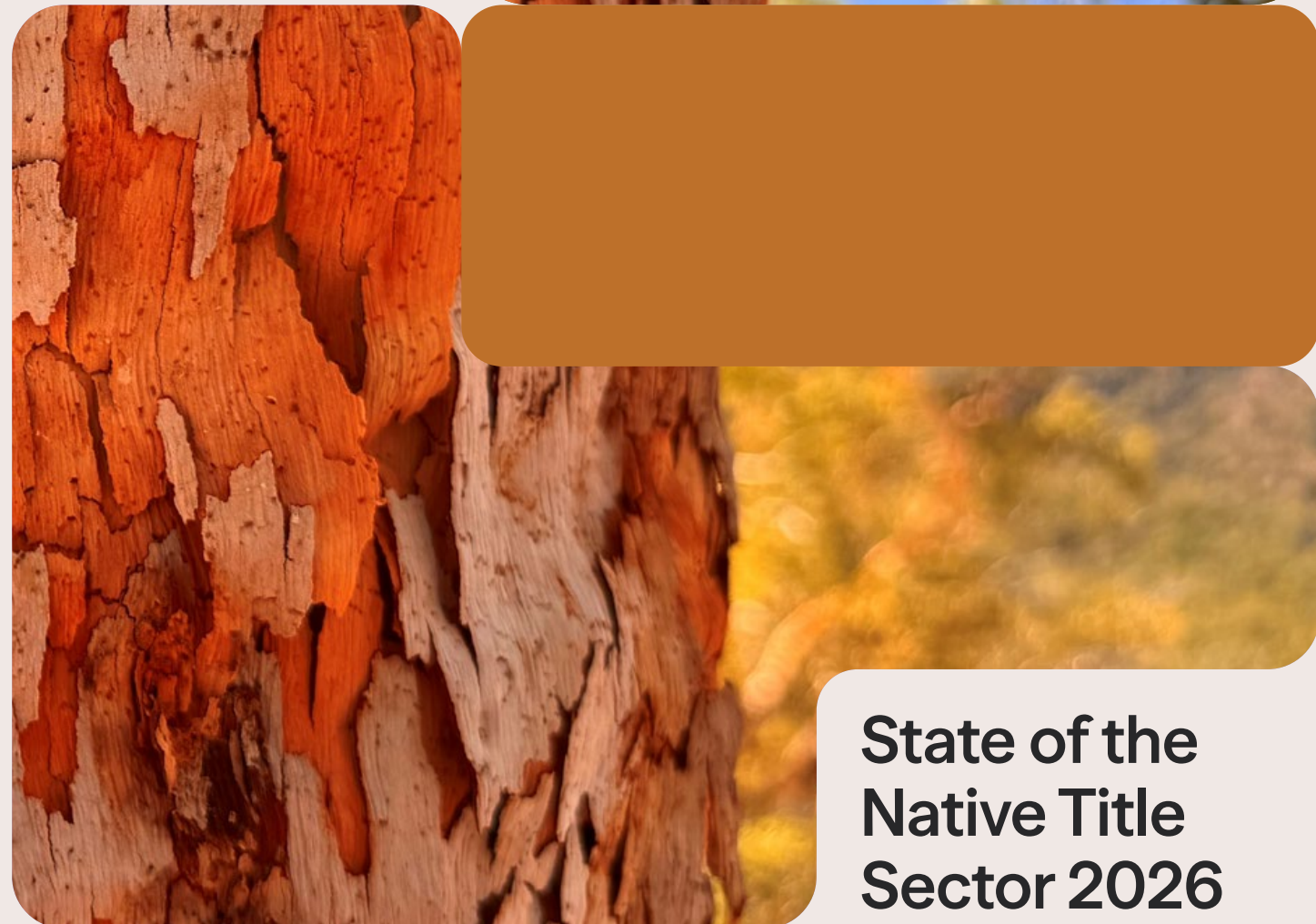




**NATIONAL
NATIVE TITLE
COUNCIL**



**State of the
Native Title
Sector 2026**



Acknowledgement

The National Native Title Council acknowledges the First Peoples of the land, sea and waterways across the continent, the Torres Strait and Lutruwita (Tasmania). We celebrate First Nations People's enduring connection to Country, culture and community. We pay our respect to the Elders and Ancestors who guide us and all Aboriginal and Torres Strait Islander communities.

Cultural Message

Aboriginal and Torres Strait Islander Peoples should be aware that this report may contain images, quotes and references to people who have passed.

Cover Image

The cover image was captured by Tom Widdup from National Native Title Council at Kakadu National Park

Image Credits

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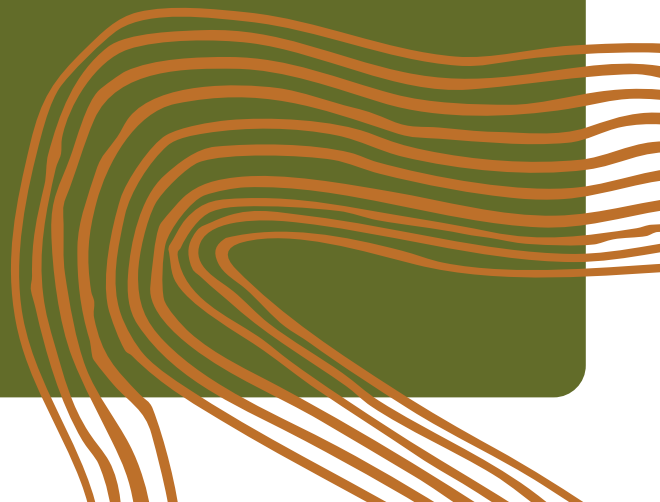
Artificial Intelligence (AI) Transparency Statement

Generative AI was not used to write any of the text in this document. It has been used sparingly to review the text once written and to make suggestions of how to improve the readability of the text.

Generative AI (Microsoft 365 Copilot) was used to help prepare R code to extract data from PBC General Reports (see Section 2: Prescribed Body Corporates). The outputs have been cross-checked with a sample of previously manually entered data for accuracy.

Generative AI (Microsoft 365 Copilot) was also used to help prepare R code that was used to analyse some PBC General Reports and NNTT Future Acts data. The R code has been cross-checked for accuracy.

The NNTC has partnered with the University of Melbourne to explore extracting data from PBC Financial Reports. To date, all financial report data has been manually entered and cross-checked for accuracy. Generative AI was not used extract or analyse any data from PBC Financial Reports.



CEO foreword

Australia's native title sector is at a critical turning point.

Native title is now recognised across 47 per cent of Australia's landmass, and 293 Prescribed Bodies Corporate (PBCs) hold and manage those rights. The long era of claims and determinations is giving way to a new phase. With recognition secured, many of our members are turning to activating their economic rights, building enterprises and investing in self-determined futures on Country.

PBCs are supported by the Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs), institutions that are the backbone of the native title system. These critical organisations gather claims evidence, build PBC capacity and negotiate with governments and industry across their regions. They also support PBCs with governance, agreement-making, cultural heritage protection and compensation claims.

We developed the first State of the Native Title Sector report because our members asked for a clear, national picture of the sector's size, reach and economic position. For the first time, available sector-wide data has been brought together in one place, providing a benchmark for members and partners to understand sector growth and plan for the future.

The report is intended as a practical resource, formed by publicly available data. Traditional Owner organisations can use it to compare their circumstances and strengthen the case for investment. Legal practitioners, governments and industry proponents can use it to better understand the context in which PBCs operate and design stronger partnerships.

The findings demonstrate real progress. In 2024/25, PBCs reported \$871 million in income and \$1.36 billion in assets, annual increases of 13 per cent and 18 per cent respectively. A growing number of PBCs are building substantial capability, creating employment, delivering heritage services and developing commercial operations that generate benefits for their communities.

This report also makes it clear that progress is uneven. The median PBC reported only \$319,000 in income and \$640,000 in assets. Over a quarter reported no income or no assets, and half employed no staff. These organisations carry enduring legal, governance and cultural responsibilities, often across vast areas of Country. Yet many still lack the funding required to deliver statutory functions, let alone capitalise on economic opportunities.

This Report is being published as Australia enters a new investment cycle in critical minerals, clean energy and regional infrastructure. Decisions made over the next decade will shape Country and communities for generations. Realising this economic opportunity requires sustained investment in PBC capability, stronger cultural heritage and water protections, better access to capital, and a more coordinated approach to native title compensation.

It also requires governments and industry to recognise that strong PBCs, NTRBs and NTSPs are essential institutions for effective decision-making and the long-term stewardship of Country.

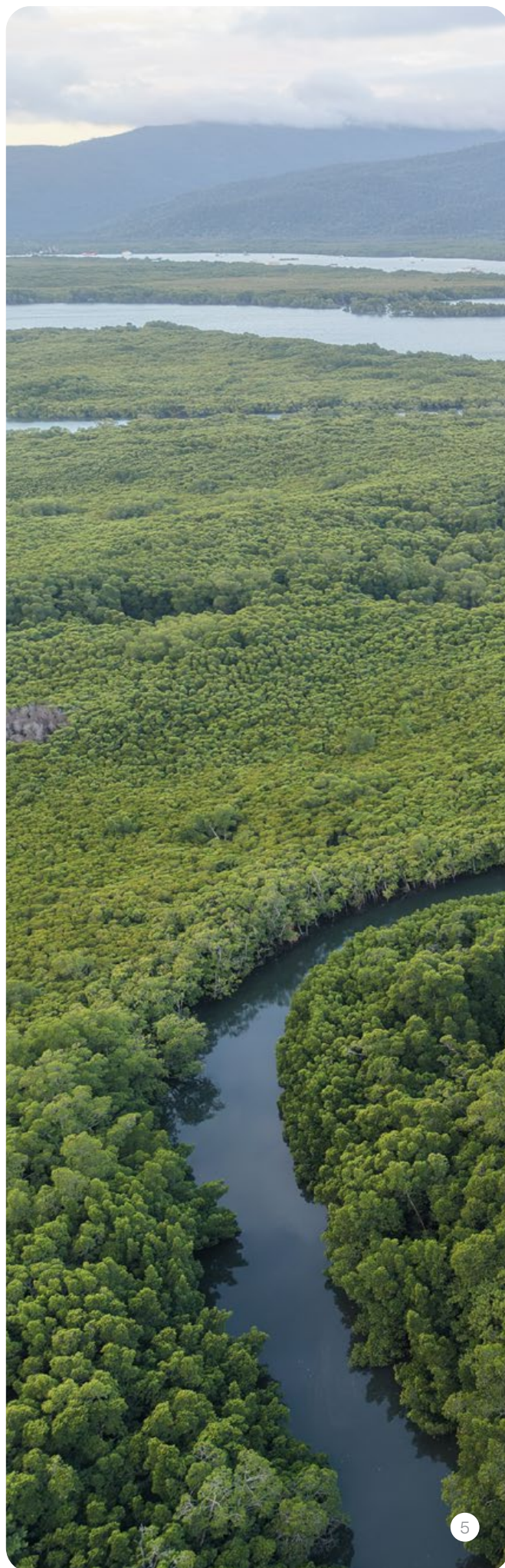
The NNTC's vision is for native title rights to be fully realised through strong PBC-led nations, where First Nations peoples have the authority and economic power to determine their own futures. The evidence in this report shows both how far the sector has come and how much remains to be done.

I invite our members, partners, governments and industry to use this report as a shared evidence base for action. When Traditional Owners can build and manage their own wealth, they invest in businesses, employ people, and create lasting economic benefits.



Jamie Lowe
Chief Executive Officer

A handwritten signature in black ink, appearing to read 'J. Lowe', with a stylized flourish at the end.



Introduction to the State of the Native Title Sector Report

The native title sector is a dynamic and growing sector that reflects the diversity of Traditional Owners across the nation.

From Boigu Island in the Torres Strait Islands to the Eastern Maar in Victoria; from the Bundjalung Nation in New South Wales to the Yawuru in Western Australia; native title holders are increasingly determining their future and pursuing their economic, social and cultural development.

This new report from the National Native Title Council (NNTC) seeks to provide a snapshot of the native title sector by bringing together the wide range of publicly available data into one place. It provides the evidence base for policy and legislative reform and coordination across the sector. It builds on the *PBC Futures: Roadmap to Reform report* (NNTC 2024) by increasing visibility of PBC funding pressures and their emerging economic strengths.

This publication is the inaugural report in a new biennial series, with a new report to be published every two years that, over time, will provide longitudinal sector data and analysis. A significant portion of this data and analysis is new and has not been published before. This report will now provide the sector with greater nuance of the diversity of PBC experiences, including sector profitability, lending to PBCs, financial investments and staffing.

In particular, the report considers the latest developments in native title claims, determinations, compensation applications, negotiations and agreement-making from the National Native Title Tribunal (NNTT). It also analyses the financial strength of PBCs using general and financial reports lodged with the Office of the Regulator of Indigenous Corporations (ORIC), including an in-depth focus on the largest PBCs.





What this report finds

This report tells a story of a sector at a turning point. Native title has now been recognised across almost half of the nation. The institutions that exercise these rights, Prescribed Body Corporates (PBCs), are growing fast and becoming an important part of the Indigenous economy. But that growth isn't evenly shared: a small number of Large PBCs hold most of the sector's capacity, while many smaller PBCs remain under-resourced.

In addition, the systems around native title have not kept pace with the needs of Traditional Owners. Compensation is still a developing area of native title law, with benefits capped well below the value extracted from native title land. The Future Acts process continues to impose a high burden on native title holders without a faster process for proponents in return. This report sets out where the sector has built real strength, and where the next wave of reform and support needs to go.

About us

The NNTC is the peak body representing the native title sector and Traditional Owners across Australia. We advocate for First Nations peoples' rights and interests through the native title system. We work closely with Traditional Owners, government and industry partners to support and strengthen native title rights through changes to law, policy and best practice.

Our members include local Prescribed Body Corporates and Traditional Owner corporations, as well as regional Native Title Representative Bodies and Service Providers.

We are the secretariat for the First Nations Heritage Protection Alliance, the Sea Country Alliance and the PBC Steering Group. We are a member, among others, of the Coalition of the Peaks and the First Nations Economic Empowerment Alliance, and a partner of the Mabo Centre with the University of Melbourne.

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Introduction to Native Title

Native title is the recognition in Australian law of First Nations peoples' rights and interests in land and waters, according to their pre-existing traditional laws and customs. These rights were formally recognised following the historic *Mabo (No 2)* decision in 1992 and are governed by the *Native Title Act 1993* (Native Title Act). These legal landmarks merely affirmed laws and rights that have always existed and always will.

Native title rights

Recognised native title rights and interests vary according to the local laws and customs that underpin them, but may include rights to camp, hunt, fish, gather, maintain and protect sites, perform ceremony and speak for country. In 2013, the High Court found that a native title claim group could take resources (for example, fish) for any purpose, such as sale or trade. This broader right has been a common feature of native title claims since. There are no subsurface native title rights, such as rights to minerals, gas or petroleum.

Some native title determinations (33% of total native title area) are exclusive, which include possession of an area to the exclusion of all others. These rights are broadly comparable to freehold title; however, all native title is inalienable and cannot be sold or transferred. In most cases (67% of total native title area), non-exclusive native title rights coexist with other non-Indigenous property rights, such as pastoral leases. These determinations, for example, may provide rights to access and protect cultural sites, but not to control access to an area. Native title of tidal and Sea Country is always non-exclusive.

Traditional Owners have procedural rights to comment, to be consulted with and, sometimes, to negotiate about future acts that affect their native title (typically related to mining, infrastructure and other land use developments). An alternative pathway is the Indigenous Land Use Agreement (ILUA) process, which covers a broader range of matters other than the right to negotiate. The Native Title Act also sets out what circumstances and future acts extinguish native title rights. However, governments have increasingly relied on agreement making, rather than extinguishment.

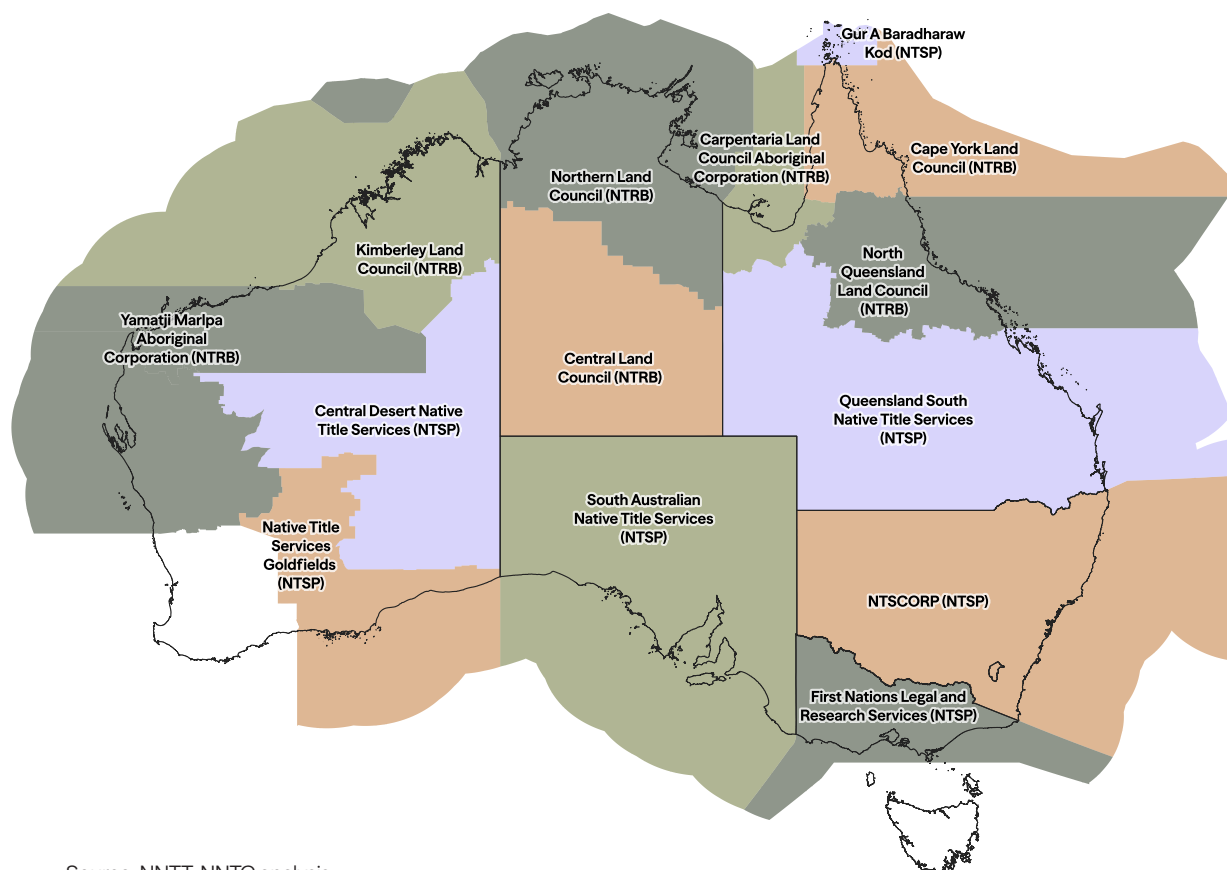
The Native Title Act also provides for rights to compensation where native title has been impaired, extinguished or affected by certain government acts. There have been only three cases where compensation has been awarded by the courts to date, but this is a growing area of interest for Traditional Owners.

Native title institutions

The Native Title Act sets out the institutional environment for the native title sector. Once native title is recognised, native title holders must establish a Registered Native Title Body Corporate (RNTBC) – commonly referred to as a PBC – to hold and manage these rights in trust. All PBCs must be registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). There are currently 293 PBCs.

The Native Title Act recognises Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs). NTRBs and NTSPs are appointed by the Commonwealth Minister for Indigenous Affairs and have a range of core functions under the Native Title Act. These include assisting groups who may hold native title to apply for a determination, and supporting PBCs to carry out their functions, such as by providing administration services, supporting agreement making or assisting with compensation claims. There are 6 NTRBs and 8 NTSPs across Australia (Figure 1).

Figure 1: Map of Representative Aboriginal/Torres Strait Islander Body Areas



Source: NNTT; NNTC analysis

Interactions with other land rights

The history of land rights in Australia is complex and varies by state and territory. Land rights in some states and territories were granted prior to native title, creating statutory Traditional Owner corporations separate to the Native Title Act. The groups recognised under these laws do not always align with native title holders or their PBCs. This is most notable in New South Wales and Queensland, where land rights legislation can be used to grant land to community-based organisations, rather than necessarily to Traditional Owners.

In contrast, legislation enacted after the Native Title Act – particularly in Victoria and Western Australia – was generally designed with greater regard to the native title framework. As a result, native title holders and PBCs are more closely integrated into these arrangements.

As a result, native title often operates alongside older and newer statutory frameworks for Aboriginal land ownership, governance and representation. Table 1 provides a short summary of the relevant land rights legislation by state or territory:

Table 1: State-based Land Rights Legislation

State or Territory	Legislation	Effect
New South Wales	<i>Aboriginal Land Rights Act 1983</i>	Enables freehold title to be granted for certain unused Crown Land by Local Aboriginal Land Councils. The system is based on Aboriginal community membership rather than Traditional Ownership.
Northern Territory	<i>Aboriginal Land Rights (NT) Act 1976</i>	Provides for land to be held as Aboriginal freehold title by Aboriginal land trusts on behalf of Traditional Owners. Also established regional Aboriginal Land Councils, which have significant statutory functions. Two Land Councils (Northern and Central) are NTRBs under the Native Title Act.
Queensland	<i>Aboriginal Land Act 1991</i> and <i>Torres Strait Islander Land Act 1991</i>	Establishes landholding entities and grants land, including communal tenure through community-based Deeds of Grant in Trust (DOGITs) and inalienable freehold to Traditional Owner-focused Aboriginal and Torres Strait Islander Land Trusts.
South Australia	<i>Aboriginal Lands Trust Act 1966</i>	Establishes the Aboriginal Lands Trust, which holds and manages land for the benefit of Aboriginal South Australians. Separate legislations create bodies corporate that hold freehold title for the Anangu Pitjantjatjara Yankunytjatjara (APY) and Maralinga Tjarutja lands.
Tasmania	<i>Aboriginal Lands Act 1995</i>	Establishes the Aboriginal Land Council of Tasmania, which holds and manages culturally and historically significant land transferred to Aboriginal ownership.
Victoria	<i>Traditional Owner Settlement Act 2010</i> <i>Aboriginal Heritage Act 2006</i>	Provides an alternative approach to resolving native title claims in Victoria, including recognition and land transfers without needing a native title determination. Establishes Registered Aboriginal Parties of Traditional Owners with statutory responsibilities for Cultural Heritage.
Western Australia	<i>Land Administration (South West Native Title Settlement) Act 2016</i>	Implements the South West Native Title Settlement, which resolves native title claims in this region. The Settlement recognises the Noongar people as the Traditional Owners of south-west Western Australia, provides for land transfers and other compensation, and establishes governance arrangements, including six Noongar Regional Corporations.

Native Title Claims and Determinations

Key takeaways

- Native title represents a significant share of the First Nations Estate across the country. Nearly half (3.6 million km²; 47%) of Australia's landmass has recognised native title, with a further 0.1 million km² recognised as Sea Country.
- The process of resolving claims for native title continues, but is slowly drawing to a close. There were 19 successful determinations for new native title to be recognised in 2025/26, and a further 9 in the first three months of 2026/27.

How the NNTC is supporting our members

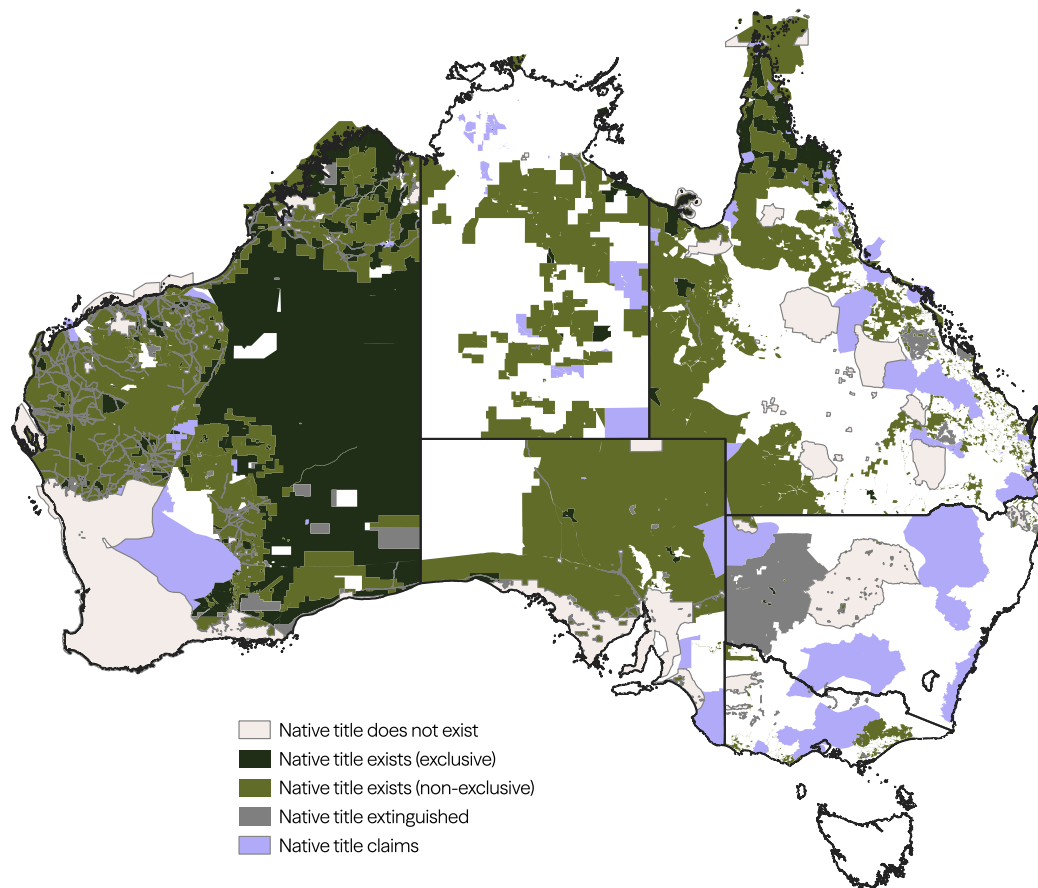
Our regional NTRB and NTSP members continue to bear much of the load when Traditional Owners apply for native title and provide ongoing support to them once a determination is made. We recognise the need for ongoing resourcing to support this important work, and advocate strongly on behalf of our members to government for increased funding to the sector.

What the data says¹

The native title sector has historically had a primary focus on resolving claims for native title, with many claims now having been legally resolved (Figure 2). Over half (4.5 million km²; 59%) of Australia's landmass has now had a native title determination, with only 8% (0.7 million km²) currently under a native title claim. These remaining claims typically reflect more complex cases, although there are still new incoming claims.



¹ NNTT data as at 30 September 2026.

Figure 2: Map of Native Title Determinations and Claims

Source: NNTT; NNTC analysis

Nearly half (3.6 million km²; 47%) of Australia's landmass has been recognised as either exclusive or non-exclusive native title, with a further 0.1 million km² recognised as Sea Country (Table 2). Around one-third (33%) of native title is exclusive, primarily in Western Australia, northern Queensland and the Torres Strait.

Table 2: Native Title Determinations and Claims

Native Title	Land Country		Sea Country	Total
	Million km ²	% of Australian land mass	Million km ²	Million km ²
Determinations and claims	5.2	67.2%	0.2	5.4
Determinations	4.5	58.7%	0.2	4.7
Native title exists	3.6	47.2%	0.1	3.7
<i>Of which: exclusive</i>	1.2	15.9%	N/A	1.2
<i>Of which: non-exclusive</i>	2.4	31.3%	0.1	2.5

Source: NNTT; NNTC analysis

Native title comprises a significant portion of the First Nations estate, which represents around 70% of Australia's landmass. The First Nations estate represents Australian land and seas where First Nations peoples have recognised legal or formal rights of ownership, management or use for customary purposes. Native title often overlaps with other rights of ownership or management. Indeed, some Traditional Owners have chosen not to pursue a native title claim, often when they already have strong existing land rights.

It is important to note that native title has almost entirely been recognised in Remote and Very Remote Australia (Table 3). While there are instances where native title has been recognised in more urban areas, these are typically restricted to discrete areas of Crown Land. This includes nature reserves, beaches, waterways and other public lands where native title has not previously been extinguished.

Table 3: Native Title Determinations and Remoteness

Remoteness	Native Title Land Area '000 km ²	Share of Australian landmass %
Major Cities	0.2	0.0%
Inner Regional	9.1	0.3%
Outer Regional	43.6	1.2%
Remote Australia	143.2	4.0%
Very Remote Australia	3,428.8	94.6%

Source: ABS; NNTT; NNTC analysis

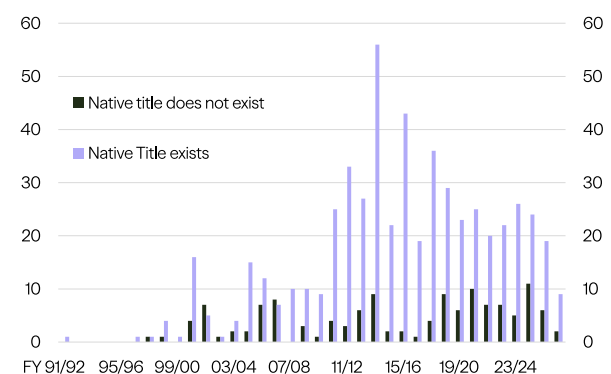
Determinations since July 2025

There were 25 native title determinations in 2025/26, with a further 11 in the first three months of 2026/27. The number of annual determinations has averaged around 29 over the past five financial years (2021/22–2025/26) and is gradually slowing from a peak of 65 determinations in 2012/13.

Native title was found to exist in the entire determination area in 22 of the 36 determinations between July 2025 and September 2026. In a further 6 determinations, native title was found to exist in parts of the determination area. These 28 successful determinations were all made by consent and were primarily in Queensland (10) and Western Australia (6) (Figure 3 and Table 4).

Figure 3: Native Title Determinations

By financial year, 1991/92–2026/27*



* First three months of 2026/27

Source: NNTT; NNTC analysis

Table 4: Recent Successful Native Title Determinations

2025/26 and 2026/27

State or Territory	2025/26 Count	2026/27 Count	Native Title Area '000 km ²
New South Wales	1	0	1.2
Northern Territory	0	1	4.3
Queensland	10	6	20.1
South Australia	1	0	2.4
Victoria	1	0	3.8
Western Australia	6	2	38.8

* First three months of 2026/27

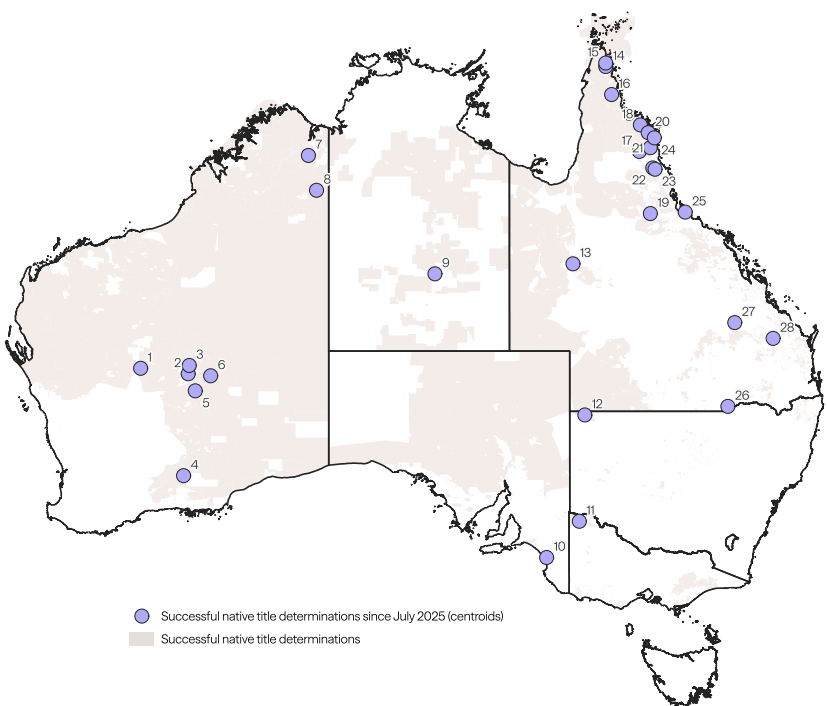
Source: NNTT; NNTC analysis

The year 2025/26 saw the first successful determination for exclusive native title in Victoria, now managed by the First People of the Millewa-Mallee Aboriginal Corporation RNTBC. There were two successful determinations that included Sea Country. Fifteen determinations were registered with an existing PBC, while 12 new PBCs will be registered.

There were 6 unsuccessful determinations in 2025/26 and 2 in the first three months of 2026/27. Six of these 8 unsuccessful determinations between July 2025 and September 2026 were located in New South Wales (all were submitted by Local Aboriginal Land Councils) and 2 were in Queensland.

Figure 4: Map of Recent Native Title Determinations

Since July 2025



Map ID	PBC Name
1	Tarika Matuwa Piarku Aboriginal Corporation RNTBC
2	Payarri Aboriginal Corporation RNTBC
3	Tarika Matuwa Piarku Aboriginal Corporation RNTBC
4	Ngadjju Native Title Aboriginal Corporation RNTBC
5	Tjalkadjara Aboriginal Corporation
6	Lalalka Aboriginal Corporation
7	Giliwinggin Aboriginal Corporation
8	Jaru Aboriginal Corporation RNTBC
9	Altjerr Anwekantherrenh Aboriginal Corporation
10	Nori Native Title Aboriginal Corporation RNTBC
11	First People of the Millewa-Mallee Aboriginal Corporation RNTBC
12	Wangkumarra Kawalanyi Aboriginal Corporation RNTBC
13	Mitakoodi and Mayi People Native Title Aboriginal Corporation RNTBC
14	Wuthathi Aboriginal Corporation RNTBC
15	Wuthathi Aboriginal Corporation RNTBC
16	Northern Kaanju Aboriginal Corporation RNTBC
17	Western Yalanji Aboriginal Corporation RNTBC
18	Yiithuwarra Aboriginal Corporation RNTBC
19	Gugu Badhun Aboriginal Corporation RNTBC
20	Guugu Yimidhirr Aboriginal Corporation RNTBC
21	Jabalbina Yalanji Aboriginal Corporation RNTBC
22	Nguddaboolgan Native Title Aboriginal Corporation RNTBC
23	Muluridji Tribal Aboriginal Corporation RNTBC
24	Guugu Yimidhirr Aboriginal Corporation RNTBC
25	Gurambilbarra Wulgurukaba Aboriginal Corporation RNTBC
26	Gamilaraay Aboriginal Corporation
27	Wadja Aboriginal Corporation
28	Wakka Wakka Native Title Aboriginal Corporation RNTBC

Source: NNTT; NNTC analysis

Prescribed Body Corporates

Key takeaways

- The number of PBCs continues to grow, with the majority of the 293 PBCs located in Queensland, Western Australia and Northern Territory.
- The PBC sector continues to grow in financial strength, with a combined reported income of \$871 million in 2024/25, up 13% on the prior financial year. Reported assets were \$1.36 billion, up 18% on 2023/24. Growth in income and assets was primarily concentrated in the 35 PBCs that were classified as Large in 2023/24.
- There remains a large distribution of PBCs' financial strength in 2024/25, with nearly half classified as Small. The median PBC in 2024/25 reported \$319,000 in income and had \$640,000 in assets. Yet over a quarter of PBCs reported having no income and no assets in 2024/25, and half reported having no employees.

How the NNTC is supporting our members

Following strong advocacy from the NNTC and the PBC Steering Group, the Prime Minister Anthony Albanese announced an additional \$75 million in funding for PBCs at the 2025 Garma Festival. As a result, PBCs have been allocated \$200 million in Commonwealth funding over the three years to June 2029.

We know that this additional funding will help PBCs to begin to be more effective in meeting their operational and compliance obligations. However, further investment and access to capital is required for PBCs to take full advantage of economic opportunities on their Countries.

We will continue to work with PBCs, NTRB/NTSPs and the government, as we use the successes of this initial funding commitment to strongly advocate for additional investment in the native title sector.

What the data says²

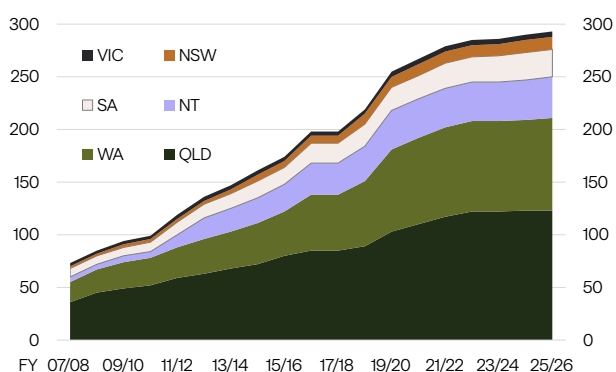
At the end of 2024/25, there were 290 PBCs (Figure 5) registered under the CATSI Act, with a further 3 registered in 2025/26. There will likely be over 300 registered PBCs in 2027. For comparison, there were 255 PBCs in 2019/20 and 161 in 2014/15. Most PBCs are based in Queensland (123; 42%) and Western Australia (88; 30%). There is yet to be a successful native title determination in Tasmania or the Australian Capital Territory.

PBCs vary significantly in size, with ORIC classifying them based on their income, assets and number of employees per financial year (see Box A for further detail). Nearly half of PBCs (143, or 49%) are considered Small (Figure 6). The Small PBCs are concentrated in Queensland (70; 49%), especially in Cape York and the Torres Strait, as well as in the Northern Territory (32; 22%).

² Data sourced from reports lodged with ORIC and published on the Register of Aboriginal and Torres Strait Islander Corporations as at 30 September 2026. The latest PBC financial data is for 2024/25.

Figure 5: PBCs by State or Territory

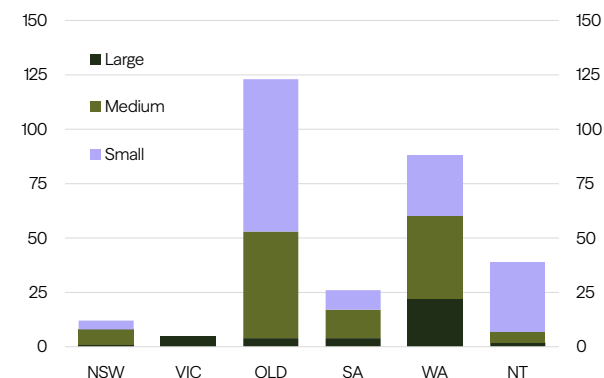
By financial year, 2007/07–2025/26



Source: ORIC; NNTC analysis

Figure 6: PBCs by ORIC Corporation Size

2024/25



Source: ORIC; NNTC analysis

Over the past 10 years, the number of Large PBCs has increased by more than 5 times. There were 37 Large PBCs in 2024/25, compared with 16 in 2019/20 and 7 in 2014/15. The majority of Large PBCs (21; 57%) are based in Western Australia, concentrated in the Pilbara region (Figure 7). Victoria is unique though, with all five Victorian PBCs classified as Large. See 'A Closer Look at Large PBCs' for further analysis of the Large PBCs.

Box A: PBC size

The CATSI Act classifies corporations based on their consolidated gross operating income, consolidated gross assets and number of staff.

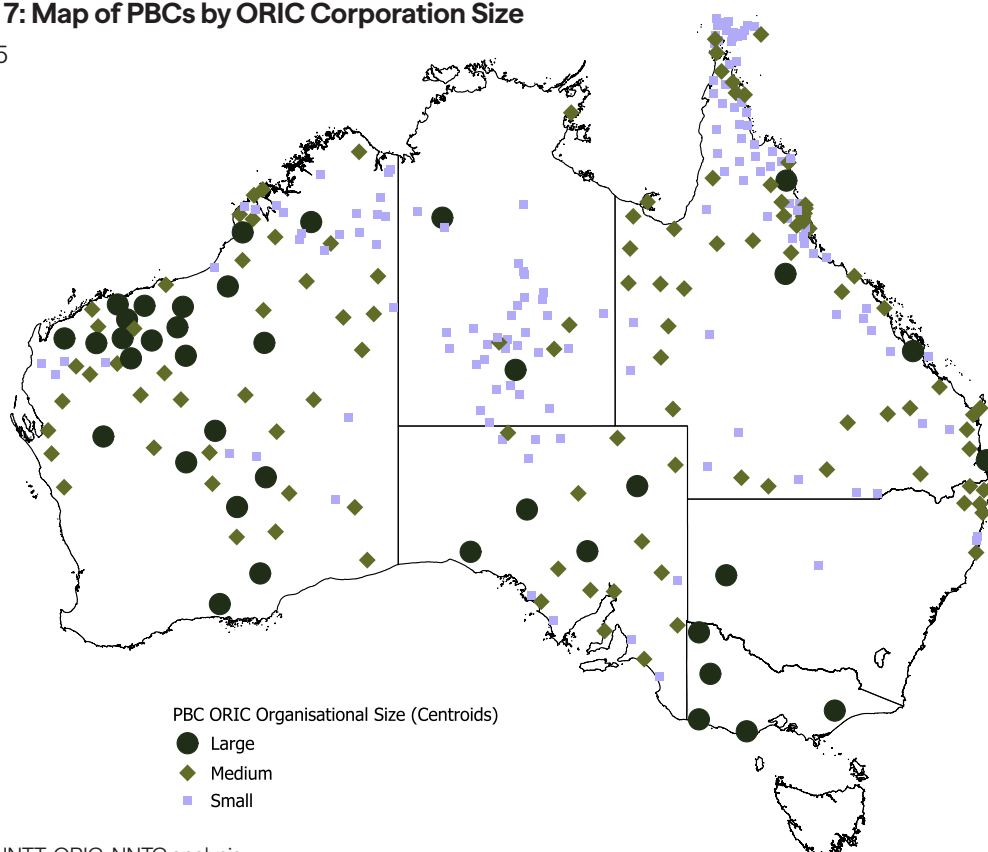
A **Small** PBC will have at least two of the following: less than \$100,000 in income; less than \$100,000 in assets; or fewer than 5 employees.

A **Medium** PBC will have at least two of the following: income between \$100,000 and \$5 million; assets between \$100,000 and \$2.5 million; or between 5 and 24 employees.

A **Large** PBC will have at least two of the following: more than \$5 million in income; more than \$2.5 million in assets; or more than 24 employees.

Figure 7: Map of PBCs by ORIC Corporation Size

2024/25



Source: NNTT; ORIC; NNTC analysis

Box B: PBC reporting requirements

This financial analysis is based on 2024/25 PBC General Reports lodged with ORIC and published on its website. ORIC generally requires all PBCs to lodge an annual General Report. ORIC has published 237 PBC reports as at 30 September 2026, which has been supplemented with information from published Financial Reports for a further 10 PBCs. Together, this represents 85% of all PBCs and is above historical PBC reporting.

General Reports contain summary information on PBCs' total income, total grants, total expenditure, current and non-current assets, and current and non-current liabilities. They also include information on the PBC directors, members and number of employees. Of the 43 PBCs with missing data, most are Small PBCs (34; 79%) that typically report less than \$100,000 in income or assets.

ORIC also generally requires all PBCs (unless they are a Small PBC with a consolidated gross operating income of less than \$100,000) to lodge a financial statement annually. These financial statements contain more detailed financial information and are externally audited.

It is important to note that, under certain circumstances, PBCs can apply to ORIC for an exemption from lodging a General or Financial Report. ORIC reports that 17 PBCs (all Small) were granted an exemption from reporting in 2024/25.

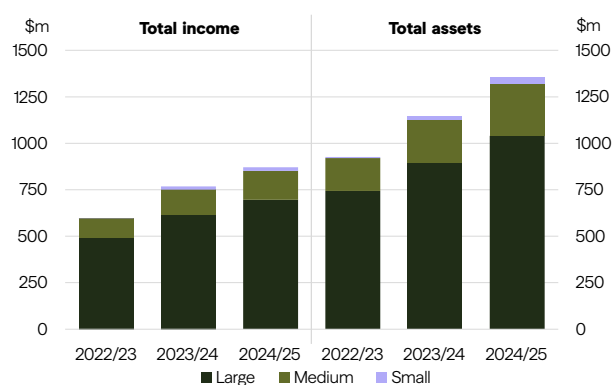
In 2024/25, PBCs reported earning \$871 million in income (Figure 8). Total income was up 13% compared with the \$768 million reported in 2023/24. PBCs reported \$1.36 billion in total assets, up 18% from the \$1.15 billion reported in 2023/24. Income and asset growth was primarily led by PBCs that were already Large in 2023/24. See Box B for further information on PBC reporting requirements.

PBCs hold significant retained earnings (\$899 million). They report only \$457 million in total liabilities, with nearly two-thirds (65%) of these as current liabilities (typically operational payables that will be resolved within one year).

It is important to note there is a very large distribution in PBC financial wealth. For example, the median PBC in 2024/25 earned \$319,000 in income and had \$640,000 in assets (Figure 9). This contrasts with the mean PBC income of \$3.5 million and \$5.5 million in assets. The median Victorian PBC (which are all Large) earned \$12.5 million in annual income in 2024/25 and held \$24.5 million in assets (see Box C). In comparison, the median NT PBC earned no income and held no assets.

Figure 8: PBC Total Income and Assets

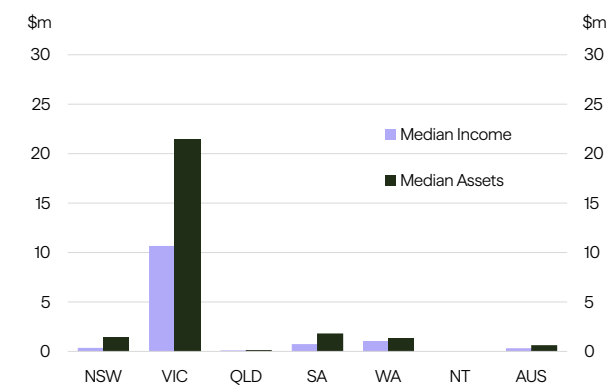
2022/23–2024/25; by 2023/24 ORIC Corporation Size



Source: ORIC; NNTC analysis

Figure 9: Median PBC Income and Assets

By state or territory; 2024/25



Source: ORIC; NNTC analysis

Box C: Victorian PBCs and the case for resourcing the native title sector

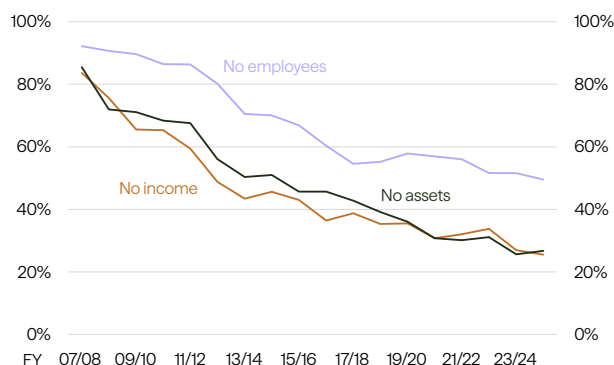
Victorian PBCs are unique in that all are Large PBCs and all have been Large since 2022/23. This is in no small part due to groups successfully negotiating strong comprehensive native title settlements with the Victorian Government. Over \$76 million is now held in trust on behalf of the 5 Victorian PBCs, in addition to \$63 million in the Self-Determination Fund.

The Victorian Government has also supported a nation rebuilding approach through the *Traditional Owner Settlement Act 2010*. All 5 Victorian PBCs are Registered Aboriginal Parties (RAPs), receiving RAP funding consolidated into the PBC. As a result of this investment, the 5 Victorian PBCs now employ over 250 staff in 2024/25.

Indeed, there remains a substantial proportion of PBCs that have very little income or few assets (Figure 10). In 2024/25, over a quarter of PBCs reported having no income (26%) or no assets (27%). These proportions have, however, steadily fallen over the past two decades.

Figure 10: PBCs reporting no income, assets or employees

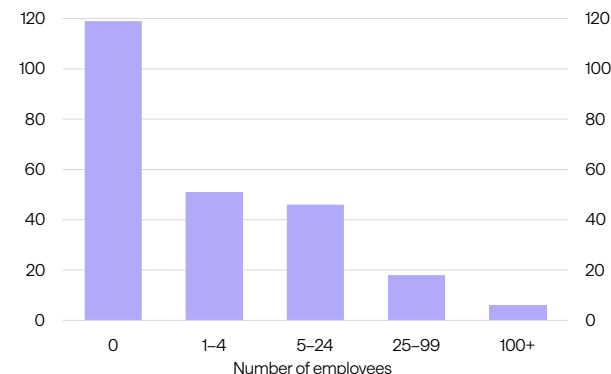
By financial year, 2007/08–2024/25; share of all reporting PBCs



Source: ORIC; NNTC analysis

Figure 11: PBCs by Number of Employees

2024/25



Source: ORIC; NNTC analysis

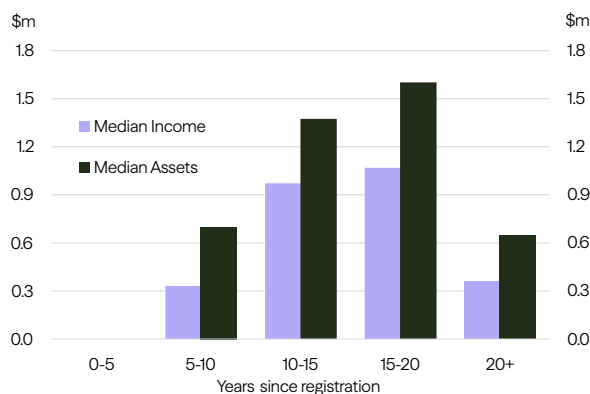
The number of employees at each PBC is also highly skewed. One-half (119; 50%) reported that they did not employ any staff, with a further 51 PBCs (21%) employing fewer than five staff (Figure 11). Six PBCs reported employing over 100 staff in 2024/25, with one WA-based PBC a significant outlier employing 450 staff.

An interesting trend emerges when analysing median income and assets by organisational age (Figure 12). As would be expected, the 49 PBCs in their first five years of operations typically do not earn income or hold assets – 80% are Small PBCs, and there is only one Large PBC in this group.

As PBCs mature, they tend to earn more income and hold more assets, levelling off after around 15 years. Median income and assets then both fall markedly for the 57 PBCs registered before July 2005. This is largely due to the greater proportion of Small PBCs in this group, and may reflect stronger settlement packages over time (Figure 13).

Figure 12: PBC Income and Assets by Age

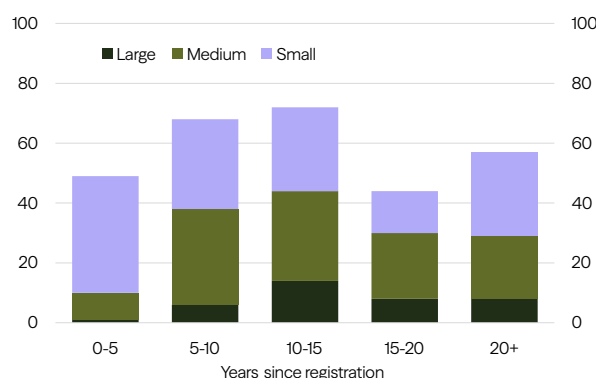
By PBC Organisational Age; 2024/25



Source: ORIC; NNTC analysis

Figure 13: PBC Organisational Size by Age

Count of PBCs by PBC Organisational Age; 2024/25



Source: ORIC; NNTC analysis

Native title funding and resources

The most significant source of funding for the native title sector is provided by the Commonwealth Government. The National Indigenous Australians Agency (NIAA) will provide the sector with around \$200 million in annual funding over the next three financial years (2026/27–2028/29). This includes funding for operational support for PBCs; capacity building projects; and for NTRB and NTSPs in their role to support Traditional Owners and PBCs through claims and negotiations.

Some states offer other sources of operational funding for PBCs. The Western Australian Government's Native Title Party Capacity Building Program offers \$8 million in annual funding to improve PBCs' capacity to provide heritage services and engage with industry and government. The Victorian Government offers targeted funding to Registered Aboriginal Parties (RAPs; all 5 Victorian PBCs are also RAPs), including through the Traditional Owner Sector Support Program.

Finally, governments and philanthropic groups offer specific grants and funding for projects that are aligned with particular projects or programs. For example, some PBCs and their subsidiaries receive funding for Ranger programs through either state or Commonwealth sources. Further information on funding and grant opportunities for PBCs is available through the AIATSIS nativetitle.org.au website.



A closer look at Large PBCs

Key takeaways

- The number and size of Large PBCs continue to grow, driving the majority of growth in the PBC sector.
- Large PBCs are profitable organisations, having an average 11% return on assets, deriving a large share of revenue from commercial operations across over 100 subsidiaries.
- Large PBCs are generally financially conservative organisations, with cash representing over a quarter of total assets. Fifteen Large PBCs have \$159 million in loans, concentrated in a few organisations that generally borrow against the value of assets they hold, rather than through unsecured lending, to finance their commercial operations.

How the NNTC is supporting our members

Our nation building program is based on the evidence that, once PBCs have established a foundation of governance, staffing and resources, they can steadily build powerful PBC-led Nations that support self-determination. Our Strong Culture, Strong Future stories of the [Yaegl Traditional Owner Aboriginal Corporation](#) and the [Yawuru PBC](#) illustrate what is possible.

An important component to unlocking this growth is to improve access to capital, so that PBCs can take advantage of projects happening on their Countries. We are currently partnering with stakeholders across the First Nations, finance, industry and government sectors to further a private equity model. This mechanism will ensure that PBCs do not miss out on valuable economic opportunities, and work alongside them to build their capability to manage these assets.

What the data says

The 37 Large PBCs dominate the PBC sector in both resources and staffing. In 2024/25, Large PBCs reported 82% of total PBC income, 78% of total PBC assets and 78% of total PBC staff. Indeed, the 35 Large PBCs in 2023/24 were responsible for over three-quarters (79%) of total PBC income growth and two-thirds (69%) of total PBC asset growth between the two financial years.

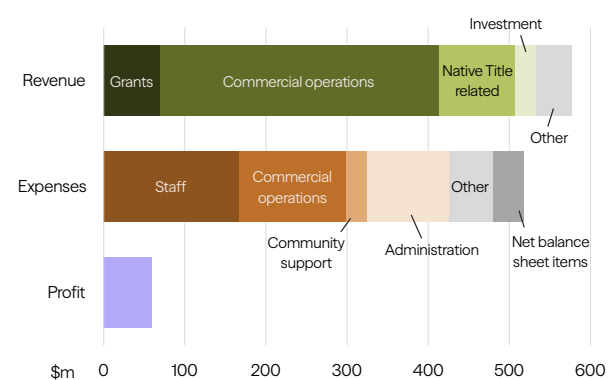
New analysis of Large PBC Financial Statements provides a more detailed understanding of how these organisations operate, as well as the sector as a whole. We classified all line items in their financial statements in a consistent manner, to allow for aggregation and comparison across the Large PBCs. It uses a consistent sample of the 37 PBCs that were Large in 2024/25 for comparability.³

³ This analysis covers the 37 PBCs assessed by ORIC as Large in 2024/25, based on financial reports lodged with ORIC and published in the Register of Aboriginal and Torres Strait Islander Corporations. The same cohort is used for earlier years, regardless of their classification at the time. Two reports are unavailable for 2021/22 and one PBC – registered shortly before 2023/24 – has data only for 2023/24 and 2024/25.

Large PBCs are profitable organisations, reporting \$113 million in profits and a return on assets of 11% in 2024/25.⁴ They derive more than half (\$382 million; 56%) of their operating income from commercial operations (Figure 14).⁵ Growth in commercial operations revenue has driven the substantial increase in Large PBC, and indeed total PBC, revenue (Figure 15).

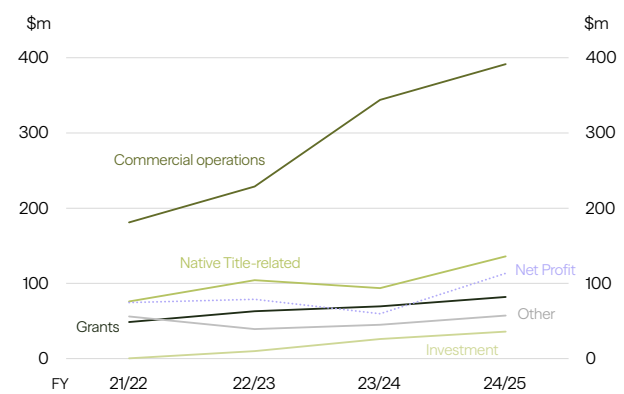
We assess that around \$137 million of this income is earned through heritage services, such as cultural surveys, monitoring and fee-for-service work. The remainder is largely sourced from operating other commercial business (\$245 million), including through the 102 subsidiary businesses that Large PBCs own and control.⁶

Figure 14: Total Large PBC Revenue, Expenses and Profit
2024/25



Source: ORIC; NNTC analysis

Figure 15: Total Large PBC Revenue and Profit
2021/22–2024/25; 2024/25 Large PBC cohort



Source: ORIC; NNTC analysis

A further 20% of Large PBC operating income (\$136 million) is sourced from native title-related income, with around two-thirds (68%) from compensation and agreements (such as royalties and licences; \$93 million) and the remainder as trust disbursements (\$43 million). A small, but growing, share of operating income (\$36 million; 5%) is from financial investments. Grants provide around 12% of Large PBC operating income (\$82 million). In contrast, Small and Medium PBCs report around one-third of income sourced from grants (34% and 39%, respectively).

Staff expenses comprise the greatest share of Large PBC operating expenses, representing 35% of expenses (\$196 million). Operational expenses (\$141 million; 25%) and administration costs (\$120 million; 22%) also represent significant costs. Expenses related to community support (excluding wages) comprise around 6% (\$32 million) of Large PBC expenses.⁷

Despite their healthy profit returns, Large PBCs remain generally financially quite conservative organisations. Their balance sheets, with high cash and equity holdings, suggest a cautious approach to financial management, which may come at a cost of intergenerational returns. For example, PBCs' binding Rule Book objectives may not necessarily prioritise financial returns.

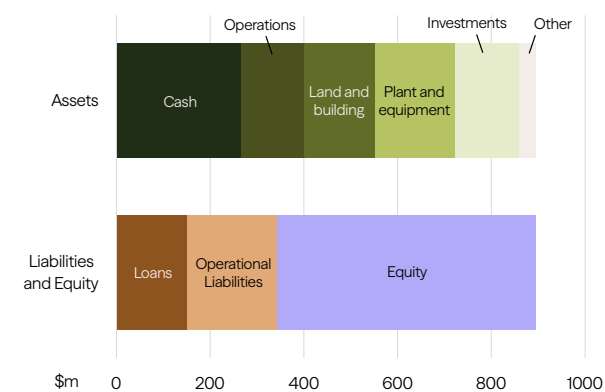
⁴ Return on assets measures how much profit is generated from a given level of assets, and can vary significantly across industries. For reference, PBC return on assets are comparable with long-term investment returns achieved by Australia's major superannuation funds. For example, superannuation entities with more than six members earned an annual rate of return of 8.6% in June 2026 (see APRA 2026 [Quarterly superannuation performance statistics highlights - June 2026](#)).

⁵ Operating income excludes balance-sheet-related revenue items, such as revaluation gains.

⁶ Interests in subsidiaries with more than 50% ownership. Note that some of these subsidiaries are reportedly non-operational.

⁷ Operating expenses exclude balance-sheet-related expense items, such as depreciation and impairment expenses.

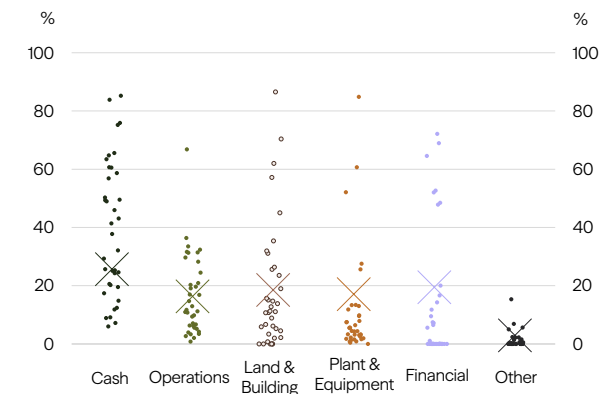
Figure 16: Large PBC Assets, Liabilities and Equity
2024/25



Source: ORIC; NNTC analysis

Figure 17: Large PBC Asset Share

Share of each PBC's Total Assets*; 30 June 2025



* Cross shows average of all Large PBCs for each asset type

Source: ORIC; NNTC analysis

Over a quarter of Large PBC assets (\$270 million; 26%) is held as cash or cash equivalents (Figure 16), representing 43% of the total PBC sector's current assets. Twelve Large PBCs hold over half of their assets as cash and cash equivalents (Figure 17), with four holding three-quarters of their assets as cash (yet all four still have above-average Return on Assets ratios).

Twenty Large PBCs now hold financial investments (worth a combined \$205 million), representing 19% of total Large PBC assets, up from 13% just two years prior. There are some significant outliers, with five Large PBCs together holding \$145 million in financial portfolios and investment properties.

Large PBCs also have very low debt levels, with equity representing 64% of total assets. Of the 37 Large PBCs, 15 reported a total of \$159 million in loans and borrowings (15% of total Large PBC assets). This represents over a third of all liabilities across the entire PBC sector. However, these organisations are very well placed to repay the loans, with most (9) having cash that generally well exceed their loans. The loans for the remaining six Large PBCs have been used to purchase relatively traditional assets, including vehicles, equipment leased out to others (dry hire), housing, farm equipment, and construction-related assets.

Box D: First Nations funds

The NNTC is collaborating with Impact Seed on a research project to better understand the First Nations funds sector. The sector has close connections with the native title sector, and particularly Large PBCs, due to many being established through ILUAs struck with PBCs or their members.

This research seeks to better understand the scale and composition of the sector, governance and decision making, how First Nations funds invest their capital, and the experiences and aspirations of rights holders.

The final report is expected to be published in the first half of 2027 and will include quantitative and qualitative analysis.

Native Title-related Agreement Making

Key takeaways

- ILUAs and Future Acts rights are important mechanisms for Traditional Owners to make decisions about activities on their native title Country. It is another way for Traditional Owners to have a seat at the table for the development of projects.
- There have been 27 ILUAs registered since July 2025, which is a little fewer than the 5-year average of 33 ILUAs.
- The Future Act Expedited Procedures process continues to delay outcomes for proponents, waste government resources and damage trust with native title holders and claimants. Over the past 5 years, the NNTT received nearly 6,900 objections to expedited procedure notices – with native title holders objecting to over half of all expedited procedure notices – and taking a median 176 days to resolve.

How the NNTC is supporting our members

The NNTC was a key partner for the Commonwealth Government in developing the recent Future Act review and terms of reference for the Australian Law Reform Commission (ALRC). We worked closely to ensure the ALRC considered the experiences of native title holders and practitioners in the future act regime.

We know that reform is necessary to ensure native title holders are recognised as equal before the law. The ALRC found that the Native Title Act is inherently discriminatory, fails to afford protections to native title rights and interests and does not provide native title holders with timely, just and fair redress.

We are currently engaging with our membership and the Commonwealth government on sector priorities for moving forward this important work. Further information will be made available in due course.

ILUAs

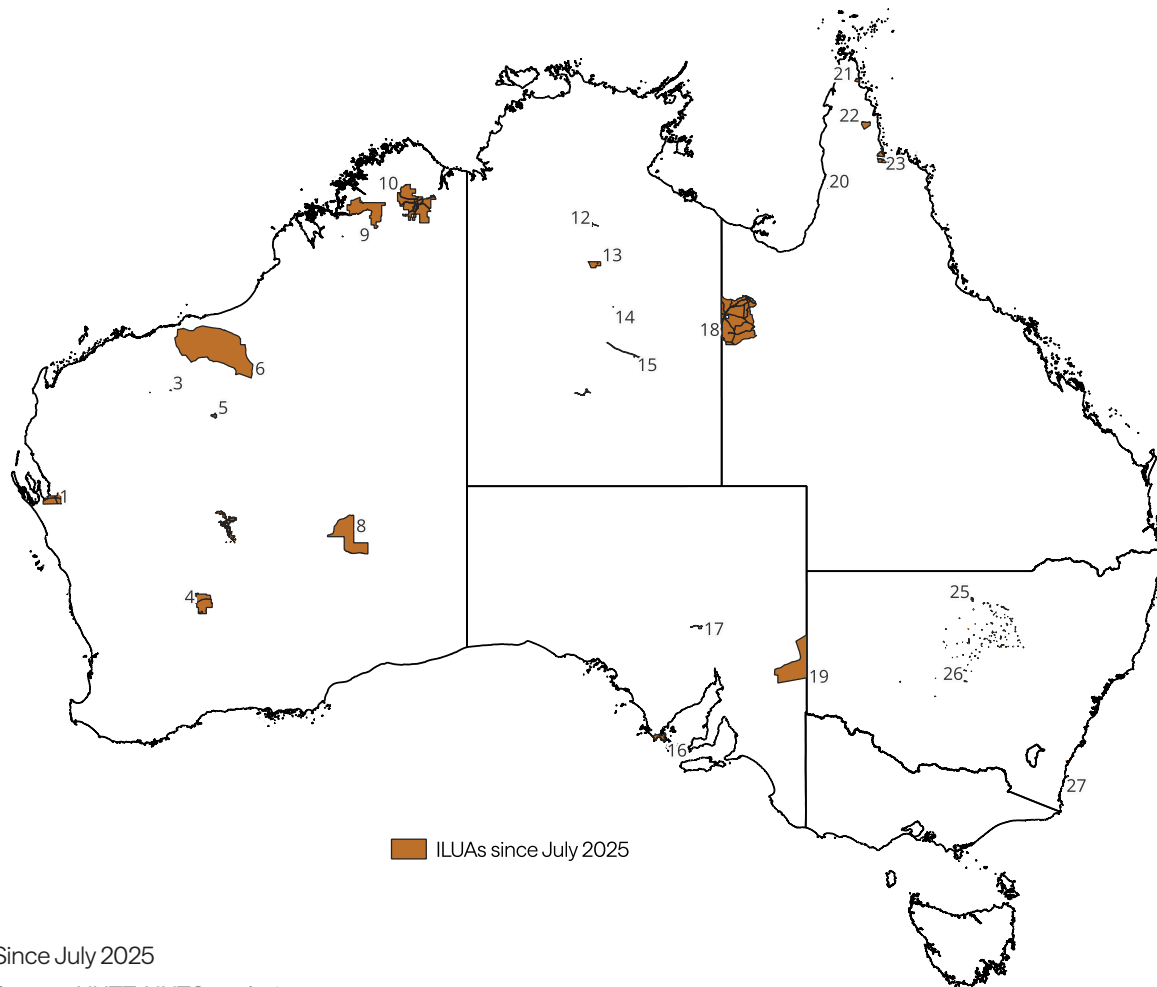
An ILUA is a voluntary agreement between native title parties and other people or bodies about the use and management of areas of land and/or waters. When registered, an ILUA binds all native title holders to the agreement terms and may operate as a contract between the parties. There are three types of ILUAs depending on the status of the native title party: area agreements, body corporate agreements and alternative procedure agreements. ILUAs can cover a range of matters including the extinguishment of native title, compensation, future act procedures and cultural heritage.⁸

What the data says – ILUAs⁹

There were 22 ILUAs registered in 2025/26, with a further 5 ILUAs registered in the first three months of 2026/27 (Figure 18). This rate is somewhat slower than the five-year average of 33 agreements (2021/22–2025/26). Nineteen of these agreements were Body Corporate agreements (i.e. with the PBC), including for mining, energy and infrastructure. The remaining 8 agreements were area agreements, with three involving the extinguishment of native title. These were all for small parcels of land relating to properties.

⁸ NNTT, 'About Indigenous Land Use Agreements (ILUAs)' <https://www.nntt.gov.au/ILUA>.

⁹ NNTT data as at 30 September 2026

Figure 18: Map of Recent ILUAs

Since July 2025

Source: NNTT; NNTC analysis

ID	ILUA Name
1	Bush Heritage Hamelin Regeneration Project ILUA
2	Hamersley/Eastern Guruma Townsite Lease ILUA
3	Bardulanha ILUA
4	Marlinyu Ghoorlie Conservation Estate ILUA
5	Newman Renewable Energy Hub (Initial Generation Area) ILUA
6	Nyamal Renewable Energy Project ILUA
7	Second ILUA - Tjiwarl and Nickel West Comprehensive Agreement
8	Nangaanya-ku ILUA
9	Wilinggin Indigenous Land Use Agreement
10	Ellenbrae Station ILUA
11	Nolans Project Native Title Agreement First Variation Amendment and Restatement ILUA
12	Sturt Plateau Pipeline Project ILUA
13	Powell Creek Solar Generation Project Body Corporate ILUA

ID	ILUA Name
14	Tennant Creek Waste Management Facility ILUA
15	Native Title Mining Agreement - Ammaroo Phosphate Project ILUA
16	Nauo No 2 Native Title Settlement Indigenous Land Use Agreement
17	Oak Dam Retention Lease Project ILUA
18	Indjalandji-Dhidhanu Quarry Sales Permit Agreement ILUA
19	Wilyakali Native Title Claim Settlement ILUA
20	Kowanyama People - Construction and Operation of a Cultural Vault at Kowanyama ILUA
21	Wuthathi Captain Billy Landing Land Transfer ILUA
22	Northern Kaanju People Forestry Act Sales Permit ILUA
23	Lama Lama Gravel Take and Timber Harvesting ILUA
24	Cooktown Area Land Transfer ILUA
25	Brewarrina Common ILUA
26	Licences ILUA
27	Expired Crown Leases ILUA

Future acts

A future act is a proposal to deal with land in a way that affects native title rights and interests.¹⁰ These non-native title interests may be wholly or partly inconsistent with native title rights and interests over the same area. Examples of future acts include the grant, renewal or variation of a mining licence, the compulsory acquisition of land, or certain legislative acts that affect native title rights and interests.

The Native Title Act sets out procedures that governments must follow before going ahead with a future act to be 'valid'. Generally, there are three pathways to validity: an ILUA; a section 31 agreement or a future act determination by the NNTT; or various statutory procedures set out in Part 2 Division 3 of the Act.¹¹

Box E: Fulfilling the Promise of Mabo

In June 2026, the Australian Law Reform Commission (ALRC) report, "*Fulfilling the Promise of Mabo: Reforming the Future Acts Regime in the Native Title Act 1993 (Cth)*", was tabled in the Commonwealth Parliament following a two-year review process that involved the Australian Government, the NNTC and the ALRC. The report identified that the future acts regime was inherently discriminatory, generally fails to afford protections to native title rights and interests and does not provide native title holders with timely, just and fair redress.

The report's 86 recommendations seek to address these issues through legislative reform by giving First Nations access to equality before the law and supporting better alignment with the promise of the Mabo decision. The reforms also seek to reinforce Australia's international human rights commitments, most particularly to *The United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

The NNTC is currently engaging with its membership and the Commonwealth government on sector priorities for moving forward this reform work. Further information will be made available in due course.

¹⁰ NNTT, 'About Future Acts' <https://www.nntt.gov.au/future-acts>.

¹¹ Australian Law Reform Commission, *Fulfilling the Promise of Mabo: Reforming the Future Acts Regime in the Native Title Act 1993 (Cth)* (Final Report, No. 144, March 2026) p. 66 ('ALRC').

What the data says – future acts agreements¹²

The NNTT publishes data on instances where it is asked to conduct an inquiry into negotiations related to a future act. There are two forms of inquiry. The first is a Future Act Determination Application (FADA), where the parties have failed to reach agreement on a future act, after a six-month period. A FADA is typically initiated by the project proponent or the state government.

There were 18 FADAs lodged in 2025/26, in line with the 5-year average (17.8 for 2021/22–2025/26). The majority (11) of FADAs were in Western Australia. The NNTT finalised 14 FADA determinations in 2025/26, and 6 in the first three months of 2026/27 (Table 5). Eight FADAs were closed due to either the application or tenement being withdrawn.

Table 5: Recent NNTT FADA Determinations

2025/26 and 2026/27

Application outcome	2025/26 Count	2026/27 Count
Future Act may be done	4	1
Future Act dismissed	2	0
Agreement negotiated: s31(1)(b)	0	5
Application or tenement withdrawn	8	0

* First three months of 2026/27

Source: NNTT; NNTC analysis

The second form of inquiry is for objections to a Future Acts expedited procedure notice, with the objection made by the native title party. The expedited procedure allows the state government to notify that the Future Act is unlikely to interfere with significant sites or involve major disturbance of lands or waters, and therefore bypass normal agreement-making procedures.

The expedited procedure and the associated objections process is an inefficient and structurally unfair way for the state and territory governments to facilitate exploration on native title land. The procedure imposes unreasonable costs on native title parties, without necessarily creating a faster process. Over the past five years, objections are made against over half (54%) of the average nearly 2,400 future act expedited procedure notices received annually by the NNTT, and against 59% in Western Australia (Table 6).

¹² NNTT Data as at 30 September 2026

Rather than relying on the expedited procedure to facilitate efficient access to native title land, trust could be better fostered by proceeding instead to agreement negotiations and early engagement with PBCs and native title holders. The right to negotiate should be the primary engagement process with native title parties, and only circumvented where appropriate.

Table 6: Future Act Expedited Procedure Notices and Objections

s29 Notices with expedited procedure declared, with a closing date within 2021/22–2025/26: 5-year annual average¹³

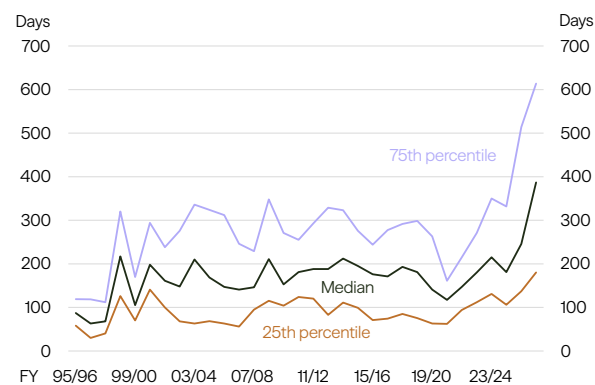
State	Notices	Total objections Count	Notices with objections Count	Objection Rate %
Queensland	228	64	54	23.6%
Western Australia	1992	1286	1181	59.3%
Total	2357	1377	1260	53.5%

Source: NNTT; NNTC analysis

If an objection is made, then the so-called expedited procedure becomes quite a lengthy process (Figure 19). In the five years to 30 June 2026, the median length of time to an outcome was 176 days. During this same period, most objections to the expedited procedures process are subsequently withdrawn because either the two parties came to an agreement (41%), the proponent withdrew (24%) or the NNTT ruled that the objection was valid and the normal procedure should apply (3%) (Figure 20). The NNTT ruled in just 7% of cases that the objection be dismissed or the future act can be done.

Figure 19: Future Act Expedited Procedure Objections Times to Outcome

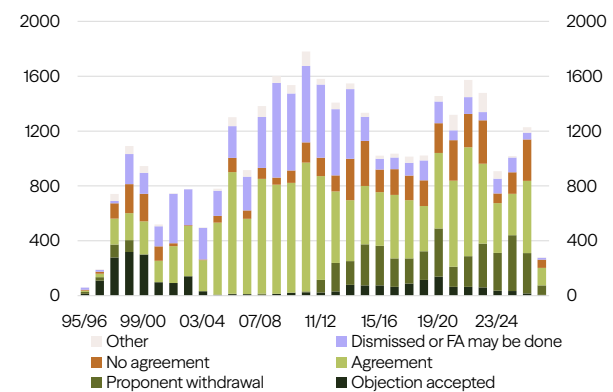
Outcomes 1995/96–2026/27; days from application to outcome



Source: NNTT; NNTC analysis

Figure 20: Future Act Expedited Procedure Objections

Outcomes 1995/96–2026/27



Source: NNTT; NNTC analysis

¹³ Note that while more recent Future Act Notices in 2025/26 will not have had the full opportunity to raise an objection, excluding these data does not change these figures significantly.

Native Title Compensation

Key takeaways

- Compensation is still a developing area of native title law, with compensation for non-economic losses continuing to well exceed compensation for economic losses. This is due to courts using the so-called 'freehold test', where compensation is based off very low pastoral land values, even if projects produce very significant mining profits for which PBCs might otherwise have earned royalties. Further arguments may be required to expand the scope of economic loss available.
- Given the expensive, contested and uncertain nature of litigation, some PBCs are instead turning to agreements as a means to seek compensation. Some states are developing their own frameworks for engaging in compensation negotiations, with opportunities beyond just monetary compensation.

How the NNTC is supporting our members

Native title compensation is a top-order priority for NNTC members. We are supporting members to access the compensation that they are owed for the historical and ongoing dispossession of their lands.

We are co-ordinating a national approach in how members pursue and access the compensation. The NNTC is working to address the barriers to native title holders accessing compensation through the Courts, with a focus on region-specific approaches that are developed in collaboration with the NTRB or NTSP. We are also developing useful resources and guidelines for native title holders and practitioners on the native title process and technical procedures (for example, tenure analysis).

We understand that many members would prefer to resolve their entitlement outside of the courtroom. We have therefore developed an Alternative Compensation Framework to exist alongside the litigated compensation process. The three-stage framework aims to give native title groups earlier access to compensation payments and ensure any compensation agreements meet the community's long-term ambitions. Further information is available in Box F.

What is native title compensation?

Native title is property and protected as such under the Australian Constitution and the Australian common law. As a foundational principle, if property is interfered with or compulsorily acquired the property-holder is entitled to compensation. Native title is no different.

The entitlement to compensation for interference or acquisition of native title has its foundations in the Australian common law, the Australian Constitution and the *Racial Discrimination Act 1975* (Racial Discrimination Act). Under the Native Title Act, native title holders can bring claims for compensation for any act that results in the loss, diminution, impairment or other effect on the exercise of their native title rights and interests.¹⁴

¹⁴ Native Title Act pt 2, div 5, s 51(1).

This right to compensation aligns with principles articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which confirms that Indigenous peoples:

‘have the right to redress by means [of] ... just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.’¹⁵

Native title holders’ entitlement to compensation for the loss of their land(s) is an area of the law that is still in development. The entitlement to such compensation has been available since the introduction of the Native Title Act. However, it has not been widely pursued by claimants in the courts until the last decade. The first determination of native title compensation arose in *Griffiths v Northern Territory* (Timber Creek)¹⁶ and was the only determination of compensation until 2025. In the last two years, there has been a significant increase in compensation claims before the court with clear public interest in the development of this important native title area.

How is compensation calculated?

The entitlement to compensation under the Native Title Act is broad and its outer limits remain to be decided by the courts. Effectively, the Native Title Act provides an entitlement to compensation where native title has been diminished or extinguished by a “past act”. The exact definition of a “past act” is unclear, but includes:

- Acts that occurred on or after 31 October 1975 when the Racial Discrimination Act came into effect;
- Commonwealth acquisitions where just terms compensation was not provided to native title holders contrary to the requirement under s51(xxxi) of the Australian Constitution.

Further cases will determine the outer limits of native title compensation, including issues such as acts done by the Commonwealth within the states (for example, defence lands) and whether states are liable for acts done on native title land prior to 1975.

Under the Native Title Act, compensation is available to claimants on the basis they hold (or at the relevant time of the acts, held) native title over the compensable acts area. It can be claimed against the Commonwealth or state and territory governments. In some states (for example, Western Australia), the liability passes on to third parties in particular circumstances.

Under the current methodology determined by the High Court in Timber Creek, compensation is calculated based on two kinds of loss: economic loss and non-economic loss. Economic loss is the loss of the value of the native title rights and interests caused by the impairment or extinguishment of native title. It is calculated by reference to the ‘freehold value’ of the land.

Based on the recent cases brought by the Yindjibarndi and the Yanyua, Yanyuwa-Marra and Gudanji, the economic loss assessed by the court does not include any profits generated or minerals extracted from the area (although this may be the subject of appeals by the Yindjibarndi). The value is then discounted depending on the whether the claimant has exclusive or non-exclusive rights. If the claimant has exclusive rights, it is likely there will be limited discount, as such rights are similar to a freehold interest. However, non-exclusive rights co-exist with other interests and will likely be less than the freehold value.

¹⁵ UNDRIP art 28(1).

¹⁶ [2019] HCA 7.

As economic loss is calculated at the time the compensable act occurred, interest is generally payable. This is usually calculated based on simple interest; however, compound interest is available where the evidence shows that the claimant would use the additional monies to continue to engage in corporate and investment activities that benefits native title holders.¹⁷

Non-economic loss relates to the loss, diminution and/or harm caused to the claimant's spiritual connection to country. This is referred to by some as 'cultural loss'. This includes impacts such as restricted access to sacred sites, ceremonial sites and water. Compensation for non-economic loss is assessed by the court in reference to the amount which society would regard as an appropriate award for the loss.

Recent cases of interest

In the last two years, there have been three significant determinations of native title compensation (Figure 21 and Table 7). As the most significant development of jurisprudence on compensation since the Native Title Act was passed, these cases reflect clear themes for the development of the law:

- Non-economic loss continues to constitute the dominant component of native title compensation where the evidence demonstrates a significant disruption to the native title holders' connection with Country;
- In comparison, economic loss is constrained to the value of freehold land where mining profits and mineral value is excluded from calculations, even when projects produce large economic returns;
- The Federal Court has recognised pass-through liability provisions, which shift compensation liability from governments to proponents; and
- The scope for compensable acts in Australian territories may extend beyond the 1975 time limit imposed by the Racial Discrimination Act.

Table 7: Summary of recent compensation outcomes

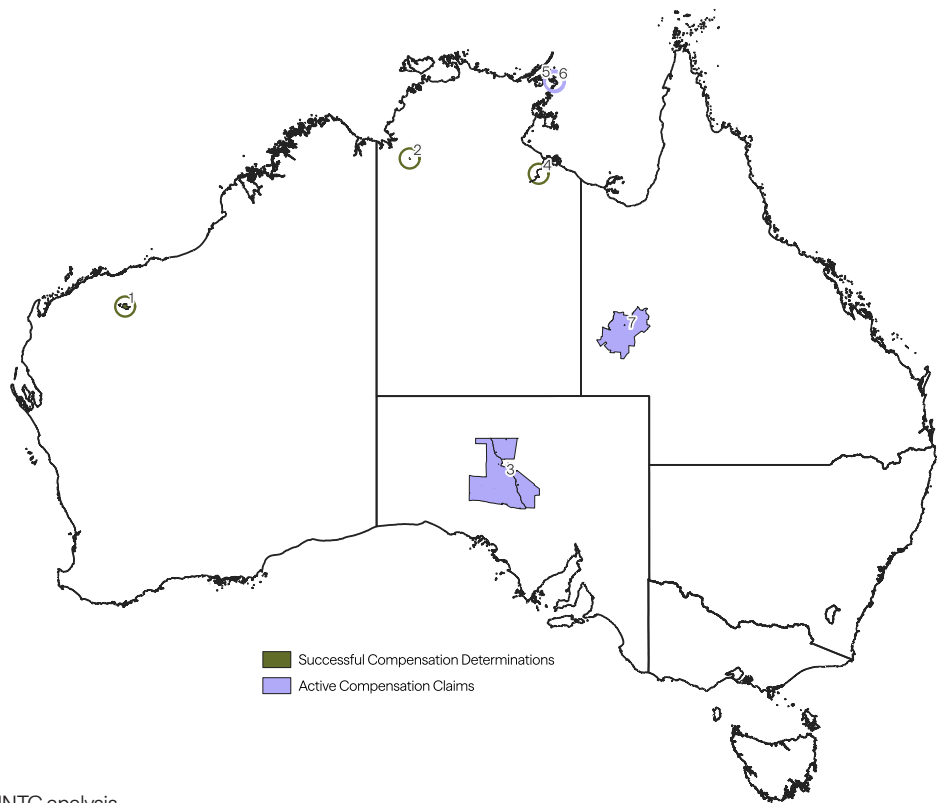
Case	Economic Loss	Interest	Non-economic loss	Total
Timber Creek	\$0.3 million	Simple: \$0.9 million	\$1.3 million	\$2.5 million
Davey	\$0.8 million	Simple: \$1.9 million	\$54 million	\$56.7 million
Yindjibarndi	\$0.1 million	Compound: \$0.2 million	\$150 million	\$150.3 million

Source: NNTT; NNTC analysis

¹⁷ *Yindjibarndi Ngurra Aboriginal Corporation RNTBC v State of Western Australia (No 2)* [2026] FCA 585 ('Yindjibarndi').

Figure 21: Map of Compensation Claims and Determinations

Active compensation claims as at 30 September 2026



Source: NNTT; NNTC analysis

Map ID	Claim or Determination	Name
1	Determination	Yindjibarndi Ngurra Aboriginal Corporation RNTBC
2	Determination	Town of Timber Creek
3	Active claim	Antakirinja Matu-Yankunytjatjara Aboriginal Corporation RNTBC
4	Determination	Casey Davey & Ors (McArthur River Project)
5	Active claim	Bakamumu Marika & Ors Compensation application
6	Active claim	Djawa Yunupingu (on behalf of the Gumatj Clan or Estate Group) Compensation Claim
7	Active claim	Pitta Pitta People

Commonwealth v Yunupingu (on behalf of the Gumatj clan or estate group) & Ors [\[2025\] HCA 6](#)

This case was an appeal from the Full Federal Court regarding separate questions in relation to the Gumatj Clan’s claim for compensation against the Commonwealth for past acts validated by the Native Title Act.¹⁸ These past acts related to appropriations of land by the Commonwealth and subsequent grants to third party interests in the Gove Peninsula, Northern Territory between 1939 – 1969. The Gumatj claimed that each appropriation in land was invalid at the time it occurred due to inconsistency with their native title rights and interests as recognised in common law.¹⁹

¹⁸ *Yunupingu* (n 11) [4].

¹⁹ *Ibid* [9].

The High Court held that the power conferred on the Commonwealth Parliament by s122 of the Constitution to make laws for the government of the territory in relation to property acquisition is bound by the 'just terms' limit of s 51(xxxi).²⁰ Therefore, the Gumatj were entitled to 'just terms' compensation for Commonwealth land grants that infringed their native title rights prior to 1975.

The High Court rejected the Commonwealth's argument that native title rights were 'inherently fragile' under the common law before statutory recognition.²¹ In fact, the Court recognised that native title was not created by Australian law but was an enduring set of rights and interests that existed before Australian law. Native title was property right and must be acquired on just terms.

Finally, the Court held that the grant of a pastoral lease in 1903 by the Governor of South Australia did not extinguish non-exclusive native title rights to minerals on Gumatj land.²² Therefore, the Commonwealth did not acquire this property on just terms and the Gumatj are entitled to compensation.

This case has significant ramifications for the future of native title compensation claims, extending the scope of compensable acts to before the Racial Discrimination Act in Australian territories and confirming the strength of native title rights and interests beyond Australian statute.

The case has been referred back to the Federal Court for a substantive decision on compensation with hearings scheduled for June – September 2027.²³

***Davey on behalf of Gudanji, Yanyuwa and Yanyuwa-Marra Peoples v Northern Territory (No 5)* [2026] FCA 153**

In December 2020, the Gudanji, Yanyuwa and Yanyuwa-Marra peoples filed a compensation claim for economic loss and cultural loss caused to them by the McArthur River mine project – a zinc and lead mine first opened in the early 1990s.²⁴ The claim was brought under the Northern Territory legislation that approved the mine, but the Court's assessment of compensation was made under Native Title Act. It covered 11 compensable acts over 130km² and involved a significant diversion of the McArthur River.

The claimant presented a 'hypothetical comparable bargain' argument for the calculation of economic loss. This approach proposed that compensation should be based off the estimated payment that may have been agreed between the government, mining company and native title groups at the time of the compensable acts. However, the Federal Court rejected this approach and instead aligned with the approach defined in Timber Creek. The Court awarded \$743,408 for economic loss, with simple interest of \$1.9 million.²⁵

The Federal Court initially awarded the claimants \$60 million for cultural loss due to harm caused to cultural responsibilities, disruption to spiritual connections and impacts on intergenerational knowledge.²⁶ Justice Banks-Smith found that the impacts of the project extended beyond the mine and port, with irreversible damage to dreaming sites and tracks.²⁷

²⁰ Ibid [44].

²¹ Ibid [81] – [83].

²² Ibid [97].

²³ NTD42/2019.

²⁴ *Davey on behalf of Gudanji, Yanyuwa and Yanyuwa-Marra Peoples v Northern Territory (No 5)* [2026] FCA 153 ('Davey').

²⁵ Ibid [7] – [8].

²⁶ Ibid [10] – [11].

²⁷ Ibid [1405].

In late 2025, before the judgement was published, the native title holders entered into an ILUA with Glencore, the mining proponent. Importantly, the Court found that the ILUA and its terms would ameliorate some concerns of the claimant and mitigate further loss to Country. While the payments made to the native title holders under the ILUA were found by the Court to not affect the compensation award (and was not ‘double dipping’, as claimed by the respondents),²⁸ the Court did reduce the non-economic award by 10% to \$54 million to account for the mitigating nature of the agreement.²⁹

At the time of this decision, it was the largest native title compensation decision handed down and was only the second substantive application of the Timber Creek test. The influence of the ILUA benefits on the award is likely to be an important consideration for future groups seeking compensation.

***Yindjibarndi Ngurra Aboriginal Corporation RNTBC v State of Western Australia (No 2)* [2026] FCA 585**

This compensation claim was brought by Yindjibarndi Ngurra Aboriginal Corporation RNTBC (YNAC) on behalf of the Yindjibarndi People against the State of Western Australia under the Native Title Act. Yindjibarndi Country is in the Pilbara region.

During Yindjibarndi’s native title claim proceedings, initially lodged in 2003 and determined in 2017, the WA Government granted 36 mining leases and other interests to Fortescue to develop and operate the 135km² Solomon Hub iron ore mining project on Yindjibarndi country. These grants affected the Yindjibarndi Peoples’ native title rights and interests, giving rise to a statutory entitlement to compensation under the Native Title Act. The Solomon Hub has generated tens of billions of dollars in turnover and projected to continue until at least 2040. There is no heritage agreement in place between the Yindjibarndi people and Fortescue.

The main issue before the Court was not whether compensation was owed to the Yindjibarndi people, but how it should be assessed. In terms of non-economic loss, the Court awarded the Yindjibarndi people \$150 million.

YNAC argued that the economic loss award should reflect what a willing native title holder could reasonably have negotiated before mining commenced, including a royalty-style payment based on the value of iron ore extracted from Country. However, (similarly to the Federal Court’s earlier decision concerning the McArthur River Mine in *Davey*) the Court rejected the hypothetical bargain approach and determined that the economic loss owed to the Yindjibarndi people was to be calculated by reference to the freehold value of the land. While significant profits had been generated from the Solomon Hub, YNAC were only awarded an amount of slightly more than \$100,000 for economic loss.

In addition, the Court found that compound interest on the economic loss was owed to the Yindjibarndi people. The Court was satisfied that YNAC would use the additional monies to continue to engage in corporate and investment activities that would have the most beneficial effect for its members.³⁰

²⁸ Ibid [1378].

²⁹ Ibid [12].

³⁰ Ibid [524].

The decision is the first detailed judicial consideration of native title compensation arising from a major mining project and provides important guidance on the assessment of both economic and cultural loss under the Native Title Act. It also establishes several important principles that will shape how future compensation claims are assessed by PBCs, governments and resource proponents.

As of August 2026, both YNAC and the WA Government have appealed this decision.³¹

Compensation by agreement

The lack of case law on native title compensation corresponds with the settlement of compensation by agreement. Australian governments are increasingly looking towards agreement making over contested litigation for the full and final settlement of native title compensation. States and territories are developing their own frameworks for compensation agreement making (Table 8).

Table 8: State-based frameworks for compensation agreement making

State	Framework
New South Wales	Currently developing an out-of-court compensation policy.
Victoria	The <i>Traditional Owner Settlement Act 2010</i> (Vic) provides a longstanding mechanism for comprehensive settlements that resolve native title and compensation.
Queensland	Promotes a Native Title Compensation Settlement Framework.
South Australia	The government has historically resolved compensation through consent determinations and agreement-making.
Western Australia	Regularly negotiates large-scale comprehensive settlements that comprehensively resolve compensation liability without a public framework.
Tasmania	No compensation framework currently in place.
Northern Territory	No compensation framework currently in place.
Australian Capital Territory	No compensation framework currently in place.

Compensation agreements may also occur through ILUAs. In 2023, the Western Australian Government signed the Tjiwarl Palyakuwa (Agreement) ILUA with the Tjiwarl Aboriginal Corporation to resolve all native title compensation liability over Tjiwarl Country. The agreement provides a package of benefits to Tjiwarl native title holders for historic acts of native title impairment and extinguishment.³²

Tjiwarl were awarded \$25.475 million through multiple trust funds and a one-off cash payment. Tjiwarl were also recognised as having exclusive native title rights over the created Tjiwarl Conservation Estate. The State has also committed to explore how Tjiwarl language can be incorporated into schools, support management of collections held by the WA Museum and required the relevant minister to deliver a truth-telling statement in the WA Parliament.

³¹ WAD299/2026; WAD302/2026.

³² Western Australian Department of Premier & Cabinet, 'Tjiwarl Palyakuwa (Agreement) Indigenous Land Use Agreement' (Webpage) <<https://www.wa.gov.au/organisation/departments-of-premier-and-cabinet/tjiwarl-palyakuwa-agreement-indigenous-land-use-agreement-tjiwarl-palyakuwa-tiwa-kuwarri-yampa-ngula>>.

This significant example highlights the opportunity to raise the bar of native title compensation through agreement by ensuring governments and proponents provide more fulsome support to native title holders and PBCs beyond mere monetary compensation.

Notably, ILUAs and the settlement of full and final compensation have been the subject of recommendations by the ALRC to reform the future acts regime. If these reforms are supported by the Australian Government, ILUAs that do not explicitly provide for ‘full and final’ compensation would allow native title holders to pursue additional compensation claims.³³

As compensation jurisprudence remains underdeveloped, several issues have emerged with the current framework. The Courts continue to calculate compensation based on the freehold test set in Timber Creek, resulting in low economic loss awards, despite the millions of dollars extracted by proponents from mining projects over the same land. Compensation is heavily litigious and takes several years to make it through the Courts. Further, the lack of consistent approaches towards compensation by Australian governments convolutes the process for native title holders, with some regions appearing to benefit more than others.

The funding of these compensation claims is itself a significant hurdle to overcome for PBCs who are already under resourced and may be at risk of substantial legal fees that may exceed the compensation award. Compensation claims also require significant pre-planning with the need to preserve critical evidence potentially occurring years before an application can be lodged.³⁴

The future of compensation

More PBCs will pursue a compensation claim in the years to come as the case law develops and alternative pathways are established. The NNTC is committed to supporting PBCs and their representative bodies and service providers through this process to ensure native title holders have greater certainty, flexibility and access to rightly owed compensation.

In the next two years, compensation case law is likely to continue to evolve with multiple claims on foot. Cases to follow include the Yindjibarndi Federal Full Court appeal,³⁵ the substantive Yunupingu compensation decision,³⁶ and the Banjima class action for the remediation and rehabilitation of the Wittenoom asbestos mine.³⁷

³³ ALRC (n 6), recommendation 15.

³⁴ *Karajarri Traditional Lands Association (Aboriginal Corporation) RNTBC v State of Western Australia* [2024] FCA 1114.

³⁵ WAD299/2026; WAD302/2026.

³⁶ NTD42/2019; NTD43/2019.

³⁷ VID198/2026.

Box F: Alternative compensation framework

The NNTC, in collaboration with Redgum Legal, has developed an alternative compensation framework focused on negotiated outcomes rather than litigated decisions. The proposed framework is based on a simple proposition: where native title holders, PBCs and governments are willing to resolve compensation by agreement, the system should provide a clear and effective pathway for them to do so, alongside existing court processes.

The framework aims to combine earlier access to compensation with the opportunity for broader, self-determined and longer-term outcomes. It is intended to give native title groups greater choice about how compensation is pursued and what it might ultimately achieve.

Following numerous consultations, the NNTC propose a three-stage framework:

- **Stage 1: Baseline Payment** – eligible native title holders would receive an upfront payment in partial satisfaction of compensation. This aims to get money to groups quickly before any significant compensation work is undertaken.
- **Stage 2: Planning and Nation Building** – supports strategic and whole of Country planning, governance and legal advice to ensure groups can identify what they want compensation to achieve while developing an informed understanding of their legal position to take compensation forward.
- **Stage 3: Negotiation and Agreement Making** – provides a funded process for the relevant group and government to develop a comprehensive negotiated agreement. This aims to respond to the native title holders' priorities and deliver outcomes beyond court processes.

The framework is proposed as a nationally coordinated approach led by the Commonwealth with the participation of states and territories.

The final report on the Alternative Compensation Framework project will be available from the NNTC's website from November 2026.



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