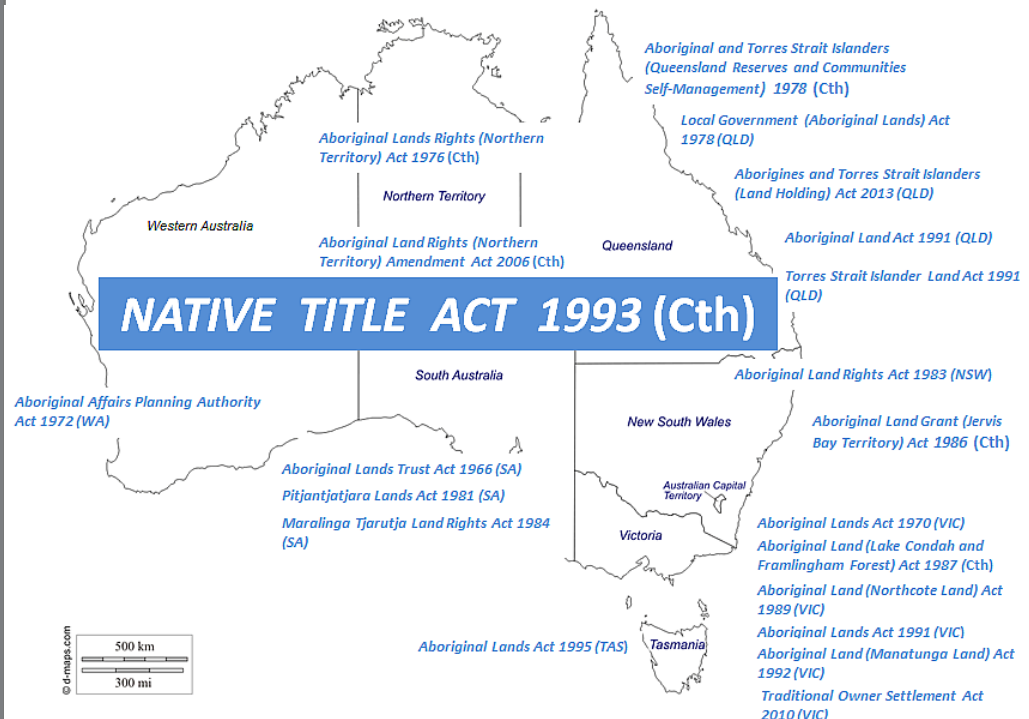




25 YEARS OF NATIVE TITLE RECOGNITION

Contents

States and territories: overview	1
New South Wales and ACT	3
Queensland	5
South Australia	12
Victoria	14
Western Australia	15
Northern Territory	23
Tasmania	28



Map of Australia showing native title and land rights legislation. Source: NNTT

STATES AND TERRITORIES

The [Native Title Act \(1993\)](#) (NTA) is a Commonwealth Act that applies to all states and territories, however, each jurisdiction manages the native title process in a slightly different way, informed by its state and territory specific legislation, policies and history.

New South Wales (NSW)

With much of NSW subject to extinguishing tenures, there are limited areas where native title can be claimed and there have only been eight determinations recognising the continuing existence of native title in NSW.

Separate to the *Native Title Act*, a significant number of land claims in NSW are made under the [Aboriginal Land Rights Act 1983 \(NSW\)](#) (ALRA). The ALRA allows certain Crown land to be returned to Aboriginal peoples as compensation for historical dispossession and ongoing disadvantage. Under the ALRA, land can be claimed by Aboriginal Land Councils and, if they wish to convert it to freehold or sell it, they must obtain a determination under the *Native Title Act* that native title does not exist. To achieve this, a non-claimant application is made by the Land Council.

Due to the interaction between the ALRA and the *Native Title Act*, significantly more non-claimant applications are made in contrast to other jurisdictions.

STATES AND TERRITORIES

Queensland

Millions of hectares of land have been transferred to Aboriginal people in Queensland under the [Aboriginal Land Act 1991 \(Qld\)](#) and the [Torres Strait Islander Land Act 1991 \(Qld\)](#). Aboriginal land held under these acts can co-exist with native title, but can also exist in areas where native title has previously been extinguished.

There have also been over 100 determinations made under the *Native Title Act* that native title exists in parts of Queensland and the Torres Strait.

As a state rich in minerals, there is a lot of future act activity in Queensland's resource sector. Parties are encouraged to negotiate Indigenous Land Use Agreements to facilitate future acts, rather than enter into the future act arbitral processes.

South Australia

South Australia led the country in recognising Indigenous rights to land. In 1966, the South Australian government transferred land reserved for Aboriginal people into an Aboriginal Lands Trust to be controlled by Aboriginal people. The Trust now holds 64 properties incorporating 500,000 hectares of land. Other beneficial legislation included the [Anangu Pitjantjatjara Land Rights Act 1981 \(SA\)](#) and the [Maralinga Tjarutja Land Rights Act 1984 \(SA\)](#).

The State's approach to resolving native title is to resolve claims by consent wherever possible. Consequently, of the 27 determined native title claims made in South Australia, 25 have been made by consent. South Australia is unique in that it is the only state to successfully establish an alternative arbitral body for Future Acts and does not rely on the National Native Title Tribunal for arbitral decisions.

Victoria

Prior to the establishment of the *Native Title Act*, Victoria recognised Aboriginal land rights through a series of specific legislations: the [Aboriginal Lands Act 1970](#), [Aboriginal Land \(Lake Condah and Framlingham Forest\) Act 1987](#), [Aboriginal \(Northcote Land\) Act 1989](#), [Aboriginal Lands Act 1991](#), [Aboriginal Land \(Manatunga Land\) Act 1992](#).

Many land claims in Victoria are resolved under the [Traditional Owner Settlement Act 2010 \(Vic\)](#) (TOSA), which provides for an out-of-court settlement of native title over Crown Land. The TOSA was introduced in acknowledgement of the difficulties Victorian

claimants were likely to experience when attempting to claim under the NTA.

The High Court's decision in the *Yorta Yorta* matter in 2002 had determined that the impact of settlement and dislocation resulted in widespread loss of traditional law and custom. The TOSA allows the Victorian Government to enter into an agreement with traditional owners recognising certain rights in Crown land. The traditional owners must agree to withdraw any native title claim, pursuant to the *Native Title Act* and not to make any future native title claims.

Despite the difficulties in claiming native title, four determinations have found that native title exists over 14,899 square kilometres of land in Victoria. Native title has now been settled over approximately 40 per cent of the claimable Crown land Estate.

Western Australia (WA)

WA is the only state that has no Aboriginal Land Rights legislation. One alternative mechanism for Aboriginal people to gain access to Aboriginal lands is through the Aboriginal Lands Trust (ALT). The ALT holds in excess of 27 million hectares of land reserved for Aboriginal people in WA, much of which was reserved for the use and benefit of Aboriginal people under the *Aborigines Act 1889* (WA). While ALT land does not diminish native title rights, the future act regime of the NTA does not apply and ILUAs cannot be negotiated solely over ALT land.

With no provision for settling land claims in existence prior to 1993, the WA government relies exclusively on the *Native Title Act*. Native title determinations have been made over more than 30 per cent of the state, the majority by consent.

WA is also a mineral rich state, however unlike Queensland, WA relies heavily on the NNTT's arbitral functions to facilitate future acts.

The Territories

Almost 50 per cent of the Northern Territory is held as Aboriginal freehold under the [Aboriginal Land Rights \(Northern Territory\) Act 1976 \(Cth\)](#), with much of the remainder of the Territory claimable under the *Native Title Act*. Of the 99 native title determinations made in the Northern Territory, 88 have been made by consent. Native title has been found to exist over 253,886 square kilometres.

There have been five native title determination applications filed in the Australian Capital Territory,

however each of these have been either dismissed, rejected or withdrawn and none are currently on foot. Some land in the Jervis Bay area has been vested in the Wreck Bay Aboriginal Community Council under the [Aboriginal Land Grant \(Jervis Bay Territory\) Act 1986 \(Cth\)](#).

Tasmania

In 1995 after many years of lobbying, the [Aboriginal Lands Act 1995](#) acknowledged the dispossession of Aboriginal people and enabled the return of lands significant to the Aboriginal community, to be held in trust by the Aboriginal Land Council of Tasmania. There have been no native title determinations in Tasmania and there are no current native title determination applications under the NTA.



Watch: [The Hon Fred Chaney AO, former Deputy President, NNTT](#)

NEW SOUTH WALES AND AUSTRALIAN CAPITAL TERRITORY

Statistics as at 31/12/2017

Native title determinations	
By consent	
Litigated	
Unopposed	
Outcome	
Native title does not exist in the determination area	
Native title exists in parts of the determination area	
Native title exists in the entire determination area	
Active native title determination applications	
Indigenous Land Use Agreements	
Area Agreements	
Body Corporate Agreements	

Native Title Representative Bodies

- [Native Title Services Corporation](#)



Members of the Githabul People, Doug Williams and Christine Charles, addressed the gathering at the ILUA celebrations. Source: NNTT

Overview

The first determination of native title occurred in New South Wales (NSW) when the Dunghutti people were recognised as the native title holders in the Crescent Head consent determination in April 1997. The determination also settled the issue of compensation for the extinguishment of native title rights and interests as captured in the Crescent Head Agreement reached by the Dunghutti people and the NSW government and NSW Aboriginal Land Council, in October 1996.

As noted in the overview, non-claimant applications are commonplace in NSW due to the intersection between the *Native Title Act* and the Aboriginal Land Rights Act [1983](#) (ALRA). Non-claimant applications are largely filed by Aboriginal land councils under the ALRA, seeking a determination that native title does not exist to enable them to claim the land as freehold. As at 21 September 2017, 47 non-claimant applications have been determined across the country, 41 of these in NSW.

As a result of the intensive settlement in the state, it has proven difficult to prove the ongoing existence of native title. In 2004, the Federal Court determined that native title did not exist in the Sydney region in the [Darug People's](#) claim. In this case, Justice Madgwick said that "Aboriginal dispossession and cultural changes meant that much of their pre-existing

culture was destroyed before it could be recorded, “contributing” to his inability to find in favour of the claimants.”

Further, the 2002 decision by the High Court in [Wilson v Anderson](#) meant that approximately 80 million acres, or more than one third of NSW, is not claimable under native title.

As a result of these factors, the settlement of native title claimant applications in this state has been slower than in other jurisdictions. The State Government has had “Credible Evidence Guidelines” in place since 1998 which are used in mediation but these have never been published.

Case Studies

Githabul: An ILUA and a Consent Determination

On 29 November 2007 the Federal Court of Australia made a consent determination recognising the Githabul People’s native title rights and interests over 1120 sq km in nine national parks and 13 state forests in northern NSW. The consent determination is recognition that the Githabul People’s native title has always existed, and continues to exist, under their traditional laws and customs.

The consent determination is an important turning point because it recognises the Githabul People’s native title rights under Australian law for the first time.

The Federal Court recognised the Githabul People’s non-exclusive rights to:

- access the determination area for spiritual purposes and to access sites of spiritual significance
- access and camp in the determination area
- fish, hunt and gather animals and plants for personal, domestic or non-commercial communal need
- take and use water for personal, domestic or non-commercial communal need, and
- lawfully protect places of importance to the Githabul People in the determination area.

These areas will continue to be shared by all those with an interest in the area, including members of the public.

The Githabul People’s consent determination followed the signing of an Indigenous Land Use Agreement (ILUA) between the Githabul People, the Githabul Nation Aboriginal Corporation and the NSW Government in 2007. The Githabul ILUA is a voluntary agreement that applies to the whole of the

determination area and some additional areas.

The ILUA sets out:

- the Githabul People will be involved in consultation and management of 11 national parks and reserves through a management committee and the employment of at least four Githabul People
- the Githabul People will be consulted over the management of 13 state forests
- certain areas that are culturally significant to the Githabul People, including Tooloom Falls, will be protected
- 102 ha of Crown lands will be transferred in freehold to the Githabul Nation Aboriginal Corporation
- native title rights, such as hunting in the national parks and state forests, will be exercised in accordance with certain agreed restrictions, and
- there is agreement that native title is extinguished or surrendered over certain areas.

“It [the determination] gives the United Githabul Tribal Nation recognition, not only by the Federal Court, but by the NSW Government. This is one thing that the old people always dreamt of—to be recognised by this State Government.

The reason why we lodged the claim was to give hope and inspiration to other tribal groups across the Commonwealth.

Even though it took 15 years, it was worth it—we have given hope to other tribes.”

Trevor Close, Githabul Applicant



Watch: [Ms Kaylene Malthouse, Chairperson, North Queensland Land Council](#)

QUEENSLAND

Statistics as at 31/12/2017

Native title determinations	
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Native title exists in parts of the determination area	
Native title exists in the entire determination area	
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Native Title Representative Bodies

- [Cape York Land Council Aboriginal Corporation](#)
- [Carpentaria Land Council Aboriginal Corporation](#)
- [North Queensland Land Council](#)
- [Queensland South Native Title Services](#)
- [Torres Strait Regional Authority](#)



Justice Drummond made a determination of native title over the Islands of Atub, Bara, Bini, Bubui, Guiya, Miggi, Maituitt, Ugain, Ullu, Uroi Yurin Kula, Waraber and Poruma on 7 July 2000.

Source: NNTT

Overview

Following the Mabo decision, Torres Strait Islanders embraced the establishment of the NTA, submitting a number of native title claims which were quickly progressed by the Queensland government. Twenty six claims in the Torres Strait were finalised by 2006, all by consent and 30 matters within the Torres Strait have been settled to date. In total, 139 claimant determinations of native title have been made in Queensland covering approximately 97 per cent of the State.

Following the 1998 amendments to the *Native Title Act*, the Queensland government also quickly adopted ILUAs as a preferred method of resolving native title matters. As at 21 September 2017, 770 ILUAs negotiated in Queensland are registered with the NNTT, a number that far surpasses any other jurisdiction.

Being a highly prospective state, and facing similar pressures to Western Australia from the mining industry, the government was concerned to ensure that future act matters progressed smoothly and established an alternative future act process under the *Mineral Resources Act 1989*. This operated between September 2000 and April 2003, administering an alternative to the right to negotiate for the grant of low impact exploration titles after the grantee party had entered into an Access Agreement with the native title party. The alternative regime has since lapsed and currently exploration permits are issued under the expedited procedure if the grantee party accepts the [Native Title Protection Conditions](#) (NTPCs) as a condition of the grant of title. The NTPCs are heavily focussed on Aboriginal cultural heritage protection and specify which native title parties a proponent must deal with, what the native title party and proponent must do as part of the licence and the recourse if timeframes are not met.

Additionally, the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* require all developers to carry out surveys and assessments of cultural heritage and prepare [Cultural Heritage Management Plans](#) (CHMPs) detailing how any cultural heritage in the area will be protected. CHMPs must be prepared in consultation with relevant Aboriginal groups and are binding upon the developer.

Similar to Western Australia, the Queensland government published Connection guidelines in 2003, most recently updated in November 2016, and successive governments have articulated a policy of settlement by consent as their preferred model. The government has taken a whole of government approach to native title policy and procedures and has published extensive information on their processes.



26 July 2011 - Representatives of the Juru Kyburra Munda Yalga Aboriginal Corporation, PBC.
Source: North Queensland Land Council



Bar Barrum Traditional Owners holding a photograph of ancestors at the native title determination, June 2016.
Source: North Queensland Land Council



Watch: [Mr Charles Passi, son of Mabo Plaintiff, Reverend Dave Passi](#)

Case Studies

Bar Barrum determination

The 10 June 2016 determinations were attended by approximately 100 Bar Barrum People on a sunny winter's day at the Dimbulah Town Hall. The determinations not only give the Bar Barrum People recognition as traditional owners of their country, but it also gave them a chance to come together and share stories and reconnect with each other and the country. The Court's willingness to hold determination hearings on country made this possible.

Terri Anning whose Great Grandmother is Bar Barrum apical ancestor Rosie Congoo, emotionally summarised the importance of native title to her and her family in the following words:

What lies behind us and what lies ahead of us are tiny matters compared to what lies within us. Most importantly, native title is about bringing our people back home, welcoming with open arms, restoring their connections, mentally, physically, emotionally, and spiritually, this would lay our Elders at peace and rest.

The road ahead will be forged by the Prescribed Body Corporate, which is Mbabaram Aboriginal Corporation RNTBC and which manages the Bar Barrum People's native title on behalf of all Bar Barrum People.

Article source: North Queensland Land Council Message Stick December 2016

Djiru Warrangburra Aboriginal Corporation

The Djiru Warrangburra Aboriginal Corporation (Djiru WAC) was established as a result of the two native title consent determinations of the Djiru People. The Djiru People are the recognised Traditional Owners of approximately 9,440 hectares of land and waters in the area of Mission Beach. The determination is located approximately 133 km south of Cairns and includes parts of the Tully Gorge National Park, Clump Mountain National Park, Djiru National Park, Hull River National, Walter Hill Ranges Conservation Park, unallocated state land and reserve land.



Djiru Traditional Owners at their native title determination.
Source: North Queensland Land Council

Due to successful negotiations of Indigenous Land Use Agreements, Djiru WAC are able to develop some of their land that has led to their successful hosting of many events at their North Queensland (NQ) Clump Mountain property venue.

How has the recognition of your native title changed the lives of the Djiru People?

Native title for Djiru has been acknowledged and recognised more prominently now in the wider Mission Beach/El Arish area, particularly with local and state governments, regional bodies, community groups, schools, small businesses and private landholders. More employment and training opportunities have also arisen through small to medium grants for Working on Country, encouraging conservation and land management, cultural heritage management and monitoring, as well as cultural awareness training.



*Signage at Clump Point lookout.
Source: North Queensland Land Council*

What is the connection to the Clump Mountain (property) to the Djiru People?

NQ Clump Mountain Project Society Pty Ltd was established in the late 1970s by a strong Aboriginal and Islander community group, who began a journey to fulfil the last will and testament of one Rupert Fenby. Rupert Fenby dedicated the Clump Mountain property to Aboriginal people for education and tourism opportunities for all aspects of Aboriginal culture and traditional knowledge. Descendants of Djiru have been members of that organisation since its inception and until the native title process began, an understanding to have Djiru involved culturally was observed. Major projects in the 1990s with dedicated staff and volunteers made it what it is today, including ongoing maintenance and repairs by Djiru, community volunteers and the Girringun IPA Rangers after Cyclones Larry and Yasi.

Djiru has hosted a number of events at Clump Mountain and we base our PBC here for meetings, workshops, conferences, working bees, employment and training, cultural activities, community camping and family gatherings. Major events held here over the years include the WTMA/ARC Interim Negotiating Forum, a Mission Beach community festival involving South African full moon drumming, the Djiru native title authorisation meeting and consent determination in 2011, North Queensland Land Council's 2014 Land Summit and AGM, Girringun Aboriginal Corporation's 2016 TUMRA Sea Conference and IPA Rangers Indigenous workshop.

Article source: North Queensland Land Council Message Stick December 2016

Ewamian Aboriginal Corporation

Ewamian Aboriginal Corporation (EAC) was established in 1994 in response to the need for a corporation that was able to apply for grants and undertake activities specifically for Ewamian People, whilst the Ewamian People worked towards having their native title rights and interests recognised.

The Ewamian People's native title determination applications were successfully determined by the Federal Court of Australia at Georgetown on 26 November 2013. A process which has taken almost 20 years, through the dedication and commitment of not only the Ewamian People, the North Queensland Land Council and strong relationships held with their stakeholders and people of the Etheridge Shire.



Ewamian Aboriginal Corporation members at Tallaroo Station. Source: North Queensland Land Council

The main areas of service that are provided by EAC are:

- managing Country through natural and cultural land management activities
- managing Culture through supporting Ewamian People in the protection and promotion of their cultural heritage, and
- promoting community by providing a business to support the Ewamian People, by participating in and supporting economic development for

Ewamian People and providing training and employment skills opportunities.

A significant achievement for Ewamian People has been the acquisition of Tallaroo Station near Georgetown. In 2012 EAC signed a three year lease with the Indigenous Land Corporation to manage Tallaroo as an Indigenous Protected Area to manage and protect the conservation and cultural values of this property, through weed, pest and fire and cultural management.



Tallaroo Hot Springs
Source: North Queensland Land Council

The Tallaroo Hot Springs are a very significant feature of Tallaroo. The Ewamian people are committed to protecting its natural and cultural value and hopefully one day restore the natural flows of the mounds and run successful tourism operations on Tallaroo. Tallaroo is managed by four Ewamian rangers who are funded by the Indigenous Land and Sea Ranger Program since 2009. EAC's vision is to provide many employment and training opportunities for Ewamian People on Tallaroo in the future.

There are around 80 pastoral properties and an estimated 200 exploration and mining leases on Ewamian Country and EAC has the responsibility to manage relationships and administer and facilitate consultations, meetings and agreements with these stakeholders.

Article source: North Queensland Land Council Message Stick February 2015



Watch: [North Queensland Land Council](#)

Crocodiles in the High Court

This famous case, sometimes known as the "crocodile case" started with the prosecution of former Carpentaria Land Council Aboriginal Corporation Chief Executive Officer Murrandoo Yanner for the taking and killing of two crocodiles.

He was charged with contravening the Queensland *Fauna Conservation Act* which provided that a person could not take fauna without being the holder of a particular licence. Murrandoo argued that he was exercising his rights as a Gangalidda person and according to traditional laws and custom and therefore did not need to hold a licence.

The case went first to the Magistrate's Court in Mount Isa, where the magistrate upheld Murrandoo's defence, however the State government then appealed the decision to the Court of Appeal and this Court upheld the appeal. Murrandoo then took the case to the High Court.

The High Court agreed with Murrandoo in a 5:2 decision and the charges against Murrandoo had to be dropped.

The crocodile case remains a significant precedent in native title case law in Australia and, along with Mabo and Wik, it had much wider ramifications. It followed a series of cases involving the right of Indigenous people to hunt and gather their traditional foods.

What many do not know, however is that the first case of this kind that came before the High Court was that of *Walden v Hensler* in 1987. In this case, the late Mr Herbert Walden, also a Gangalidda man, was charged with killing a turkey. Unfortunately, this was five years before the Mabo case and native title was not available to Mr Walden as a defence.

Article source: Carpentaria Land Council Aboriginal Corporation

Recognition of native title rights to the sea

On 23 March 2004 Justice Cooper of the Federal Court delivered his judgment in the Wellesley Sea Claim. This was the first and only native title case run to trial by Carpentaria Land Council Aboriginal Corporation and involved an application by the Lardil, Yangkaal, Gangalidda and Kaiadilt Peoples. The claim was the first fully contested native title claim in Queensland since Mabo and only the second native title claim in Australia relating solely to the sea.

The claim ran for eight years before it was finally determined following a lengthy trial on Mornington Island. The Court recognised that non-exclusive native title rights and interests are held by the Lardil, Yangkaal, Kaiadilt and Gangalidda Peoples over the seas surrounding the Wellesley Islands and over part of the Albert River.

Many peoples gave evidence in support of the claim, including a number of important and respected elders who are no longer with us.

...In our belief, we're born with the human spirit inside of us that connects with the spirit in creation, so we're connected all the time, and spirit you can't see, and it is not written law, but we know that that law is there, and I want to also say, while we're on this subject, that spirit is—it could be in the Dreamtime; it is present today, and is a part of us for the future, from the cradle to the grave, so it doesn't lose its value or the spirit doesn't lose its power and connectedness with creation and people. Never. I mean, it is as strong today as it was in the Dreamtime.

Wadjularbinna, Gangalidda elder,
oral evidence given at the Wellesley Sea Claim hearing, Gununa, 2004.

Article source: Carpentaria Land Council Aboriginal Corporation

The Waanyi High Court challenge

In June 1994, with the support of Carpentaria Land Council Aboriginal Corporation, the Waanyi People lodged a native title claim over part of the Lawn Hill cattle station on which the Century Mine was planned.

The native title claim was not registered by the NNTT on the basis of the extinguishing effect of prior pastoral leases granted in the area of the claim.

The Waanyi People appealed that decision to the Federal Court on a number of grounds, including the procedural ground that it was arguable that native title co-existed with pastoral leases, whether or not those leases contained a reservation of Indigenous rights, and in those circumstances the NNTT did not have the power to reject the application. They lost their appeal

by two to one.

Undeterred, the Waanyi People, then appealed the Federal Court's decision to the High Court. Against the opposition of all State Governments, the Northern Territory Government, the Commonwealth and CRA, the Waanyi won. In February 1996, the High Court determined that the procedure adopted by the NNTT, which included receiving material and submissions from the State and CRA, was wrong and that the claim was arguable and should have been accepted.

Article Source: Carpentaria Land Council Aboriginal Corporation



Watch: [Ms Colleen Wall, Chair, Queensland South Native Title Services](#)

Western Yalanji celebrate

Native Title rights over part of the Western Yalanji People's country, which includes some of the oldest paintings in the world, have finally been recognised after more than ten years of negotiations.

Today was more than special, today I can hand on part of the responsibility to my daughters and to my grandchildren. This is about tomorrow, and this is about holding on to what we had from the past and to make things more stronger now because we've been operating from a weak situation for the last 200 years, and it's been breaking our heart all along the way. But, we have shown now that there's a power beyond a lot of things that weaken people. Qawanji It's good to come to fruition now and it's good that we've come to be recognised like that on country there. We can properly do some things now to establish some sort of good way towards helping our younger generation to improve in their ways and to come more to know about the culture. It's important, I reckon, because we don't want to lose that identity, we need to focus on that as well as other aspirations of the younger generations.

Thomas Mitchell

Article source: NQLC Message Stick December 2013

Momentous September day for Djiru

Not one, but two Native Title determinations were celebrated by Djiru people around Mission Beach, including Tully Gorge, Clump Mountain and Hull River National Parks, and the Walter Hill Range Conservation Park, back in September 2011.

Local elders Rae Kelly and Kathleen Edwards said they were happy after waiting for so long, both agreeing it was about the young ones.



Mission Beach.

Source: North Queensland Land Council

Mrs Kelly said:

All our children now that are here, every one of them all have something to be proud of. They own something at last, grandparents, all of the kids are here, all the clan. The old people finally got it back for them.

Leonard Andy has been a member of the working group since 1997 with a view to making a future for his people.

"I've been on the Working Group since 1997 even though we didn't lodge the claim until 2002," he said. "I'm looking at it like creating options for our future, for the future generations, what we do today isn't really for us. It's for the future generations and possibly, like, an economic future independent of the government. That's what I'm thinking about".

Source: North Queensland Land Council Message Stick December 2011



Watch: [Mr Paul Richards, Native Title Lawyer, 1968-2015](#)

Mr Pedro Stephen AM, Chairperson, Torres Strait Regional Authority

25 years of native title recognition

The Torres Strait Regional Authority (TSRA) Chairperson, Mr Pedro Stephen AM, has provided the following statement on the 25th anniversary of the High Court of Australia's decision in *Mabo and others v Queensland (No 2)*:

The *Mabo* decision began when a group of Meriam landowners: Eddie Koiki Mabo, Reverend David Passi, Celuia Mapoo Salee, Sam Passi and James Rice, brought an action against the State of Queensland and the Commonwealth of Australia, in the High Court, claiming 'native title' to the Murray Islands in the Torres Strait.

On 3 June 1992 (now known as Mabo Day) the High Court handed down its decision, which recognised that Australia was occupied by Torres Strait Islander and Aboriginal peoples at the time of colonisation in 1788.

This overturned the doctrine of terra nullius that was proclaimed when Australia was colonised. The High Court declared that the:

Meriam people are entitled as against the whole world to possession, occupation, use and enjoyment of the lands of the Murray Islands.

Following the High Court's decision in *Mabo* the Australian Parliament passed the *Native Title Act 1993* (Cth), commencing on 1 January 1994.

Native title is the legal recognition that Torres Strait Islander and Aboriginal peoples have rights to, and interests in, certain land because of their traditional laws and customs.

Torres Strait Islander and Aboriginal peoples may be granted the right to live on the land, access the area for traditional purposes, visit and protect important places and sites, hunt, fish or gather traditional food or resources on the land, or teach laws and customs on the land.

In some cases, native title can include the right to own and occupy an area of land or water to the exclusion of all others.

Mabo Day is important to the Torres Strait Islander and Aboriginal people, as it symbolises the long struggle endured to gain recognition of their rights in their own country.

The Mabo Case has since been an inspiration for Indigenous people around the world, acting as a platform for other Torres Strait Islanders and Aboriginal peoples to secure native title rights and interests over their lands and seas.

Although the recognition of Native Title has brought about great gains, challenges still remain.

The native title process can be a long process for Traditional Owners to navigate through. A lot of time and resources must be spent by Native Title Representative Bodies and Service providers to prepare a successful claim.

Negotiations with the State and other stakeholders who have a direct interest within the claim areas is a tedious and at times, difficult process.

Other challenges are that land users and administrators do not understand native title and cultural heritage legislation, which can lengthen the claim process. In addition, overlapping claims and interests can be both time-consuming and complex.

The TSRA is the Native Title Representative Body for Traditional Owners in the Torres Strait region. Through its Representative Body functions, TSRA assists Traditional Owners with resolving native title claims, responding to and negotiating future act notifications, negotiating Indigenous Land Use Agreements, resolving land disputes, and also provides a range of other services.

The Native Title Office (NTO) is the administrative arm, which provides services to our region's Traditional Owners and Prescribed Bodies Corporate (PBCs) in accordance with our Native Title Representative Body functions.

The Native Title Programme's goal is to provide culturally appropriate support and services for the region's Traditional Owners and PBCs. To achieve this, the NTO assists Traditional Owners in securing native title, negotiating future acts, and providing capacity-building support for PBCs.



*Mr Pedro Stephen AM, Chairperson,
Torres Strait Regional Authority*

Notable milestones for the TSRA years include:

The State Government's agreement, in December 2012, to transfer the Reserve Land that was held by the State to the Meriam people. Mer Gedkem Le (Torres Strait Islanders) Corporation RNTBC is now the organisation that represents the native title rights and interests for the native title holders, and is also the land administrator for Mer, Dauer and Waier.

In addition to this, the Badu Islanders challenged the right of the Torres Strait Island Regional Council to hold the Deed of Grant in Trust (DOGIT) for Badulgal.

Following this court case, the State transferred the DOGIT to Mura Badulgal (Torres Strait Islanders) Corporation RNTBC in February 2014. As such, the PBC represents the native title rights and interests of its Traditional Owners and acts as the land administrator for Badu.

The Torres Strait Sea Claim was successfully determined on 2 July 2010. In this determination, Justice Finn found that Torres Strait Islanders not only held the right to use the sea for traditional practices, but also that they had the right to take resources for any purposes.

The Government appealed this decision, and on appeal, the Full Federal Court found that the right for Torres Strait Islanders to take resources for any purpose had been extinguished. The TSRA received instructions from the Traditional Owners to appeal the Full Federal Court's decision and took the matter to the High Court of Australia.

On 7 August 2013, the High Court overturned the Full Federal Court's decision and found that Torres Strait Islanders do have a native title right to take resources from the sea for any purpose, including commercial and trading purposes.

The same year, TSRA legally represented the Kulkalgal people at the Consent Determination of Native Title.

This granted the Kulkalgal people exclusive Native Title rights and interests over the uninhabited island of Zuizin in the Torres Strait.

The Zuizin determination marked the 22nd determination of Native Title in the Torres Strait region.

In June 2014, the TSRA held its 90th board meeting on Mer, the first to be held on an outer island in the organisation's history. This coincided with Mabo Day celebrations.

The 25th anniversary of the Mabo decision signifies the journey of Torres Strait Islander and Aboriginal peoples to successfully secure native title over their land and seas.

The TSRA will continue to work with Traditional Owners, PBCs and other stakeholders to assist them in realising their aspirations when managing their native title lands and seas.

SOUTH AUSTRALIA

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Native Title Representative Bodies

- [South Australian Native Title Services](#)



19 December 2011 - Native title holders display the Native Title Register Extract for the Gawler Ranges People native title determination.

Source: South Australian Native Title Services



1 May 2011 - Three women holding the Dieri native title determination.

Source: South Australian Native Title Services

Overview

According to the [South Australian Native Title Services](#) website, "in South Australia, perhaps more than any other jurisdiction, there has been a commitment to resolve native title through negotiation and consent rather than litigation." To date, approximately 56 per cent of the State is subject to determined native title and of the 26 determinations of claimant applications, 24 have been made by consent.

An early policy position was formed by the South Australian government to develop, in collaboration with stakeholders, a coordinated whole of government approach to the resolution of native title. The resulting South Australian Native Title Resolution process was developed whereby a series of ILUAs were developed, along with forums which bring together native title parties with other key land users such as miners, pastoralists, fishers, local government and Aboriginal Land Rights Councils. Connection Guidelines were first published by the State in 2004.

The State of South Australia was the first jurisdiction to settle a native title compensation case with the

De Rose matter in December 2013. The matter was settled by consent between the parties with the compensation payment being confidential.

Under the *Native Title Act*, states and territories may establish an alternative right to negotiate regime, approved by the Commonwealth Minister. South Australia has done so, with future act matters being referred to the Environment, Resources and Development (ERD) Court.



Watch: [Mr Keith Thomas,](#)
[Chief Executive Officer,](#)
[South Australian Native Title Services](#)

Case Studies

Aboriginal families who aided Burke and Wills finally win their native title rights

On 16 December 2015, Justice Mansfield determined the Yandruwandha Yawarrawarrka Peoples native title claim at a special Federal Court bush hearing. The claim is over an area of approximately 40,000 square kilometres, stretching across seven pastoral leases in South Australia's far-north east to the Queensland border.

The determined area includes areas of national significance to Australia's colonial history. The claim covers sites relevant to the ill-fated Burke and Wills expedition in the 1860s, in which the Yandruwandha Yawarrawarrka People came to the aid of those who survived by providing food and shelter.

Theresa Bottrell, Yawarrawarrka elder, and one of the named applicants to the claim said the recognition of the Yandruwandha Yawarrawarrka people is extremely rewarding, after so many years.

I think it is a great achievement. After a long time it is very overwhelming to finally have this recognition. I am really looking forward to the day, to celebrate what we have fought for as a community and to have this acknowledgement for our people.

Leslie J Harris Pinnapinnaru Kinnipapa, Yindni-mincka, Baryulah, Ngapa Miri, Miri Karitjurr, one of the original applicants to the claim said it is good to finally have the claim resolved:

My uncle asked me 22 years ago to go get our land back and so I went looking around and found out how to put a claim in. For me it is hard because I feel that the government should have done this a long time ago, but it is good that we have recognition now. It is still a fight and a struggle for our people and the native title is one step forward.

Article source: South Australian Native Title Services Media Release, 9 December 2015



16 December 2015 - Native Title holders signing the native title determination - Yandruwandha Yawarrawarrka native title determination.
Source: South Australian Native Title Services



Watch: [The Hon Chris Sumner AM,](#)
[former Deputy President,](#)
[National Native Title Tribunal](#)

VICTORIA

Statistics as at 31/12/2017

Native title determinations	
By consent	
Litigated	
Unopposed	
Outcome	
Native title does not exist in the determination area	
Native title exists in parts of the determination area	
Native title exists in the entire determination area	
Active native title determination applications	
Indigenous Land Use Agreements	
Area Agreements	
Body Corporate Agreements	

Native Title Representative Bodies

- [First Nations Legal & Research Services](#) (formerly Native Title Services Victoria)



28 March 2013 - The Dja Dja Wurrung and the Victorian Government reached a landmark native title settlement over lands in central Victoria by entering into a Recognition and Settlement Agreement under the Traditional Owner Settlement Act 2010 (Vic).

Source: Native Title Services Victoria

Overview

The Victorian government released a native title policy in 2000 which encompassed a whole of government approach to the resolution of native title matters and, in 2001, first published their “Guidelines for Native Title Proof”. However, following the High Court *Yorta Yorta* decision, it appeared that few, if any, groups in Victoria would be in a position to achieve a positive determination of native title.

As a consequence, the government developed an alternative settlement process, through the Victorian Traditional Owners Land Justice Group established in 2006. The Group developed a framework for settling claims and a result of the process was the establishment of the [Traditional Owner Settlement Act 2010](#) (TOS Act), whereby native title claims could be settled on the basis of a non-native title outcome with a negotiated settlement. Settlements under this regime require the withdrawal of any native title claim. Two settlements have been finalised under this regime – the [Gunaikurnai](#) in 2010 and the [Dja Dja Wurrung](#) in 2013. The Gunaikurnai settlement was a composite settlement existing of the recognition of the continued existence of native title in some parts of the claim area and an agreement reached under the TOS Act.

Despite lowered expectations following the *Yorta Yorta* decision, there have been four determinations that native title exists in parts of the determination area.



22 October 2010 - Alfie Hudson performs a smoking ceremony at the Gunaikurnai People native title determination.

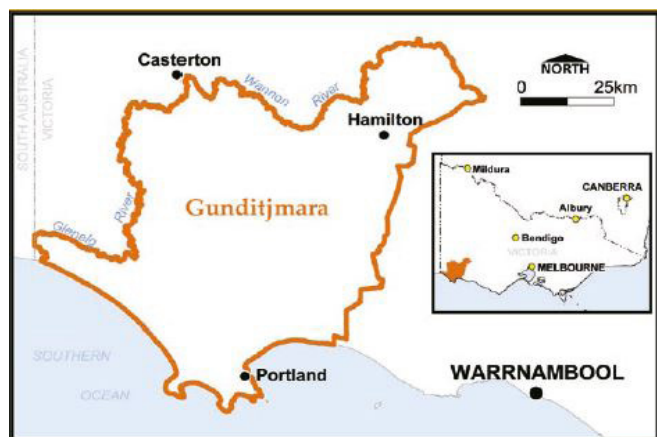
Source: Native Title Services Victoria

Case Studies

The Gunditjmara People’s native title determinations

The Federal Court of Australia made two consent determinations on 30 March 2007 recognising the Gunditjmara People’s non-exclusive native title rights and interests over the majority of almost 140,000 hectares of vacant Crown land, national parks, reserves, rivers, creeks and sea north-west of Warrnambool in Victoria’s western district.

This outcome marked Australia’s 100th registered native title determination. It was only the second time the Federal Court had recognised native title through a consent determination in Victoria, a state where two centuries of non-indigenous land holdings have made native title difficult to achieve.



Gunditjmara map, showing the area across south west Victoria. Source: NNTT

Lake Condah—now grass and stone—was once the site of one of Australia’s earliest and largest aquaculture ventures operated by the ancestors of the Gunditjmara People—a large settled Aboriginal community. The Gunditjmara People were able to provide evidence that they were descended from this community and had maintained an ongoing connection to their country.

Over 400 individuals and groups with interests in the claimed area became parties to the claim and participated in negotiations. The majority of these two claims are now finalised through these determinations.

During mediation the State of Victoria reached an Indigenous Land Use Agreement (ILUA) with the Gunditjmara People that establishes how they will exercise their rights and interests in the determination area.

In addition, the State Government and the Gunditjmara reached agreements that involve:

- cooperative management of Mt Eccles National Park and the establishment of a joint body, the Budj Bim Council, to oversee daily management
- transferring freehold title of the Lake Condah Reserve to the Gunditj Mirring Traditional Owners Aboriginal Corporation.

“We have never been in any doubt about our ownership of this beautiful place.”

Johnnie Lovett, Gunditjmara representative

WESTERN AUSTRALIA

Statistics as at 31/12/2017

Native title determinations	
By consent	
Litigated	
Unopposed	
Outcome	
Native title does not exist in the determination area	
Native title exists in parts of the determination area	
Native title exists in the entire determination area	
Active native title determination applications	
Indigenous Land Use Agreements	
Area Agreements	
Body Corporate Agreements	



22 October 2010 - Gunaikurnai native title holders holding copies of their Consent Determination. Source: Native Title Services Victoria

Native Title Representative Bodies

- Central Desert Native Title Services
- Goldfields Land and Sea Council
- Kimberley Land Council
- South West Aboriginal Land and Sea Council
- Yamatji Marlpa Aboriginal Corporation



25 May 2012 - Young male dancers at the Nyangumarta-Karijarri native title determination, Western Australia

Overview

With approximately 92 per cent of the land mass of this state being claimable under native title, the government has taken an active involvement in the native title system. The State's initial reaction to the establishment of the *Native Title Act* was cautious but some of the first cases trialled in the State set valuable precedent in the development of native title law.

Following the clarification provided by the High Court *Yorta Yorta* decision, the Western Australian (WA) government moved to normalise the mediation of native title within the State, publishing [Guidelines for the Provision of Connection Material](#), creating a native title policy which was predicated upon settling matters by consent, gaining a reputation for the development of best practice at this time.

In an effort to manage the intersection between Aboriginal cultural heritage legislation and the native title future act regime in this State, the government developed [Regional Standard Heritage Agreements](#) (RSHAs) with four of the five NTRBs across the State and funded positions within NTRBs to manage future acts. These RSHAs were successful for a period, but have subsequently been largely abandoned by native title parties in favour of individual heritage agreements.

The WA government was also the first government to embrace global settlements in native title matters with the Nharnuwangga, Wajarri and Ngarlawangga (NWN) ILUA, the Burrup and Maitland Industrial Estates Agreement (the Burrup Agreement), the Yawuru Agreement and the Ord Final Agreement, surpassing any other jurisdiction in this area.

Due to the significant amount of mining activity within the State, the mining industry also pursued extensive global agreements with native title groups, particularly within the Pilbara region where Rio Tinto and BHP

Billiton, among others, entered into significant agreements with native title parties which afforded billions of dollars of benefits to native title groups.

Most recently, the State entered into an extensive non-native title agreement with the Noongar people of the south-west of the State. This agreement, consisting of six ILUAs, promises to deliver \$1.3 billion and transfers up to 320,000 hectares of Crown land to around 30,000 Noongar people once finalised.

A full bench of the Federal Court has determined that four of the six ILUAs have been improperly executed and are unable to be registered, however, the WA government says it remains committed to the agreements.

CDNTS PBC Regional Workshop

In June 2017 Central Desert Native Title Services held a Prescribed Bodies Corporate (PBC) workshop with traditional owners from the desert regions of Western Australia.

Ms Vera Anderson – Wiluna Prescribed Body Corporate

"As a senior on the Wiluna PBC, we work together for stronger culture by looking after country, monitoring water and land management."

"Native title has benefited traditional owners in the Central Desert region through a collaborative group, Desert Support Services. This group helps develop ranger work in our community and helps to grow the community and share country."

"From having native title confirmed younger generations will benefit from having elders sharing their traditions and culture. I see the younger generation becoming more educated with culture and sharing culture with white fellas."

"Young people are also being given opportunities to work in mines, and become rangers. This is good for all communities."



Watch: [Mr Allan Ashwin, Traditional Owner, Tjiwarl & TMP](#)



Watch: [Mr Roy Bennet,](#)
[Traditional Owner, Tjimu Tjimu](#)



Watch: [Mr Brett Lewis,](#)
[Traditional Owner, Tjiwarl](#)

Case Studies

Recognition of native title over shared country



11 June 2009 - Nyangumarta determination
- with Justice North and elders.
Source: Yamatji Marlpa Aboriginal Corporation

On Friday, 25 May 2012, the Federal Court handed down a native title determination to the Nyangumarta and Karajarri communities across shared country near 80 Mile Beach in Western Australia.

The Nyangumarta/Karajarri joint determination resolves two overlapping claims of the Nyangumarta and Karajarri peoples, two different tribal groups who share traditional laws and cultural connection to the area. Justice North handed down the Federal Court's decision at an on-country determination at Anna Plains Station.

The Kimberley Land Council and the Yamatji Marlpa Aboriginal Corporation acted on behalf of the Karajarri and Nyangumarta claimants to negotiate native title across 2,000 square kilometres of land and sea country across Anna Plains Station, a portion of Mandora Station and 80 Mile Beach, in the East Pilbara and West Kimberley regions of Western Australia.

Kimberley Land Council Executive Board Member and Karajarri Traditional Owner Anthony Watson said the Nyangumarta/ Karajarri joint native title determination highlighted how two tribal groups could work together to achieve land rights.

Today's determination is about co-operation and respect for each other. For these two groups to come together, acknowledge their shared interests in this country and achieve a successful native title consent determination is very powerful.

Native title provides our people with rights; rights to enjoy our country and make decisions about what happens on our country. We welcome today's determination.

Nyangumarta Traditional Owner Margaret Rose said:

Years ago, this country was shared between the two groups, from way back. Native Title brought conflict because we each had to prove that the land was ours. But through strong connection to country, we were able to show how both groups are connected to the land together. This brings hope that other groups can follow this example and share country in a happy spirit. It's appropriate that this is happening in reconciliation week.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 18, 1 July 2012



Watch: [Yamatji Marlpa Aboriginal Corporation](#)
[Representatives](#)

Native title agreement paves the way for development in Port Hedland

A significant agreement was signed in August 2011 between the Kariyarra people and the Western Australian State Government which will pave the way for much needed residential and commercial development of land in the Town of Port Hedland.

The agreement will provide the Kariyarra people, whose native title claim includes Port Hedland, with a significant stake in the future development of the town.



8 August 2011 - Former Minister Hon Brendon Grylls MLA, then Minister for Regional Development and Lands at the signing of the agreement with the Kariyarra people to release land within the South Hedland townsite and port of Port Hedland.

Source: Yamatji Marlpa Aboriginal Corporation

The Department of Regional Development and Lands (DRDL) has agreed to transfer a number of parcels of land to the Kariyarra people, in exchange for their consent to the release of land within the South Hedland townsite and port of Port Hedland.

Under the agreement, a total of around 5,000 hectares of land will be transferred to the Kariyarra people.

Key features of the agreement include the transfer of 10 hectares of freehold land in South Hedland suitable for residential development and land at 12 Mile for rural residential development. The Kariyarra people will also share in the profits from the sale of lots developed within the broader agreement area.

The Kariyarra people will also gain management of several extensive reserves, which include important cultural sites.

Kariyarra community members Kerry and Diana Robinson said:

This agreement will finally give us a say over what happens on our country in line with our traditional customs.

There is the potential to build housing and investments and new opportunities for our young people to benefit into the future. The agreement will also mean that we can practice our law and culture on country.

Under the agreement DRDL will undertake a full due diligence report to ensure that development of the land is viable over the long term and ensure maximum benefits flow directly to current and future generations of Traditional Owners.

The Kariyarra people have also secured a commitment from DRDL to commence further negotiations within the next six months on a comprehensive agreement for future residential and commercial land developments in the port area and in South Hedland.

This future agreement promises to provide a more effective long term strategy for regional development, cultural heritage protection and natural resource management.

Yamatji Marlpa Aboriginal Corporation (YMAC) Chief Executive Officer Simon Hawkins said, "We're very pleased that the State of Western Australia has agreed to negotiate a comprehensive deal with the Kariyarra people over residential and commercial development in Port Hedland.

"We look forward to negotiating an agreement that builds on this fantastic outcome to ensure the speedy release of land in the future, recognising that the Kariyarra people have an interest in the development of the town.

"This will be a platform for the community's economic security and growth into the future. YMAC is very proud to have helped deliver this outcome to the Kariyarra people."

This agreement is evidence that Traditional Owners are actively working with the State Government to help develop new affordable housing options for all residents.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 15, 1 September 2011



Watch: [Mr Nolan Hunter, Chief Executive Officer, Kimberley Land Council](#)

Jurruru on-country determination

On 1 September 2015 the Jurruru People celebrated the legal recognition of their land and culture at a Federal Court hearing to recognise their native title rights.

Justice Neil McKerracher made the determination recognising the Jurruru People's non-exclusive rights to the land. The Jurruru native title determination application was filed in 2000. Jurruru Country covers approximately 10,500 square kilometres of land in the Southwest Pilbara region. This determination recognised the Jurruru people's rights and interests over about 7,000 square kilometres of their Country, referred to as 'Part A'.



Mr Ivan Smirke on country with his sons
Source: Yamatji Marlpa Aboriginal Corporation

The Jurruru People, along with representatives from government and pastoral industries attended the Court hearing, held on-country at Perrys Flat, on Kooline pastoral station, west of Paraburdoo. Ivan Smirke, Jurruru Traditional Owner said:

Native title is not a lease or a title of ownership of land but recognition, respect and acknowledgement of the wider Australian community and its leaders of our nation that the laws, culture and heritage of our ancestors still exist.

Simon Hawkins, Chief Executive Officer of Yamatji Marlpa Aboriginal Corporation said it was reassuring to see the Jurruru people gain official recognition through a consent determination:

Today is a great day for the Jurruru people. It's positive to see a consent determination take place, rather than the intense pressure a trial places on Traditional Owners and elders. I hope to see the State move toward many more consent determinations.

Article source: Yamatji Marlpa Aboriginal Corporation News
Issue 28, 16 October 2015



Watch: [Mr Wayne Bergmann](#),
[Chief Executive Officer, KRED](#)

Wilgie Mia Creation Story

The creation story of Wilgie Mia and surrounding hills in the Weld Range involves the Red Kangaroo, or Marlu, with the ochre representing the Marlu's blood. "A kangaroo was wounded down near the coast. It hopped back through the country and dropped spots of blood along the way. It dropped quite a bit at Little Wilgie Mia, then it died at Wilgie Mia which left a lot of ochre. Then the spirit of the kangaroo moved from Wilgie Mia to the hill right next-door to it," explains Colin Hamlett.



Wilgie Mia sign post
Source: Yamatji Marlpa Aboriginal Corporation

Simon Hawkins, Chief Executive Officer of Yamatji Marlpa Aboriginal Corporation (YMAC) said:

YMAC is very proud to have assisted the Wajarri Yamatji people gain this protection for their country.

The Weld Range remains an important place for Wajarri Yamatji families to camp, hunt and collect traditional bush food and medicine. With the protection afforded by the National Heritage List, the Weld Range can be protected from unsustainable development and enjoyed by future generations.

The inclusion on the National Heritage List will assist Wajarri Yamatji people to manage the area effectively, alongside the growing mining and tourism industries in Western Australia.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 13, 1 March 2011

Ngadju Determination, 21 November 2014

We have been subject to oppression and poverty. We have been demoralised and have been disempowered. The loss of our land with the white man's structures and laws that governed our people had tried to destroy our customs and our ways as Ngadju people ... I can only ponder, to think about how much strength the Ngadju people had, how much value to resist the force that tried to demoralise us ... we still managed to transfer down knowledge, language, the sacred stories, the dances to the next generation. Our children ... I'm here because of eight apical ancestors that is on the Ngadju claim, whom I am very proud of. And I'm proud of those people who gave their evidence. I'm proud of the process that's taken place with the lawyers ... and the hard work that's been put in to try and give back a bit of our land, that we're entitled to, that we belong to.

Michael Smith, Ngadju native title holder

Article source: Goldfields Land and Sea Council



Aaron Rule performing the Gibara dance for the Federal Court of Australia, on Ngadju country near Norseman, June 2009.

Source: Goldfields Land and Sea Council

Goldfields Land Management

Access to land and involvement in land management is integral to the ability of Aboriginal people to fulfil their cultural obligations and is an important self-determined means of economic development.



Rangers undertake collaborative Management with the Department of Parks and Wildlife Services, Western Australia. Source: Goldfields Land and Sea Council

To facilitate traditional owner access to land in its region, the Goldfields Land and Sea Council (GLSC) runs a ranger program and has partnered with traditional owners and third parties in projects such as the [Ngadju Seasons Calendar](#), the [Great Western Woodland Water Trees Project](#) and the Ngadju Kala (Fire) Project. The GLSC rangers have undertaken extensive work in land and environmental management. As well as providing direct employment and the opportunity to work on country, a focus of the program is to provide participants relevant technical training and qualifications and to broaden their experience through undertaking ranger exchanges and the like.

Once native title has been determined, and a Registered Native Title Body Corporate (PBC) exists, the PBC is the primary organisation for traditional owner land management in its determined area. PBCs in the GLSC area are the Esperance Tjaltraak Native Title Aboriginal Corporation and the Ngadju Native Title Aboriginal Corporation.

Article source: Goldfields Land and Sea Council

NNTT decision helps the Wajarri Yamatji People protect their heritage

The National Native Title Tribunal (NNTT) has recently made a very important decision for the Wajarri Yamatji people. The NNTT ruled that four mining tenements in the Weld Range cannot be granted because of the cultural significance of the area to the Wajarri Yamatji people.

This is only the second time that the NNTT has ever made such a decision, and it comes after parts of the Weld Range were accepted on to the National Heritage List earlier this year.

Weld Range Metals, the company that wished to mine the area, has been reluctant to meet with the Wajarri

Yamatji people and did not reach an agreement over the proposed mining project.

Deputy President Sumner of the NNTT came to the conclusion that, “the interests, proposals, opinions or wishes of the [Wajarri Yamatji people] in relation to the use of the Tenement area should be given greater weight than the potential economic benefit or public interest in the Project proceeding. The Weld Range area (including the Tenement area) is of such significance to the [Wajarri Yamatji] people in accordance with their traditions that mining on it should only be permitted with their agreement.”



Weld Range.

Source: Yamatji Marlpa Aboriginal Corporation

The NNTT’s decision was reached after an on-country hearing earlier this year which included visits to important places in the Weld Range. The Wajarri Yamatji people and Yamatji Marlpa Aboriginal Corporation (YMAC) staff gave evidence about caves with rock art, waterholes and old corroboree and ceremonial grounds, all of which remain very significant to the Wajarri Yamatji people.

YMAC, Chief Executive Officer Simon Hawkins said:

This is a fantastic result for the Wajarri Yamatji people. They deserve congratulations for their strength in fighting to protect their cultural heritage.

Over the years the Wajarri Yamatji people have maintained a firm stance on the need to be part of meaningful consultations over developments in the Weld Range. Other developers in the area have recognised this and have been working constructively with the Wajarri Yamatji people for some time. It is great to see the NNTT now recognising the importance of this.

Both Weld Range Metals and the State Government have appealed the decision.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 16, 1 December 2011



Watch: [Mr Hans Bokelund](#),
[Chief Executive Officer](#),
[Goldfields Land and Sea Council](#)

Banjima People celebrate recognition after a Federal Court battle



11 March 2014 - Banjima Traditional Owners with Justice Barker.

Source: Yamatji Marlpa Aboriginal Corporation

On 11 March 2014, the Federal Court recognised the native title rights of the Banjima People at their on-country determination held in Karijini National Park in the Central Pilbara.

The Banjima People first lodged their native title claim in 1998 and have been in litigation with the Western Australian State Government since 2011 after being unable to move forward with a negotiated outcome.

Banjima country extends west towards Tom Price, and east towards the town of Newman. It includes areas around Karijini National Park and the asbestos mining town of Wittenoom. The area is home to many sacred sites including ancient stone engravings and the gorges, including Wittenoom Gorge, have spiritual significance, forming part of the Banjima Peoples’ cultural storylines.

Maitland Parker, Banjima elder, said:

We have fought for this for a long time, so to be recognised as traditional owners is very rewarding. Our elders have taught us all of the things we needed to get our determination. They have taught us our law, language and culture, which we will pass on our young people.

Simon Hawkins, Chief Executive Officer for Yamatji Marlpa Aboriginal Corporation said it was a momentous occasion for the Banjima people. He said, "After a 15 year wait and the stress of rigorous court proceedings, the Banjima people have achieved formal recognition of their culture and traditions. It is regrettable that the Barnett Government decided to take this matter to trial."

Justice Barker said it was significant for the court to be sitting in Karijini National Park on Banjima country. He said "For many Banjima People the concluding of the proceeding before the court has been a long time in the coming." He also said "Regrettably a number of senior members of the Banjima claim group have not lived to see the making of the Banjima determination today but I am sure the memory of these elders who have passed away and their spirit is very much with all Banjima."

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 24, 16 June 2014

PKKP Peoples' determination



2 September 2015 - Puutu Kunti Kurrama and Pinikura native title determination,
Source: Yamatji Marlpa Aboriginal Corporation

On 2 September 2015, the Puutu Kunti Kurrama and Pinikura (PKKP) Peoples celebrated the legal recognition of their land and culture at a Federal Court hearing recognising their native title rights.

Justice Neil McKerracher made the consent determination recognising the PKKP Peoples' non-exclusive rights to the land. The PKKP native title determination application was filed in 2001 and covers

approximately 9,500 square kilometres of land in the Shire of Ashburton in the Pilbara region of Western Australia.

The PKKP Peoples, along with representatives from government, mining and pastoral industries attended the Court hearing, held on-Country at House Creek, near the homestead on Mt Stuart Station, about 200 kilometres northwest of Paraburdoo. The determination area is directly north of the Jurruru people's determination, which was handed down on Tuesday, 1 September 2015.

Mitchell Drage, PKKP Traditional Owner, said:

We're all one family, and now this journey has finally ended. We've always known who we are and where our Country is, but now we've been formally recognised by the Court. This gives us an opportunity to move forward as a family.

Simon Hawkins, Chief Executive Officer of Yamatji Marlpa Aboriginal Corporation, said it was a great day for the PKKP peoples.

"Today is very significant for the Traditional Owners of this Country. After 14 long years I am very glad that this could finally be settled with the State Government's consent, rather than having to go through a stressful and expensive trial.

"I look forward to more consent determinations, so native title groups can move on to the next stage," he said.

The PKKP native title claim is made up of two separate but related language groups, the Puutu Kunti Kurrama People and the Pinikura People, who together claim rights and interests within the claim area.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 28, 16 October 2015



Watch: [Mr Peter Yu](#),
Chief Executive Officer,
[Nyamba Buru Yawuru](#)

ILUA for CSIRO's ASKAP Telescope

In November 2009 an Indigenous Land Use Agreement was signed for the internationally-significant Murchison Radio-astronomy Observatory in the Mid West region of Western Australia. The ILUA is an agreement between the Commonwealth Scientific and Industrial Research Organisation's (CSIRO) and traditional owners, the Wajarri Yamatji people.

The agreement provides financial and non-financial benefits and ensures the cultural heritage of the Wajarri People is protected. The agreement also included education opportunities, internet access and cadetships and mentoring for Wajarri children.

On finalising the ILUA, Anthony Dann, Wajarri traditional owner said:

The myth that native title holds up development is false; this agreement was completed in record time and the future is looking bright. I look forward to the prospects that education, employment and training opportunities can bring to our community. It's an exciting time for Wajarri People, the Mid-West and Australia that such a major development will be happening in our country.



Wajarri people attending the announcement at Parliament House, November 2009.

Source: Yamatji Marlpa Aboriginal Corporation

The CSIRO recently advised that the antennas of the \$188 million Australia Square Kilometre Array Pathfinder (ASKAP) telescope are processing 5.2 terabytes of data per second – the equivalent of around 15 per cent of global internet traffic.

CSIRO said it would help scientists answer some of the most fundamental scientific questions about the origins of the universe, such as: how were the first black holes and stars formed; how do galaxies evolve and what is dark energy; what generates giant magnetic fields in space; are we alone in the universe; and was Einstein's Theory of General Relativity correct?

CSIRO said that turning data into images used to take weeks, but the revolutionary ASKAP technology did it overnight.

"Astronomers are using these observations to look for hydrogen gas, the raw material for making stars, in and around galaxies," CSIRO said.

Article source: [PS News, Ed 535, 24 January 2017.](#)

Further Information: [CSIRO Website.](#)

NORTHERN TERRITORY

Statistics as at 31/12/2017

Native title determinations	
By consent	
Litigated	
Unopposed	
Outcome	
Native title does not exist in the determination area	
Native title exists in parts of the determination area	
Native title exists in the entire determination area	
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Area Agreements	
Body Corporate Agreements	

Native Title Representative Bodies

- [Central Land Council](#)
- [Northern Land Council](#)



24 November 2015 - Dancers celebrate the grant of Native Title over a group of pastoral leases in the Northern Territory Gulf Country, Borroloola. Source: Northern Land Council



1 June 2016 - Dancers from Milingimbi, Northern Territory, National Native Title Conference in Darwin.
Source: Northern Land Council



24 November 2015 - Native Title holder Keith Rory with Justice Mansfield at Borroloola on the declaration of Native Title over a group of pastoral leases in the Gulf Country.
Source: Northern Land Council

Overview

The Northern Territory was the first jurisdiction in Australia to, in 1976, enact an Aboriginal land rights regime under the [Aboriginal Land Rights \(Northern Territory\) Act 1976](#) (Cth) (ALRA). Under the ALRA and the NTA, approximately 50 per cent of the land in the Northern Territory has become Aboriginal land, along with approximately 85 per cent of the Territory's coastline.

The settlement of land claims under the ALRA within the Northern Territory provided a platform for the resolution of native title, with evidence provided in claim books and by witnesses in land claims matters being used to identify additional material which may have been required for native title claims.

The Northern Territory government also established a strategic plan in concert with the [Northern Land Council](#) and the [Central Land Council](#) to seek legal guidance on specific aspects of native title law through

a series of test litigated cases. These test cases guided the settlement of similar native title applications. Of the 99 determinations of claimant applications made to date, 88 were consent determinations, many over pastoral leases.

The Territory Government established a policy position of settling native title through negotiated outcomes and published Minimum Connection Material Requirements for Consent Determinations.

The first litigated native title compensation claim was heard in the Northern Territory in the [Timber Creek](#) matter in 2016.



Watch: [Ms Lorraine Jones, Traditional Owner, Timber Creek](#)

Case Studies

Gregory returned to its owners



13 May 2010 - Gregory returned to its Traditional Owners.
Source: Central Land Council

Covering 1.3 million hectares, Jutpurra is the Northern Territory's biggest park and home to the traditional estates of seven language groups.

It was handed back to its traditional owners during a ceremony at Jasper Gorge near Timber Creek in May 2010.

The handback to traditional owners saw the National Park leased back to Northern Territory Parks and Wildlife for 99 years under the *Aboriginal Land Rights Act*.

Traditional owners also agreed on a name change, with land formerly known as Gregory National Park now known as Jutpurra.

Existing Aboriginal land on the Wambardi Land Trust was also to be leased back to the Park, effectively increasing its size and linking up its eastern and western sections.

Speaking at the ceremony in May, the Northern Land Council's Chairman Wali Wunungmurra said the handback would ensure tourists could still enjoy the park.

Today's handover will ensure travellers from across Australia and around the world can continue to experience its many wonder.

The agreement with the Territory Government ushers in a new era of joint management for Jutpurra National Park, which will open up a range of opportunities for traditional owners.

Mr Wunungmurra said the handover would lead to new opportunities for traditional owners to gain employment with Parks and Wildlife, undertake contract work within the park and to develop tourism ventures.

Article source: Central Land Council, Land Right News Central Australia, September 2010

Lake Nash native title recognised



15 August 2012 - Lake Nash and Georgina Downs Native Title holders celebrating the native title consent determinations.

Source: Central Land Council

Native title was declared on two cattle stations near the Queensland border in August 2012.

The basketball court at Alpururulam community temporarily became the Federal Court, which recognised the rights and interests of native title holders of the Lake Nash and Georgina Downs pastoral leases.

The native title application was filed with the court for the Ilperrelhelam, Malarrarr, Nwerrarr, Meyt, Itnwerrengayt and Ampwertety landholding groups in 2001.

The Court recognised their traditional rights, including the rights to access and hunt, gather and fish on the land and waters, conduct cultural activities and ceremonies, and to camp on the land and erect shelters and other structures.

The decision also secures their right to negotiate over any future acts such as mining.

Lake Nash and Georgina Downs, approximately 650 kilometres north-east of Alice Springs, are run as pastoral stations.

The claimants' native title rights will co-exist with the rights of the pastoral leaseholders to graze cattle.

After a long battle, Lake Nash (Alpururulam) became a Community Living Area in 1991, with a small area of land excised from the station to enable traditional owners to live there.

Many of the current claimants or their parents were born and lived on Lake Nash Station near the waterhole for most of their lives.

Article source: Central Land Council, Land Right News Central Australia, December 2012

Mt Denison and Narwietooma native title celebrations

Special sittings of the Federal Court at two remote Central Australian outstations have confirmed native title for traditional owners of two pastoral properties near Alice Springs. Justice Rangiah handed down two non-exclusive native title consent determinations at Cockatoo Creek and M'Bunghara outstations in June 2016.

During a sitting at Cockatoo Creek, east of Yuendumu, Justice Rangiah recognised native title over the whole of Mt Denison Station, more than 2,700 square kilometres.

The determination at M'Bunghara outstation, one day earlier, was in relation to an area covering the whole of Narwietooma Station, almost 2,700 square kilometres, and a portion of the Dashwood Creek where the claimants proved exclusive possession.



Watch: [Mr Bardy Macfarlane,](#)
[former Member, NNTT](#)

Central Land Council chair Francis Kelly said he hopes the Mt Denison determination will improve the relationship between the traditional owners and the pastoral lease holders.

“It will make it easier to share the country,” he said.

Mr Kelly said the Court’s determinations recognise the groups’ rights to hunt, gather and fish, as well as to conduct cultural activities and ceremonies on their land.

It also gives them the right to negotiate about exploration and mining.

These rights will co-exist with the Mt Denison and Narwietooma pastoral leases, which will continue to be run as cattle stations.

The Mt Denison native title holders belong to the Rrkwer/Mamp/Arrwek, Yinjirrpikurlangu, Janyinpartinya, Yanarilyi and Ngarliyikirlangu landholding groups.

Their native title rights and interests will be held by their Registered Native Title Body Corporate, the Mt Denison Aboriginal Corporation.

The Narwietooma native title holders are Western Arrernte and Anmatyerr speakers and belong to the Imperlknge, Urlatherrke, Parerrule, Yaperlpe, Urlampe, Lwekerreye and Ilewerr landholding groups and people who have rights and interests in the area of land known as Kwerlerrethe.

The Wala Aboriginal Corporation will become the Registered Native Title Body Corporate that holds their rights and interests.

Article source: Central Land Council, Land Right News Central Australia, August 2016



Justice Rangiah congratulates Ruth Napaljarri Oldfield at the native title consent determination over Mount Denison PPL at Cockatoo Creek outstation.

Source: Central Land Council



Mt Denison native title holders

Source: Central Land Council



Watch: [Mr Marshall McKenna,](#)
[Gilbert + Tobin Lawyers](#)

Stirling and Neutral Junction native title recognised at last

Traditional Owners of two adjoining pastoral stations north of Alice Springs have received recognition of their right to hunt, gather, fish and conduct ceremonies on their land.

The almost 15,000 square kilometre determination area covers the whole of Stirling Station and parts of Neutral Junction Station.

Justice Reeves made the native title consent determination at a special sitting of the Federal Court on the Hanson River on Stirling Station in April 2016. The determination also secures traditional owners' right to negotiate over future exploration and mining.



*Native Title holders celebrating the Neutral Junction native title consent determination.
Source: Central Land Council*

Anmatyerr and Kaytetye speakers from 13 different landholding groups - Akalperre, Amakweng, Alapanp, Arlwekarr, Arlpawe, Arnerre, Arnmanapwenty, Errene/Warlekerlange, Errweltye, Kwerrkepentye, Rtwerrpe, Tyarre Tyarre and Wake – attended the court sitting.

Central Land Council director David Ross said:

The traditional owners were concerned about the protection of sites and wanted to have a say over exploration on their country.

The native title rights co-exist with the pastoral leases, which will continue to be run as cattle stations.

The Eynewantheyne Aboriginal Corporation will become the Registered Native Title Body Corporate that holds the rights and interests on behalf of its members.

Article source: Central Land Council, Land Right News Central Australia, August 2016

Ooratippra win exclusive native title



Justice Reeves presenting determination to native title holders. Source: Central Land Council

Ooratippra is a 4,292 square kilometre pastoral lease owned by the Ooratippra Aboriginal Corporation.

The claim was lodged over the whole of the station and also included the Irretety Community Living Area (CLA), an area of eight square kilometres held by Irretety Aboriginal Corporation and located within the station boundaries.

As Ooratippra PPL and Irretety CLA are owned by native title holders, they are able to claim exclusive possession ("to the exclusion of all others") under the *Native Title Act*, rather than non-exclusive rights which co-exist with pastoral lessees.

That recognition secures their traditional rights, as well as the right to negotiate over any future acts like mining.

The Indigenous Land Corporation purchased Ooratippra PPL in May 1999 after years of lobbying by native title holders who wanted title to their own land and to be able to run their own cattle business.

Ooratippra can run up to 4000 head of cattle and will continue to be leased out to a neighbouring land owner who will, over time, assist in the re-establishment of a locally managed cattle herd.

The claim represents the Irrkwal, Irrmarn, Ntewerrek, Aharreng, Arrty/Amatyerr and Areyn estate groups of the Alyawarr language group.

Article source: Central Land Council, Land Rights News Central Australia, October 2011

Native title for Bushy Park and Kalkarindji



Native title holders, Central Land Council Staff, Federal Court and NT Government officials gathered at Kalkarindji. Source: Central Land Council

The Federal Court sat in Kalkarindji, the birthplace of the modern land rights movement, on 7 May 2014.

A determination of native title by consent over the Kalkarindji township was handed down in favour of the local Gurindji people.

Central Land Council Director, David Ross, congratulated the traditional owners.

Standing with you here in your country, it is wonderful to see the long and proud tradition of Gurindji people is continuing, fighting for and achieving just recognition of your rights in traditional lands.

Senior traditional owner Roslyn Frith, a director of the Gurindji Aboriginal Corporation, celebrated the persistence of the Gurindji people:

We hold the land in our hands, and recognition here today is another milestone in the continuing campaign for Aboriginal land rights.

Two days later, the court reconvened in a different region, and this time Justice White sat before the native title holders for Bushy Park to consider their claim for recognition over the area covered by the Bushy Park Pastoral Lease.

The Bushy Park PPL Native Title determination application was filed with the Court in December 2012 and on 9 May 2014, the Court recognised the non-exclusive native title rights of the Ilkewarn, Atwel/Alkwepetye and Ayampe landholding groups.



Bushy Park native title holders and Justice White (second left) celebrate with a cake on 9 May 2014 at Edwards Creek Station.

Source: Central Land Council.

After the Court ceremony senior native title holder Eric Penangk told the gathering:

Ceremony and culture has to pass to the young people. Aboriginal law and whitefella law can work together.

While the native title rights are now recognised they still sit with other laws such as the *NT Pastoral Land Act*, and Bushy Park will continue to run as a pastoral lease.

Article source: Central Land Council, Land Right News Central Australia, May 2014

TASMANIA

Five native title claims have been made in Tasmania however no native title application has successfully passed the registration test.

In 1995, the state legislation [Aboriginal Lands Act 1995 \(Tas\)](#) was enacted. Under this act, the Aboriginal community in Tasmania was granted a number of small parcels of land of important historical and cultural significance such as Oyster Cove and Risdon Cove near Hobart; Wybalenna on Flinders Island, where many tribal people perished in the early 19th century; various mutton-birding islands in the Bass Strait and some inland cave sites.

Article source: AIATSIS

Did you know...

There were multiple languages spoken by the original inhabitants of Tasmania, however all are now extinct. palawa kani (no capital letters are used in Tasmanian language) is the name given to the reconstructed language, being researched by the [Tasmanian Aboriginal Corporation](#).

Native Title Representative Bodies

There are no native title representative bodies in Tasmania, however there are community service organisations including:

- Tasmanian Aboriginal Corporation
- Office of Aboriginal Affairs (state government)
- Tasmanian Aboriginal Community Legal Service

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New South Wales and ACT

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Aboriginal Land Rights Act 1983 (NSW)

Gale v Minister for Land & Water Conservation for the State of New South Wales (2004) FCA 374

Gale v Minister for Land & Water Conservation for the State of New South Wales (2004) FCA 374 at 38

South Australia

<http://www.nativetitlesa.org/about/native-title-in-south-australia>

De Rose v State of South Australia [2013] FCA 988

Western Australia

Land (Titles and Traditional Usage) Act 1993 (WA) and the High Court challenge to the constitutional validity of the *Native Title Act* in *Western Australia v The Commonwealth* [1995] 183 CLR 373 and the challenge to the legislation launched by the Wororra Peoples; *Wororra Peoples v Western Australia; Biljabu v Western Australia* [1995] 183 CLR 373

Aboriginal Heritage Act 1972 (WA). This legislation was established pre-native title and, therefore, does not address native title issues. A draft Bill currently sits with the WA parliament.

http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/ILUA_details.aspx?NNTT_Fileno=WIA2000/001

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