queensland – Draft Aboriginal and Torres Strait Islander Land Legislation Amendment Bill 2013

A consultation [draft Aboriginal and Torres Strait Islander Land Legislation \(Providing Freehold\) Amendment Bill 2013 \(Qld\)](#) has been released. According to the [Explanatory material for the Consultation draft](#):

The Queensland Government is committed to providing Aboriginal people and Torres Strait Islanders the same land ownership opportunities in their communities as available throughout Queensland. Providing the option for individual freehold title will do this and allow Aboriginal people and Torres Strait Islanders to pursue their social and economic development interests.

The freehold model will apply to 34 Aboriginal and Torres Strait Islander communities. The 'key foundations' of the freehold model are:

- Freehold is optional
- Consultation is required
- Native title must be surrendered or extinguished
- Freehold process is self-funding
- Freehold land can be sold or leased
- Granting freehold requires an eligibility test

- Current leasing conditions continue.

Comments on the Bill must be submitted by **31 January 2014**:

Post: Director, Policy, Aboriginal and Torres Strait Islander Land Services, Department of Natural Resources and Mines, PO Box 2454, Brisbane QLD 4001

Email: IndigenousLandServices@dnrm.qld.gov.au

Fax: (07) 3405 6899

For more information, contact Aboriginal and Torres Strait Islander land services department:

Native title enquiries: (07) 3181 5197

3. Indigenous Land Use Agreements

The [Native Title Research Unit](#) within AIATSIS maintains an [ILUA summary](#) which provides hyperlinks to information on the [National Native Title Tribunal \(NNTT\)](#) and the [Agreements, Treaties, and Negotiated Settlements \(ATNS\)](#) websites.

In November 2013, **39** ILUAs were registered with the National Native Title Tribunal.

| Registration date | Name | Tribunal file no. | Type | State or Territory | Subject matter |
|-------------------|---|-------------------|------|--------------------|----------------------------------|
| 1/11/2013 | Gunaikurnai and Icon Energy ILUA | VI2013/008 | BCA | Vic. | Exploration Petroleum/Ga |
| 19/11/2013 | IBIS - Warraber ILUA | QI2013/075 | BCA | Qld. | Commercial Community Development |
| 19/11/2013 | Emuford Battery ILUA: John Fitzgerald and Bar Barrum People | QI2013/033 | BCA | Qld. | Exploration Small Mining |
| 22/11/2013 | Middleback Ranges SA ILUA | SI2013/002 | AA | SA | Consultation protocol Mining |
| 25/11/2013 | Jangga People/Frankfield ILUA | QI2013/063 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Durdham ILUA | QI2013/062 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Goodoawada, Old Twin Hills and Waminda ILUA | QI2013/064 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Dooyne ILUA | QI2013/061 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Disney ILUA | QI2013/060 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Gunjulla ILUA | QI2013/065 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Bulliwallah ILUA | QI2013/059 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Lanark ILUA | QI2013/066 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Avon Downs ILUA | QI2013/058 | BCA | Qld. | Access |

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|------------|--|------------|-----|------|--------|
| 25/11/2013 | Jangga People/Larne ILUA | QI2013/067 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Wyarra (AKA Why Not) ILUA | QI2013/057 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Teviot Brook ILUA | QI2013/068 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Warrigal ILUA | QI2013/056 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Ukalunda ILUA | QI2013/055 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Urella ILUA | QI2013/069 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Suttor Creek ILUA | QI2013/054 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Pinang ILUA | QI2013/053 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Wilandspey ILUA | QI2013/070 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Panitya and Startlemere ILUA | QI2013/052 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Mount McConnell ILUA | QI2013/051 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Moonlight Creek ILUA | QI2013/050 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/McGregor Creek ILUA | QI2013/049 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Llanarth ILUA | QI2013/048 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Kenilworth ILUA | QI2013/047 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Ill-I-Ra (AKA Bungobine) ILUA | QI2013/046 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Gunnadoo (AKA Cramoisie) ILUA | QI2013/045 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Glen Easter, Mount Wyatt and Sellheim ILUA | QI2013/044 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Elgin Downs ILUA | QI2013/043 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Caerphilly ILUA | QI2013/042 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Bobby Dazzler Creek ILUA | QI2013/041 | BCA | Qld. | Access |

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|------------|--|------------|-----|------|----------------|
| 25/11/2013 | Jangga People/Bilyana, Bungobine, Eaglefield & Emin ILUA | QI2013/040 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Avalon, Cerito, Mount Lookout and Rosetta Creek ILUA | QI2013/039 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Arundel ILUA | QI2013/038 | BCA | Qld. | Access |
| 25/11/2013 | Jangga People/Amphion and Bingeringo ILUA | QI2013/037 | BCA | Qld. | Access |
| 26/11/2013 | Mabuiag Island Torres Strait Social Housing ILUA | QI2013/078 | BCA | Qld. | Infrastructure |

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

4. Native Title Determinations

The [Native Title Research Unit](#) within AIATSIS maintains a [determinations summary](#) which provides hyperlinks to determination information on the Austlii, [NNTT](#) and [ATNS](#) websites.

In November 2013, **3** native title determinations were handed down.

| Short Name (NNTT) | Case Name | Date (NNTT) | State | Outcome | Legal Process | Type |
|-----------------------------------|---|-------------|-------|--|-------------------------------------|----------|
| Mamu People | Stephen Brooks & Ors on behalf of the Mamu People v State of Queensland & Ors (unreported, FCA, 1 November 2013, Dowsett J) | 1/11/2013 | Qld. | Native title exists in parts of the determination area | Consent determination (conditional) | Claimant |
| Ewamian People #2 | Barry Fisher & Ors on behalf of the Ewamian People #2 v State of Queensland & Ors | 26/11/2013 | Qld. | Native title exists in the entire determination area | Consent determination | Claimant |
| Ewamian People #3 | Barry Fisher & Ors on behalf of the Ewamian People #3 v State of Queensland & Ors | 26/11/2013 | Qld. | Native title exists in the entire determination area | Consent determination | Claimant |

5. Future Acts Determinations

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

In November 2013, **10** Future Acts Determinations were handed down.

| Determination date | Parties | NNTTA number | State or Territory | Decision/Determination |
|--------------------|--|---------------------------|--------------------|------------------------|
| 6/11/2013 | Jessie Diver and Others on behalf of the Wangan and Jagalingou People (QC2004/006) (native title party) - and - The State of Queensland (Government party) - and - Gold Fields Australasia Pty Ltd (grantee party) | NNTTA 154 | Qld. | Objection - Dismissed |

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| 11/11/2013 | Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and - Grantee parties as listed in the attached schedule (grantee parties) | NNTTA 157 | WA | Objection - Dismissed |
| 13/11/2013 | Kevin Cosmos on behalf of Yaburara & Mardudhunera (WC1996/089) (native title party) - and - The State of Western Australia (Government party) - and - Mineralogy Pty Ltd (grantee party) | NNTTA 158 | WA | Objection - Expedited Procedure Applies |
| 18/11/2013 | Mantjintjarra Ngalia 2- (WC2006/006) (native title party) -and- The State of Western Australia (Government party) -and- Vanessa Erica Thomas (grantee party) | NNTTA 165 | WA | Objection - Dismissed |
| 21/11/2013 | Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and - Grantee parties as listed in the attached schedule (grantee parties) | NNTTA 159 | WA | Objection - Dismissed |
| 25/11/2013 | Mantjintjarra Ngalia #2 (WC2006/006) (native title party) -and- The State of Western Australia (Government party) -and- Zephyr Mining Pty Ltd (grantee party) | NNTTA 161 | WA | Objection - Dismissed |
| 25/11/2013 | Vanessa Thomas & Ors on behalf of Mantjintjarra Ngalia (WC2006/006) (native title party) -and- The State of Western Australia (Government party) -and- Dunstan Holdings Pty Ltd (grantee parties) | NNTTA 160 | WA | Objection - Dismissed |
| 29/11/2013 | Raymond William Ashwin, June Rose Ashwin, Geoffrey Alfred Ashwin and Ralph Edward Ashwin on behalf of the Wutha People (WC1999/010) (native title party) - and - The State of Western Australia (Government party) - and - Zephyr Mining Pty Ltd (grantee party) | NNTTA 164 | WA | Objection - Expedited Procedure Applies |
| 29/11/2013 | Native title parties as listed in the attached schedule (native title parties) - and - State of Western Australia (Government party) - and - Grantee parties as listed in the attached schedule (grantee parties) | NNTTA 163 | WA | Objection - Dismissed |
| 29/11/2013 | Yindjibarndi Aboriginal Corporation (WCD2005/001) (native title party) - and - The State of Western Australia (Government party) - and - FMG Pilbara Pty Ltd (grantee party) | NNTTA 162 | WA | Objection - Expedited Procedure Applies |

6. Registered Native Title Bodies Corporate & Prescribed Bodies Corporate

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

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

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

7. Native Title in the News

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

8. Related Publications

Central Land Council (CLC)

‘Land Reforms in the Northern Territory’

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

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

Media Releases

Attorney-General for Australia, Minister for the Arts

‘Native title respondent funding’ – 1 November, 2013

The Attorney-General for Australia, the Hon. George Brandis QC, has announced the Federal Government will reinstate the respondent funding to native title claims. The Federal Government will provide \$2.2 million over two years to assist people who demonstrate that a native title claim is likely to have an impact on their interests. The funding will be available from 1 January 2014.

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

Queensland Government – Department of Natural Resources and Mines

‘Mamu People’s native title right recognised’ – 4 November 2013

The Federal Court of Australia have recognised the Mamu People’s native title rights and interests over lands in far north Queensland in a consent determination handed down in Innisfail. The Director of Aboriginal and Torres Strait Islander Land Services with the Department of Natural Resources and Mines, Mr Kevin Murphy, said the determination covered a large area of land and water around the Innisfail area. ‘The Mamu determination recognises exclusive native title rights over more than 7500 hectares of land and non-exclusive rights over more than 64,500 hectares of land,’ he said.

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

South Australian Native Title Services

‘Karpany wins High Court appeal’ – 6 November 2013

The High Court ruled in favour of two Narungga Men charged with taking undersized abalone stating that the native title holders were permitted to gather fish for personal needs, under the protection of the native title act. Owen Karpany and son Daniel Karpany were charged under the Fisheries Management Act 2007 after they were found with greenlip abalone meat at Cape Elizabeth, south of Port Hughes on Yorke Peninsula in 2009. The earlier Supreme Court ruling found their native title rights had been extinguished in 1971 when the Fisheries Act took effect. The High Court opposed this decision, ruling it is a native title right to take fish.

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

The Hon. Robert Clarke MP & The Hon. Jaenette Powell MP

‘Landmark native title settlement for central Victoria’ – 15 November 2013

A settlement agreement between the Victorian Coalition Government and representatives of the Dja Dja Wurrung people for approximately 266,500 hectares of Crown Land in central Victoria has officially commenced. Representatives from the Dja Dja Wurrung Corporation, the Victorian Government and the Governor of Victoria took part in a ceremony to mark the historic event in Bendigo.

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

Central Land Council

‘Aboriginal people using mining royalties to strengthen their communities’ – 19 November 2013

Directors of the Granites Mine Affected Area Aboriginal Corporation (GMAAAC) have launched a DVD, *GMAAAC - Our Projects Our Way*, showcasing how good decision making processes and strong governance can turn mining royalty payments into projects that benefit whole of community.

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

National Native Title Tribunal

‘500th Indigenous Land Use Agreement registered’ – 25 November 2013

The 500th Queensland Indigenous Land Use Agreement (ILUA) was registered in Queensland on 25th November 2013. The total number of registered ILUAs across the country has reached 842 and ILUAs now cover more than 24% of the Australia. The majority of registered ILUAs are agreements reached in Queensland.

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

National Environmental Research Program

‘Gulf of Carpentaria Rangers reduce wildfires through early season burning work’ – 26 November 2013

Since becoming active in fire management in 2007, the Garawa and Waanyi Garawa Rangers have reduced late season wildfires by 87% across the land they manage in the Gulf of Carpentaria. Using a combination of onground and aerial burning, the rangers have implemented an early season mosaic burning regime across their 20,000 square kilometres land trusts, reducing green house emissions and protecting vital feeding and breeding habitat for the regions native fauna.

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

Corrs Chambers Westgarth

‘Australia’s first approved native title compensation determination’ – 27 November 2013

Corrs Chambers Westgarth discuss the implications of the Federal Court decision in *De Rose v State of South Australia* [2013] FCA 988. This was the first decision in Australia to order the payment of compensation for the extinguishment of native title rights and interests. Although the financial terms of the settlement were agreed by the parties in mediation, and were kept confidential by the Court, the decision is nonetheless significant in identifying a potential liability for both governments and third parties in compensating for extinguished native title.

See [Law Chat online](#) for more details.

Queensland Cabinet and Ministerial Directory

‘Historic handover of Cape York national parks’ – 27 November 2013

Seven national parks in south-east Cape York Peninsula will be jointly managed by Aboriginal traditional owners and Queensland Parks and Wildlife Service (QPWS), after two separate land grants were delivered. National Parks Minister, The Hon Steve Dickson and Environment and Heritage Protection Minister, The Hon Andrew Powell, today announced the transfer of more than 350,000 hectares of land, ‘This handover represents a significant milestone in the Newman Government’s commitment to work with communities on the Cape,’ Mr Dickson said.

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

Also available at [Australian Conservation Foundation](#) and [Land Management Online](#).

Queensland Government – Department of Natural Resources and Mines

‘Ewamian #2 and #3 People’s native title rights recognised’ – 27 November 2013

The Federal Court of Australia has recognised the Ewamian People’s native title rights and interests over lands in north Queensland with two consent determinations handed down in Georgetown. Director of Aboriginal and Torres Strait Islander Land Services with the Department of Natural Resources and Mines, Mr Kevin Murphy, said the determinations recognised the Ewamian People’s enduring connection to their traditional lands.

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

Also available at [North Queensland Land Council](#) online.

News Broadcasts and Podcasts

National Environmental Research Program

‘Garawa and Waanyi Garawa Fire Management’

Since early 2007, the Garawa and Waanyi Garawa Rangers have conducted early season burning across a number of land trusts in the Northern Territory and Queensland. This video displays the results of their burning techniques six years on

Available at [Vimeo online](#).

ABC Radio Australia

‘Concerns raised over Australian High Court judgement on native title – 7 November, 2013

The South Australian government says it is investigating the implications of a High Court native title decision on Indigenous fishing rights. It follows a ruling that confirms two Aboriginal men were within their rights to fish for Abalone. The man at the centre of the decision has described it as a landmark ruling, not just for him, but all Indigenous people

Available at [ABC Radio online](#).

National Indigenous Radio Service

‘Aboriginal corporation considers legal action in sand mining’ – 26 November, 2013

The CEO of Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC), Mr Cameron Costello, has criticised the Queensland Government for extending the lease for sand mining on north Stradbroke Island from 2019 to 2035. Mr Costello says the North Stradbroke Island Protection and Sustainability Amendment Bill 2013 was passed without any consultation with the traditional owners. Mr Costello says two parties, including the pro-mining Katters Australia Party, have condemned the Bill, and QYAC will consider taking legal action against the Government.

Available at [NIRS online](#).

9. Training and Professional Development Opportunities

Indigenous Law Centre

Call for Papers – Australian Indigenous Law Review

The Australian Indigenous Law Review (AILR) is currently welcoming submissions to be considered for inclusion in both general and thematic issues. Submissions for the general issue can be on any legal topic of special relevance to Indigenous peoples, in Australia and around the world. The thematic issue is on 'Formal Equality, Substantive Equality and Special Measures', and aims to cast fresh light on the challenges related to Indigenous peoples' differential treatment under the law and bring new insights to the debate. If you would like to submit an article (between 6,000-14,000 words, including footnotes) for either the general or the thematic issue, please email an abstract or brief summary of your topic to the Editors at ailr@unsw.edu.au.

To read about how you can contribute to this publication please refer to the AILR [contribution page](#). To subscribe you can download the [subscription form](#) and return it to the AILR.

For further details, please contact AILR: (02) 9385 2252.

The Aurora Project

See the Aurora Project: [2014 Program Calendar](#) for information on training and personal development for staff of native title representative bodies, native title service providers, RNTBCs and PBCs.

Monash University Indigenous Australian Archives Scholarship

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

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

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

Aurora Native Title Research Scholarships

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

Conditions of the scholarship program:

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

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

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

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

10. Events

50 Years On: Breaking Barriers in Indigenous Research and Thinking

Date: 26-28 March 2014

Location: National Convention Centre, Canberra, ACT

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

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

2014 World Indigenous Legal Conference

Remembering the past and looking to the future

Date: 23-27 June 2014

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

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

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

2014 IUCN World Parks Congress, Sydney

Date: 12-19 November 2014

Location: Sydney Olympic Park, Homebush, NSW

The International Union for Conservation of Nature (IUCN) is pleased to announce the IUCN World Parks Congress in Sydney, 2014. Taking the theme; *Parks, People, Planet – Inspiring Solutions*, the IUCN World Parks Congress 2014 will advance an ambitious agenda that will inspire solutions for today's most pressing global challenges. As a prestigious global gathering of protected area leaders and professionals and the wider cross-section of society, with a legacy of collaboration and innovation dating back to the inaugural event in 1961, this World Parks Congress promises to build a dynamic foundation for achieving conservation and development goals for the decade to come.

For more information including [Registration](#), see [IUCN World Parks Congress, Sydney 2014](#) website.



The Native Title Research Unit produces monthly publications to keep you informed on the latest developments in native title throughout Australia. You can subscribe to NTRU publications online, follow @NTRU_AIATSIS on Twitter or 'Like' NTRU on Facebook.

