



OUTPUT GROUP 6

NATIVE TITLE

The Central Land Council aims to provide Aboriginal land owners with information, advice and support to enable them to manage their land in a sustainable and productive way.

OUTCOMES

Enhanced social, political and economic participation and equity for Aboriginal people in the Central Land Council's area as a result of the promotion, protection and advancement of their land rights, other rights and interests.

OUTPUT 6

NATIVE TITLE

Native title is the legal term used by the Australian High Court to describe the rights and interests Aboriginal people have over their lands since long before European settlement of Australia.

These rights and interests are called 'common law' Indigenous property rights and were recognised by the High Court in the Mabo judgment in June 1992 and were made into legislation in 1993. The High Court's subsequent Wik judgment (December 1996) further determined that native title could coexist with other rights on land held under a pastoral lease.

While native title recognises that Indigenous people have traditional rights to speak for country, to protect sites and to be consulted regarding developments on their land, it does not give Indigenous people ownership of the land in the way that the *Aboriginal Land Rights (Northern Territory) Act 1976* does.

THE CLC'S NATIVE TITLE PROGRAM

In 1994 the Central Land Council became a recognised Native Title Representative Body (NTRB) for Central Australia under s.203 of the Native Title Act. In that capacity the CLC has statutory functions to facilitate and assist native title holders to make native title applications (NTA), respond to proposed future acts and negotiate agreements, and to resolve disputes between groups. In 2012–2013, the Minister invited CLC to apply for re-recognition as a Native Title Representative Body for a maximum of two years and this was subsequently granted.

The CLC aims to certify applications for native title determination and applications for registration for Indigenous Land Use Agreements (ILUAs) in a timely manner. Native title determination and ILUA applications are presented to the Council or the CLC Executive before going to the National Native Title Tribunal (NNTT).

The CLC Native Title Program is underpinned by an operational plan developed annually as part of its annual funding bid to FaHCSIA. While CLC's native title functions are subject to separate funding and compliance requirements, its Native Title Program functions are undertaken within a fully integrated CLC structure which promotes a seamless program work flow.

The Native Title Program Manager convenes twice yearly review and planning sessions to evaluate the progress of activities, identify emerging trends or priorities, map out details of the work program and financial commitments, and if need be, revise the operational plan to reflect changes in workload demands or circumstances.

The CLC currently has 19 native title funded positions, which include a manager, lawyers, anthropologists, mining and research officers as well as administrative and project staff. These positions are located within various departments of the CLC.

The CLC engaged 15 consultants to work on native title activity during 2012–2013. Each consultant possessed the required qualifications and expertise relevant to their contract.

THE 2013 NATIONAL NATIVE TITLE CONFERENCE

The CLC accepted an invitation to co-convene the 2013 National Native Title Conference in conjunction with the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS). The conference was hosted by Lhere Artepe Aboriginal Corporation (LAAC), on behalf of the Central Arrernte native title holders of Alice Springs.

The annual Native Title Conference is the principal forum for discussion of native title issues and plays a major role in influencing native title policy and practice within government and the sector. It also offers a rare opportunity for native title claimants, practitioners and professionals from across the country to come together and share their knowledge and experiences.

Co-convening this event was a major undertaking by CLC in this period. In consultation with AIATSIS, CLC staff worked closely with LAAC in identifying the conference title and themes, securing local community involvement and developing the social and cultural content of the program and the overall conference experience.

As co-convenor, CLC's aim was to create an event that had a strong Aboriginal feel, resonated with all delegates and offered them an opportunity to experience some of the positive work being done by and for Aboriginal people in Alice Springs.

The CLC organised the 2013 Mabo Lecture, delivered by award winning Indigenous author Alexis Wright and the Black Arm Band. CLC staff delivered six major presentations and collaborated with the Central Australian Aboriginal Congress Health Service, the Batchelor Institute for Indigenous Tertiary Education and the Desert Knowledge Precinct (DKP) to facilitate men's and women's Indigenous Talking Circles. Additionally, delegates were given the opportunity to take off-site tours to CAAMA Radio station and the CLC Open Day. The CLC also organised daily performances and trade stalls at the conference venue promoting local Aboriginal arts and crafts, bush medicine and publications.

Feedback about the 2013 conference through the CLC and AIATSIS evaluations was very positive.



The 2013 Mabo Lecture was given by Alexis Wright (third from right) and members of the Black Arm Band, who performed Dirtsong.

NATIONAL NATIVE TITLE COUNCIL

CLC has been a member of the National Native Title Council (NNTC) since its inception in 2005 and continued to play an active role in the council throughout 2012–2013. The CLC has contributed to NNTC submissions, discussions, joint NNTC/ Minerals Council of Australia (MCA) forums and representations to government on matters of national significance such as the taxation treatment of native title payments and the Indigenous

Community Development Corporation model, which aims to facilitate broader socio-economic activity for native title groups. CLC has also worked closely with the NNTC in lobbying FaHCSIA for a review of the roles and functions of native title representative bodies; it contributed to the terms of reference – and now has a seat on the reference group – for the review, which will commence in August 2013.

NATIVE TITLE CONSENT DETERMINATIONS

Lake Nash

On 15 August 2012 Justice Besanko handed down a native title consent determination at a special sitting of the Federal Court at Alpururulam community, 650 kilometres north-east of Alice Springs. The determination recognises the rights and interests of native title holders of the Lake Nash and Georgina Downs pastoral leases near the Queensland border. The native title application was filed with the Court in 2001 on behalf of the Ilperrelhelam, Malarrarr, Nwerrarr, Meyt, Itnwerrengayt and Ampwertety landholding groups. In 1991, after a long battle, Lake Nash (Alpururulam) was declared a Community Living Area, which meant that a small area of land was excised from the station to enable the 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.

The Court's determination recognises the groups' traditional rights, including the rights to access and hunt, gather and fish on the land and waters, the right to conduct cultural activities and ceremonies and the right to camp on the land and erect shelters and other structures, and it secures their right to negotiate over any future acts such as mining. The Ilperrelhelam Aboriginal Corporation is the Registered Native Title Body Corporate.

Lake Nash and Georgina Downs are run as pastoral stations and the claimants' native title rights will co-exist with the rights of the pastoral leaseholders to graze cattle.



Some of the native title holders of Lake Nash and Georgina Downs celebrating the Native Title Consent Determinations: (l-r) Mavis Samardin (seated), Trevor Age (back), Kerry Campbell (back), Morris Barnes, Justice Besanko (back), Stuart Rusty, Billy Tomy (back), Michael Teague, Helen Smith (obscured).



Native title holders with Justice Lander at the Native Title Consent Determination for Glen Helen Pastoral Lease at Hermannsburg.

Glen Helen

On 25 September 2012 Justice Lander handed down a native title consent determination at a special sitting of the Federal Court at Hermannsburg community, 120 kilometres west of Alice Springs. Two applications were originally filed and registered on 23 January 2004 and 3 March 2005 respectively for the purpose of exercising the right to negotiate in regard to future acts on a portion of Glen Helen PPL. A native title application was later filed on 27 October 2010, replacing the two earlier claims with a single whole of lease claim over Glen Helen Pastoral Lease, which lies approximately 200 kilometres west of Alice Springs.

The determination area lies within the territories of the Tyurretyerenye Western Arrernte and Merinarenye Kukatja-Luritja people. There are six traditional 'countries' on the application area and the groups who hold rights and interests in the Glen Helen area are Imperlkgne, Urlatherrke,

Pmerkerterenyne, Yaperlpe, Lthalaltweme and Merina people. The groups acknowledge they have a shared system of laws and customs that applies beyond the application area; however, the decision-making power about a particular country lies with the individual landholding group for that country.

The Court's determination recognises the groups' traditional rights to access, camp, live on and use the land and its resources, and their responsibility to protect and care for sites and to regulate the land's access and use by others. These native title rights will co-exist with the rights of the pastoral leaseholders.

Pending consent determinations

In addition to the two consent determinations handed down in July 2012, matters relating to the Napperby and Mt Doreen Native Title Applications were resolved in this period and consent determinations scheduled for July 2013.

COMPENSATION APPLICATIONS

Where possible the CLC seeks to deal with compensation matters by negotiating outcomes. When deemed appropriate and instructed by native title holders, the CLC will seek to secure compensation for acts resulting in the extinguishment or impairment of their native title rights and interests. No new native title compensation applications were lodged with the National Native Title Tribunal (NNTT) during 2012–2013.

CLAIMANT APPLICATIONS

The CLC pursues native title determinations that will achieve recognition and protection of native title rights and deliver outcomes that are important to native title holders. As at 30 June 2013 the CLC had a total of 10 active native title claimant applications registered with the NNTT. During 2012–2013 CLC staff undertook a total of 107 meetings and consultations relating to native title applications and made significant progress in anthropological research, preparation and delivery of consent determination reports.

New applications

Bushy Park PPL

A new application was filed on 29 November 2012 and has been registered with the NNTT.

Narwietooma

The original application (Glen Helen NTD6007/2003) covered the southern portion of adjoining Narwietooma PPL. This application was withdrawn on 17 May 2013 and replaced with a new application over the whole of Narwietooma PPL (NTD6/2003), which was filed on 22 May 2013.

Amended applications

Sandover

An amended application was filed on 5 April 2012 and registered with the NNTT. Amendments were made to the original native title application to bring it up to date with current law, to amend the composition of the claim group following further research and to reflect changes to the named applicants.

Mt Doreen

The NTA was amended due to the death of a named applicant, and filed on 23 May 2013.

Finalised/withdrawn applications

Glen Helen (NTD34/10)

Matter finalised. The Native Title Consent Determination was handed down on September 2012.

Lake Nash (NTD6061/01)

Matter finalised. The Native Title Consent Determination was handed down on 15 August 2012.

Mt Everard

The NTA was withdrawn following the grant of Aboriginal freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976* from the Commonwealth Government on 18 July 2012.

Alcoota (NTD6008/03)

The NTA was withdrawn following the grant of Aboriginal freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976* from the Commonwealth Government on 18 July 2012.

West MacDonnell Ranges (NTD6048/01)

The NTA was withdrawn following the grant of freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976* as part of a negotiated settlement with the NT Government which included the grant of freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976*, and the lease of the area to the NT Government together with joint management of the parks.

Glen Helen (NTD6007/2003)

The NTA was withdrawn and replaced with a whole of lease NTA (NTD6/2013) over Narwietooma PPL, filed on 22 May 2013.

Current applications

Matters relating to Napperby and Mt Doreen were finalised in this period and the consent determinations scheduled for July 2013. The CLC and the NT Government are similarly pursuing negotiations for determinations by consent in the following applications and hope to have these settled in 2013–2014: Sandover; Kalkarindji; Stirling and Neutral Junction; and Bushy Park.

Anthropological reports and material in respect of Sandover, Bushy Park, Stirling and Narwietooma PPLs as well as Kalkarindji Township and Rainbow Valley National Park have been finalised and lodged with the NT Government.

In this period research was completed for Bushy Park, Narwietooma, Mt Cavenagh/Victory Downs, Mt Denison, Henbury and Huckitta and significant progress was made towards finalising anthropology reports. Substantial research was also undertaken for Philip Creek and Aileron, and research commenced for Mt Riddock.

Consent for a native title application over Rainbow Valley National Park has been requested from the NT Government and as at 30 June 2013 we are still awaiting a response.

Dulcie Ranges

As part of a negotiated settlement with the NT Government which included the grant of freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976*, and the lease of the area to NT Government together with joint management of the parks, the NTA is to be withdrawn. The Crown lease was registered on 30 April 2013 and CLC is now in a position to make application for conversion to a Community Living Area. The NTA will be withdrawn once the CLA is granted.

Stirling & Neutral Junction

An application was filed on 19 July 2011 and registered in respect of the whole of Stirling PPL and the remainder of Neutral Junction PPL (not covered by the existing native title determination). There is a history of mining and exploration interest and activities on and near the claim area and traditional owners instructed CLC to pursue a native title claim in order to protect sites and secure their right to negotiate over any future exploration or mining. The NT Government indicated it would be satisfied with an abbreviated anthropology report and the existence of two successful land claims nearby (Ti Tree Land Claim, Alyawarra Kaititja Land Claim) further supported the viability of a quick resolution of this claim.

All documents were served on the respondents in this period and a response received. Comments were sent to the report author for additional information. As a result of the report, the NTA is to be amended. A meeting is planned for July 2013 to seek instructions to amend the NTA and enter into an ILUA in relation to the north-south stock route. Negotiations with the respondents are continuing.

Aileron

An application was filed in December 2007 and registered in October 2008 in respect of a small portion of Aileron PPL, close to Nolan's Bore. The NTA was in response to drilling (target minerals are rare earth oxide and uranium) and proposed further works with ELA 23671 held by Arafura Resources. Mining operations were expected to commence in

2010 but the mining company advised that global financial conditions were delaying the project and as at 30 June 2012 had not proceeded.

There has subsequently been further mining and exploration interest in other areas of Aileron PPL and traditional owners are therefore keen to ensure sites of cultural importance are protected and that they have a say in any future development. The CLC will be withdrawing the current NTA and replacing it with a whole of lease NTA. Extensive research for the new whole of lease NTA was undertaken and drafting of the anthropology documents commenced during this period. Further field research is planned for 2013-2014.

Bushy Park

The native title application was registered with the NNTT on 29 November 2012. It was lodged in response to mining and exploration future acts and requests from traditional owners to CLC for protection of their country and recognition of their rights to protect sites in the area.

A short-form anthropology report was served on the NT Government in this period but the NT Government is unsure when the tenure history will be available. Consent determination negotiations will commence once this information is provided to CLC. In the meantime, field research in relation to current occupation and use (s.47) was conducted in this period and the advice is currently being reviewed internally.

Patta

The Patta NTA will be withdrawn as part of a negotiated settlement with the Commonwealth and Northern Territory Governments which includes the surrender of native title land from Patta Aboriginal Corporation in return for the grant of freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976*.

Following delays while matters relating to access easements were being resolved with the NT Government, freehold title under the *Aboriginal Land Rights (Northern Territory) Act 1976* was granted on 4 March 2013. All documents to register these titles have been completed and CLC has received instructions to withdraw the NTA as soon as the documents are received from the Revenue Office.

Sandover (incorporating Derry Downs, Murray Downs, Elkedra and Ammaroo PPLs)

The native title application was lodged in response to mining and horticultural future acts. All documents were lodged with the NT Government in March 2011. The NT Government accepted that the connection report and other materials supplied by the CLC established that the landholding groups listed hold native title over the application area. A consent determination was anticipated in 2012–2013 and the Alyawarr Awenyerre Aperte Ingkerr-Wenh Aboriginal Corporation was established to be the Prescribed Body Corporate (PBC) in anticipation of the determination. However, outstanding issues between the CLC and the NT Government concerning a former stock route and whether the claimants and pastoralists agree to enter into the proposed concurrent ILUA for the former stock reserve have caused delays in this period. Negotiations are continuing.

Kalkarindji

An amended native title application was lodged in February 2011. It is anticipated that this application will be settled through negotiation with the NT Government. Negotiations with traditional owners and the NT Government regarding extinguishment of native title over the claim area and compensation for an all of township consent determination continued during this period.

As at 30 June 2013, the CLC is still waiting on a response from the NT Government in relation to a formal offer to the CLC regarding the whole of township as a resolution of the matter. Final approval of the settlement proposal is required from the NT Government before a formal offer can be put to the claimants. An ILUA will need to be executed before proceeding to consent determination, hopefully in late 2013/early 2014.

Narwietooma

Two applications relating to areas on the Glen Helen PPL were filed and registered in response to exploration licence applications.

In 2010 Native Title Application NTD2/2005 was withdrawn and replaced with a single 'whole of lease' application (NTD34/10) over Glen Helen PPL. A consent determination was handed down on 25 September 2012. The other Glen Helen Native Title Application (NTD6007/2003 amended) covered parts of the adjoining Narwietooma PPL and other PPLs. The NTA was renamed 'Narwietooma' by order of the Federal Court. In June 2011 the CLC received instructions to pursue an NTA over the whole of Narwietooma PPL.

In 2012–2013 CLC engaged a consultant anthropologist to prepare an anthropology report on Narwietooma. The report was finalised and findings discussed with traditional owners at a meeting in February 2013. In March 2013 CLC received authorisation instructions for a new whole of lease NTA for Narwietooma. NTA NTD6007/2003 was subsequently withdrawn on 17 May 2013 and replaced with a new whole of lease NTA for Narwietooma (NTD6/2013), filed on 22 May 2013.

All documents were submitted to the NT Government in this period and consent determination negotiations commenced.

Mt Doreen

A native title application was filed in 2005 and registered in respect of a portion of Mt Doreen PPL to deal with mining future acts relating to three exploration licence applications where the target mineral is uranium.

On registration, an objection was filed in the NNTT. In 2005–2006 an application was made to the NT Minister for Mines to declare reservations from occupancy under a provision of the Mining Act to protect certain parts of the Mt Doreen area from further mining/exploration. This application (NTD5/2005) was withdrawn by consent on 11 October 2011 and replaced with a new application over the whole of Mt Doreen PPL (NTD39/2011), which was filed on 12 October 2011 and registered with the NNTT. The NTA was amended in this period due to the death of a named applicant.

All negotiations were finalised during 2012–2013 and the consent determination scheduled for 3 July 2013. The Ngalyia Aboriginal Corporation has been established in anticipation of the consent determination.

Napperby

An application was filed in 2005 in response to a future act. On registration, an objection was filed with the NNTT. An agreement was reached in 2005 whereby the NT Government could grant the exploration licences. However, the native title holders instructed the CLC that they did not want to participate in any further activities regarding the exploration as they were not able to prevent the grant.

Following the concerns from native title holders, a decision was taken to proceed with an NTA over the whole of Napperby PPL. The original NTA was withdrawn and replaced with a whole of lease NTA in 2011. A conference of experts was held in December 2012 and it was agreed that there were no remaining issues in dispute. Negotiations were finalised in this period and a consent determination scheduled for 2 July 2013. The Alherramp Illewerr Mamp Arrangkey Tywerl Aboriginal Corporation was established in June 2013 in anticipation of the consent determination.

FUTURE ACTS

Mining future acts are the largest driver of CLC's native title work program and the activity that draws most heavily on staff time and resources. The number of exploration tenements notified under s.29 of the Native Title Act has fluctuated considerably over recent years and the CLC needs to obtain instructions from native title holders and respond to these notifications in a timely manner.

Administration of 'future acts' as defined by the Native Title Act is ongoing and a high priority for the CLC. During this period all reasonable steps were undertaken to notify native title holders and claimants on future acts affecting their native title rights and interests. The Northern Territory media is monitored on a daily basis and the CLC maintains a register of all applications, relevant timelines and associated tasks. The CLC responds to all applicants with correspondence outlining the native title process and recommending negotiated agreements as a preferred option.

Mining/exploration future acts

All applications for exploration licences within the Northern Territory include a statement from the NT Government that the grant attracts the 'expedited procedures' as laid out in the legislation. This determines a process within a strict time limit set by the *Native Title Act 1993*. The CLC responded to 88 notifications under s.29 of the Native Title Act in 2012–2013. Each notification was assessed as to its potential impact on the exercise of native title rights and interests both legally and practically.

There were 58 future act mining and exploration related field trips, meetings and consultations with affected native title holders in this period. In other instances existing instructions adequately dealt with the application. With all notifications, contact with the applicant was required at some stage of the process. However, an ongoing difficulty in the process is determining whether the application is a genuine exploration proposal or the development of saleable property.

The following tables the 58 instances where CLC anthropology staff conducted research and issued advice for exploration and mining activities.

2012–2013 future act meetings, consultations and site clearances – exploration licence applications and exploration petroleum applications

21	Site survey/work area clearance field trips/consultations
31	Consultations and instructions meetings
3	Native title holder identification field trips
3	Miscellaneous

58 Total

Mining officers and anthropology staff carried out numerous other smaller meetings or contacts with individual native title holders for notification or research purposes.

Mining and exploration agreements

2012–2013 native title exploration and mining matters and decisions in respect of the allocation of compensation to native title holders flowing from agreements

Mining agreement	1
Exploration agreements	2
Deeds of assumption	5
Deeds of variation	2
Distribution of compensation monies	4
Confidentiality agreements	3
Total	17

Non-mining future acts

There were a total of 24 'future acts non-mining' related to field trips in 2012–2013. These included 16 consultation/instructions meetings and site surveys concerning:

- Construction of cathodic protection works on Amadeus Gas Pipeline at Tennant Creek and Aileron PPLs.
- Construction of global satellite navigation system base station on site at Mt Doreen PPL.
- Carbon farming project on Henbury PPL.
- Re-alignment of power line route on Owen Springs Station.
- Upgrade of Telstra towers at Mt Skinner and Amaroo PPLs.
- Construction of government employee housing on Lot 6, Harts Range.
- Feral animal management and fencing works around site on Huckitta PPL.
- Acquisition of Ilpeye Ilpeye Town Camp and assistance with housing management.

INDIGENOUS LAND USE AGREEMENTS

The CLC has implemented a clear strategy to secure beneficial outcomes for native title holders through negotiated Indigenous Land Use Agreements (ILUAs) and other agreements, including 'good faith' agreements under s31 of the Native Title Act. The CLC currently has a total of 71 ILUAs registered with the NNTT and one awaiting registration.

In this period CLC executed an ILUA for the surrender and extinguishment over Lot 6, Harts Range to allow for the construction of government employee housing. Negotiations with the NT Government and traditional owners also continued regarding the extinguishment of native title over the Kalkarindji claim area and a compensation deal for an all of township consent determination. An ILUA will be drawn up and executed as a whole of township agreement once the terms of the proposal are finalised.

POST DETERMINATION ASSISTANCE

Lhere Artepe Aboriginal Corporation (Alice Springs PBC)

The CLC was approached by LAAC for assistance in early 2012, when the organisation found itself in a critical financial situation apparently as a consequence of the former management and Board's mismanagement and poor decisions. Since then and throughout this period, CLC has had ongoing meetings and discussions with LAAC to consider ways to address various internal issues as well as options for the corporation to address its administrative and financial concerns. In 2012–2013 the CLC administered a grant of \$75,000 for LAAC from FaHCSIA under the Basic PBC Support program. The funds were directed towards essential operational expenses and the cost of engaging a consultant to assess and report on the financial and operational status of the organisation.

The CLC believes that the survival of Lhere Artepe Aboriginal Corporation is critically important for the Arrernte people of Alice Springs and the wider community. It therefore supports any action by the new board to re-engage with its members and rebuild and strengthen the governance and functionality of the corporation and is prepared to extend reasonable practical assistance.

Ooratippra Aboriginal Corporation

CLC staff travelled to Alpururulam in October 2012, where they attended and assisted with the AGM and general report compliance for the PBC. CLC has also attended a meeting at Mistake Creek to assist with negotiations for a sub-lease of Ooratippra Station.

Ilperrelham Aboriginal Corporation (Lake Nash)

CLC staff travelled to Alpururulam in October 2012, where they attended and assisted with the AGM and general report compliance for the PBC.

Patta Aboriginal Corporation (Tennant Creek PBC)

The CLC has been receiving and remitting funds to Patta in respect of ILUAs and continues to provide advice and assistance on the implementation of the agreements and models for beneficial usage of compensation monies. In this period CLC finalised negotiations and an agreement for surrender of land held by Patta Land Aboriginal Corporation and the grant of same land to the Warti-Yangu Land Trust as Aboriginal freehold land. The handover ceremony for this was held in March 2013.

DISPUTE RESOLUTION

Through the routine processes CLC adopts it attempts to identify and minimise disputes over land from any initial contact with native title holders. There have been no major disputes relating to overlapping native title claims in the CLC region during 2012–2013. In anticipation that disputes may arise in the future, the CLC provides relevant staff with the opportunity to develop negotiation/mediation skills.

Alternative procedure agreements

The CLC did not enter into alternative procedure agreements during this period.

Body Corporate Agreements

No Body Corporate Agreements were entered into during this period.