

# NQLC 2011-12 Annual Report



### North Queensland Land Council Native Title Representative Body Aboriginal Corporation Annual Report 2011-2012

Warning: While the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) has made every effort to ensure this Annual Report does not contain material of a culturally sensitive nature, Aboriginal people should be aware that there could be images of deceased people.

This report is made possible from funding supplied by the Federal Government under the Native Title Funding Program.

Front covers photograph of the Muluridji Determination by Leigh Harris of Ingenous Studios.

Back cover photograph of the Djiru Determination by staff member of the NQLC.

Photographs within this report are courtesy of Ingenous Studios, Christine Howes, the National Native Title Tribunal (NNTT), iStockphoto.com, dreamstime.com and the NQLC staff.

The map within this report is courtesy of NNTT.



# North Queensland Land Council Native Title Representative Body Aboriginal Corporation

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Reply to: Head Office

5 November 2012

The Hon Jenny Macklin MP Minister for Families, Housing, Community Services and Indigenous Affairs Parliament House **CANBERRA ACT 2600** 

Dear Minister

Re: North Queensland Land Council

Native Title Representative Body Aboriginal Corporation

Annual Report 2011-2012

In accordance with the 'General Terms and Conditions Relating to Native Title Program Funding Agreements' I am pleased to present the North Queensland Land Council Native Title Representative Body Aboriginal Corporation Annual Report for the period of 1st July 2011 to 30th June 2012.

This document includes the organisation's report of operations and performance of functions, with the audited financial statements for the reporting period.

Yours faithfully,

lan Kuch

Acting Executive Officer

North Queensland Land Council NTRB Aboriginal Corporation

#### **Contents**

Lett	ter to the Minister	i		
Con	itents	ii		
Con	Contact Officer			
Glos	ssary and Acronyms	vi		
1.	Report by the Chairperson	1		
2.	Board of Directors	4		
3.	Report by the Executive Officer	11		
3.1	Summary of Significant Issues and Developments	12		
3.2	Overview of Performance and Financial Results.	13		
3.3	Outlook for the following Year	14		
4.	NQLC Overview	15		
4.1	Overview Description of NQLC	16		
4.2	Roles and Functions	16		
	4.2.1 Legislation	16		
	4.2.2 Legislative Functions	16		
	4.2.3 Corporate Governance Policies	19		
4.3	Organisational Structure	19		
4.4	Outcome and Output Structure	19		
4.5	Key Features-Strategic Plan, Operational Plan	22		
5. R	eport on Performance	23		
5.1	Review of Performance during the Year in relation to Strategic and Operational Plan and by			
	Functions	24		
5.2	Actual Performance in relation to Performance Targets and Reasons for Differences	26		
5.3	Narrative Discussion and Analysis of Performance 5.3.1 Trend Information	42		
	5.3.2 Factors, Events or Trends Influencing Performance	42 43		
	5.3.3 Significant changes in nature of Principal Functions/Services	44		
	5.3.4 Performance against Service Charter/Standards, Complaints Data and the NCLC's respo to Complaints			
5.4	Summary of Financial Information- Budgets/Actual by main heads of Expenditure and Reven			
J. 1	Table 7	46		
	5.4.1 Discussion and Analysis of the NQLC's Financial Performance against Budget	46		
	5.4.2 Discussion of any significant changes from the prior Year or from Budget	47		
5.5	Developments since the end of the Financial Year that have affected or may significantly affected.	ct the		
	NQLC's Operations in Future	47		

5.2 Name of the Senior Executive and their Responsibilities 5.3 Senior Management Committees and their Roles - Separation of Powers 5.4 Senior Management of Directors meetings, attendance by Members 5.5 A.2 Training etc Arrangements for Board of Director Members 5.6 Corporate and Operational Planning and associated Performance Reporting and Review 6.5 Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 6.7 Nature and amount of Remuneration for Senior Management and how it is determined 6.7 External Scrutiny 6.8 Evaluation and/or Audit Reports - Findings and Responses 6.9 Other External Reviews 6.9 Workforce Planning, Staff Turnover and Retention 6.0 Training and Development undertaken and its impact 6.1 Impact and features of Certified Agreements and AWAs 6.2 Statistics on Staffing 6.3 Indemnities and Insurance Premiums for Officers 6.4 Consultants and Competitive Tendering and Contracting 6.5 Consultants and Competitive Tendering and Contracting 6.6 Competitive Tendering and Contracts and Total Expenditure on Consultancy Services 6.6 Consultancy Services Contracts and Total Expenditure on Consultancy Services	б.	Corporate Governance	48
5.3. Senior Management Committees and their Roles - Separation of Powers 6.3.1 Number of Board of Directors meetings, attendance by Members 6.3.2 Training etc Arrangements for Board of Director Members 5.5 Corporate and Operational Planning and associated Performance Reporting and Review 6.5 Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 6.6 Nature and amount of Remuneration for Senior Management and how it is determined 6.7 External Scrutiny 7. Significant Developments in External Scrutiny 7. Significant Developments and Responses 7. Evaluation and/or Audit Reports - Findings and Responses 7. Other External Reviews 7. Workforce Planning, Staff Turnover and Retention 8. Impact and features of Certified Agreements and AWAs 7. Impact and features of Certified Agreements and AWAs 7. Statistics on Staffing 7. Coccupational Health and Safety performance 7. Consultants and Competitive Tendering and Contracting 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and	6.1	Statement of the Main Corporate Governance Practices in Place	49
6.3.1 Number of Board of Directors meetings, attendance by Members 6.3.2 Training etc Arrangements for Board of Director Members 6.5 Corporate and Operational Planning and associated Performance Reporting and Review 6.5 Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 6.7 Nature and amount of Remuneration for Senior Management and how it is determined 6.7 Significant Developments in External Scrutiny 6.8 Judicial decisions and decisions of Administrative Tribunals 6.8 Judicial decisions and decisions of Administrative Tribunals 6.8 Judicial decisions and decisions of Administrative Tribunals 6.8 Management of Human Resources 6.8 Management of Human Resources 6.8 Judicial decitions 6.8 Judicial decisions and decisions of Administrative Tribunals 6.8 Judicial decisions and decisions of Administrative Tribunals 6.8 Judicial decisions and decisions 6.8 Judicial decisions 6. Judicial dec	6.2	Name of the Senior Executive and their Responsibilities	50
6.3.2 Training etc Arrangements for Board of Director Members 6.5 Corporate and Operational Planning and associated Performance Reporting and Review 6.5 Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 6.7 Nature and amount of Remuneration for Senior Management and how it is determined 6.8 Nature and amount of Remuneration for Senior Management and how it is determined 6.7 External Scrutiny 6.7 Significant Developments in External Scrutiny 7. Judicial decisions and decisions of Administrative Tribunals 7. Evaluation and/or Audit Reports - Findings and Responses 7. Evaluation and/or Audit Reports - Findings and Responses 7. Workforce Planning, Staff Turnover and Retention 8. Management of Human Resources 8. Management of Human Resources 8. Management of Human Resources 8. Impact and features of Certified Agreements and AWAs 8. Impact and features of Certified Agreements and AWAs 8. Impact and features of Certified Agreements and AWAs 8. Impact and Insurance Premiums for Officers 8. Indemnities and Insurance Premiums for Officers 8. Consultants and Competitive Tendering and Contracting 8. Consultants and Competitive Tendering and Contracting 8. Competitive Tendering and Contracting Practices 9. Consultants and Competitive Tendering and Contracting 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8. Number of Consultancy Services Contracts and Total Expenditure on	6.3	Senior Management Committees and their Roles - Separation of Powers	50
Corporate and Operational Planning and associated Performance Reporting and Review Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 6.6 Nature and amount of Remuneration for Senior Management and how it is determined 6.7 External Scrutiny 7.1 Significant Developments in External Scrutiny 7.2 Judicial decisions and decisions of Administrative Tribunals 7.3 Evaluation and/or Audit Reports - Findings and Responses 7.4 Other External Reviews 7.5 Workforce Planning, Staff Turnover and Retention 7.6 External Reviews 7.8 Management of Human Resources 7.8 Management of Human Resources 7.8 Management of Human Resources 7.8 Impact and features of Certified Agreements and AWAs 7.9 Coupational Health and Safety performance 7.9 Statistics on Staffing 7.9 Indemnities and Insurance Premiums for Officers 7. Competitive Tendering and Contracting Practices 7. Consultants and Competitive Tendering and Contracting 7. Competitive Tendering and Contracting Practices 7. Competitive Tendering and Contracting Practice		6.3.1 Number of Board of Directors meetings, attendance by Members	52
Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks 55. 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards 56. 6.7 Nature and amount of Remuneration for Senior Management and how it is determined 56. 7. External Scrutiny 57. 7.1 Significant Developments in External Scrutiny 58. 7.2 Judicial decisions and decisions of Administrative Tribunals 58. 7.3 Evaluation and/or Audit Reports - Findings and Responses 58. 8. Management of Human Resources 8. Management of Human Resources 8. I Workforce Planning, Staff Turnover and Retention 8.2 Training and Development undertaken and its impact 8.3 Impact and features of Certified Agreements and AWAs 8.2 Cccupational Health and Safety performance 8.3 Individual Health and Safety performance 8.4 Occupational Health and Safety performance 8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers 8.7 Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contracting Practices 9.1 Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contracting Practices 9.1 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.1 Directors' Report 9.1 Directors' Report 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.1 Directors' Report 9.2 Significant changes in state of affairs 9.3 Principal activities 9.4 Only Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.1 Directors' Report 9.2 Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.2 Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.1 Directors 66 9.2 Services Contracts and Total Expenditure on Consultancy Services 9.1 Directors' Report 9.1 Directors 66 9.2 Services Contracts and Total Expenditure on Consultancy		6.3.2 Training etc Arrangements for Board of Director Members	55
arrangements in place to Manage Risks  75. Policy and Practices on the establishment and maintenance of appropriate Ethical Standards  76. Nature and amount of Remuneration for Senior Management and how it is determined  77. External Scrutiny  77. Significant Developments in External Scrutiny  78. Judicial decisions and decisions of Administrative Tribunals  79. Evaluation and/or Audit Reports - Findings and Responses  79. Other External Reviews  79. Workforce Planning, Staff Turnover and Retention  79. Training and Development undertaken and its impact  80. Impact and features of Certified Agreements and AWAs  81. Workforce Planning, Staff Turnover and Retention  82. Training and Development undertaken and its impact  83. Impact and features of Certified Agreements and AWAs  84. Occupational Health and Safety performance  85. Statistics on Staffing  86. Indemnities and Insurance Premiums for Officers  87. Consultants and Competitive Tendering and Contracting  88. Ocnaultants and Competitive Tendering and Contracting  89. Consultants and Competitive Tendering and Contracting  80. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  80. Diricctors' Report  80. Diricctors' Repor	6.4	Corporate and Operational Planning and associated Performance Reporting and Review	55
Policy and Practices on the establishment and maintenance of appropriate Ethical Standards Nature and amount of Remuneration for Senior Management and how it is determined 56 Nature and amount of Remuneration for Senior Management and how it is determined 56 Nature and amount of Remuneration for Senior Management and how it is determined 56 Nature and amount of Remuneration for Senior Management and how it is determined 56 Nature and amount of Remuneration for Senior Management and how it is determined 56 Nature 36 Natur	6.5	Approach adopted to identifying areas of significant Financial or Operational Risk and	
5.7. Nature and amount of Remuneration for Senior Management and how it is determined  7. External Scrutiny  7. Significant Developments in External Scrutiny  7. Judicial decisions and decisions of Administrative Tribunals  7. Evaluation and/or Audit Reports - Findings and Responses  7. Other External Reviews  8. Management of Human Resources  8. Workforce Planning, Staff Turnover and Retention  8. Training and Development undertaken and its impact  8. Impact and features of Certified Agreements and AWAs  8. Occupational Health and Safety performance  8. Statistics on Staffing  8. Indemnities and Insurance Premiums for Officers  8. Consultants and Competitive Tendering and Contracting  9. Consultants and Competitive Tendering and Contracting  9. Competitive Tendering and Contracting Practices  9. Vumber of Consultancy Services Contracts and Total Expenditure on Consultancy Services  64  10. Financial Statements  65  10.1.1 Directors' Report  10.1.1 Directors' Significant changes in state of affairs  10.1.1 Directors' Report  10.1.2 Significant changes in state of affairs  10.1.3 Principal activities  10.1.4 Dividends paid or recommended  10.1.5 Review of operations  10.1.6 Events after the end of the reporting period  10.1.7 Future developments and results  10.1.8 Environmental matters  10.1.9 Options  10.1.10 Indemnification and insurance of officers and auditors  10.1.11 Proceedings on behalf of company  10.1.12 Auditor's independence declaration  68			
57. External Scrutiny 57. Significant Developments in External Scrutiny 58. Judicial decisions and decisions of Administrative Tribunals 58. 2. Sevaluation and/or Audit Reports - Findings and Responses 58. Wanagement of Human Resources 58. Workforce Planning, Staff Turnover and Retention 60. 2. Training and Development undertaken and its impact 60. 3. Impact and features of Certified Agreements and AWAs 62. Statistics on Staffing 62. Statistics on Staffing 62. Indemnities and Insurance Premiums for Officers 62. Competitive Tendering and Contracting 63. Competitive Tendering and Contracting 63. Competitive Tendering and Contracting 64. Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64. Di.1. Directors' Report 66. 10.1.3 Principal activities 66. 10.1.4 Dividends paid or recommended 66. 10.1.5 Review of operations 66. 10.1.6 Events after the end of the reporting period 67. 10.1.7 Future developments and results 67. 10.1.9 Options 67. 10.1.10 Indemnification and insurance of officers and auditors 67. 10.1.11 Proceedings on behalf of company 67. 10.1.12 Auditor's independence declaration 68.	6.6		
5.7.1 Significant Developments in External Scrutiny 5.7.2 Judicial decisions and decisions of Administrative Tribunals 5.7.3 Evaluation and/or Audit Reports - Findings and Responses 5.7.4 Other External Reviews 5.7.5 Workforce Planning, Staff Turnover and Retention 6.0 Training and Development undertaken and its impact 6.1 Impact and features of Certified Agreements and AWAs 6.2 Statistics on Staffing 6.3 Indemnities and Insurance Premiums for Officers 6.4 Indemnities and Insurance Premiums for Officers 6.5 Consultants and Competitive Tendering and Contracting 6.7 Competitive Tendering and Contracting 6.8 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 6.4 Ind. Financial Statements 6.5 Ind. Directors' Report 6.6 Ind. Directors 6.7 Ind. Directors 6.8 Ind. Dividends paid or recommended 6.8 Ind. Dividends paid or recommended 6.9 Ind. Events after the end of the reporting period 6.9 Ind. Events after the end of the reporting period 6.0 Ind. Events after the end of the reporting period 6.7 Ind. Events after the end of the reporting period 6.7 Ind. Indemnification and insurance of officers and auditors 6.7 Ind. Indemnification and insurance of officers and auditors 6.8 Ind. Ind. Proceedings on behalf of company 6.9 Ind. Ind. Auditor's independence declaration 6.8 Ind. Auditor's independence declaration	6.7	Nature and amount of Remuneration for Senior Management and how it is determined	56
5.7.1 Significant Developments in External Scrutiny 5.7.2 Judicial decisions and decisions of Administrative Tribunals 5.7.3 Evaluation and/or Audit Reports - Findings and Responses 5.7.4 Other External Reviews 5.7.5 Workforce Planning, Staff Turnover and Retention 6.0 Training and Development undertaken and its impact 6.1 Impact and features of Certified Agreements and AWAs 6.2 Statistics on Staffing 6.3 Indemnities and Insurance Premiums for Officers 6.4 Indemnities and Insurance Premiums for Officers 6.5 Consultants and Competitive Tendering and Contracting 6.7 Competitive Tendering and Contracting 6.8 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 6.4 Ind. Financial Statements 6.5 Ind. Directors' Report 6.6 Ind. Directors 6.7 Ind. Directors 6.8 Ind. Dividends paid or recommended 6.8 Ind. Dividends paid or recommended 6.9 Ind. Events after the end of the reporting period 6.9 Ind. Events after the end of the reporting period 6.0 Ind. Events after the end of the reporting period 6.7 Ind. Events after the end of the reporting period 6.7 Ind. Indemnification and insurance of officers and auditors 6.7 Ind. Indemnification and insurance of officers and auditors 6.8 Ind. Ind. Proceedings on behalf of company 6.9 Ind. Ind. Auditor's independence declaration 6.8 Ind. Auditor's independence declaration	7.	External Scrutiny	57
7.2 Judicial decisions and decisions of Administrative Tribunals 7.3 Evaluation and/or Audit Reports - Findings and Responses 7.4 Other External Reviews 7.5 Other External Reviews 7.6 Other External Reviews 7.7 Other External Reviews 7.8 Management of Human Resources 7.8 Workforce Planning, Staff Turnover and Retention 7.8 Morkforce Planning, Staff Turnover and Retention 7. Intaining and Development undertaken and its impact 7. Impact and features of Certified Agreements and AWAs 7. Impact and features of Certified Agreements and AWAs 7. Impact and features of Certified Agreements and AWAs 7. Intaining and Health and Safety performance 7. Indemnities and Insurance Premiums for Officers 8. Indemnities and Insurance Officers and Insurance of Officers and auditors 8. Indemnities and Insurance Officers and auditors 8. Indemnity Indemnification and insurance Officers and auditors 8. Indemnity Indemnities Indemnity Indemnities Indemnitie			
7.3 Evaluation and/or Audit Reports - Findings and Responses 7.4 Other External Reviews 58 8. Management of Human Resources 8.1 Workforce Planning, Staff Turnover and Retention 8.2 Training and Development undertaken and its impact 8.3 Impact and features of Certified Agreements and AWAs 8.4 Occupational Health and Safety performance 8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers 8.7 Competitive Tendering and Contracting 8.8 Competitive Tendering and Contracting 8.9 Competitive Tendering and Contracting 8.0 Prinancial Statements 8.0 Financial Statements 8.1 Directors' Report 8.2 Indicated Statements 8.3 Principal activities 8.4 Occupational Statements 8.5 Indicated Statements 8.6 Indicated Statements 8.7 Indicated Statements 8.8 Indicated Statements 8.9 Indicated Statements 8.0			
7.4 Other External Reviews  8. Management of Human Resources 8.1 Workforce Planning, Staff Turnover and Retention 8.2 Training and Development undertaken and its impact 8.3 Impact and features of Certified Agreements and AWAs 8.4 Occupational Health and Safety performance 8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers  8.7 Consultants and Competitive Tendering and Contracting 8.8 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8.9 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8.1 Di.1.1 Directors 8.2 Di.1.2 Significant changes in state of affairs 8.3 Ind.1.3 Principal activities 8.4 Ind.1.4 Dividends paid or recommended 8.5 Ind.1.5 Review of operations 8.6 Ind.1.6 Events after the end of the reporting period 8.7 Ind.1.8 Environmental matters 8.8 Ind.1.9 Options 8.7 Indemnification and insurance of officers and auditors 8.8 Ind.1.1 Proceedings on behalf of company 8.9 Ind.1.1 Proceedings on behalf of company 8.1 Ind.1.2 Auditor's independence declaration 8.1 Indemnification and insurance of officers and auditors 8.2 Indemnification and insurance declaration 8.2 Indemnification and insurance of officers and auditors 8.9 Indemnification and insurance of officers and auditors 8.0 Indemnification and insurance declaration 8.0 Indemnification and insurance of officers and auditors 8.1 Indemnification and insurance declaration 8.1 Indemnification and insurance of officers and auditors 9.1 Indemnification and insurance declaration			
8.1 Workforce Planning, Staff Turnover and Retention  8.2 Training and Development undertaken and its impact  8.3 Impact and features of Certified Agreements and AWAs  8.4 Occupational Health and Safety performance  8.5 Statistics on Staffing  8.6 Indemnities and Insurance Premiums for Officers  8.7 Consultants and Competitive Tendering and Contracting  8.8 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  8.9 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  8.10.1 Directors' Report  8.10.1.1 Directors  8.2 Significant changes in state of affairs  8.3 In Dividends paid or recommended  8.4 In Dividends paid or recommended  8.5 In Dividends Paid or recommended  8.6 In Dividends Paid or recommended  8.7 In Dividends Paid or recommended  8.8 In Dividends Paid or recommended  8.9 In Dividends Paid or recommended  8.0 In Di	7.4	· · · · · · · · · · · · · · · · · · ·	
8.1 Workforce Planning, Staff Turnover and Retention  8.2 Training and Development undertaken and its impact  8.3 Impact and features of Certified Agreements and AWAs  8.4 Occupational Health and Safety performance  8.5 Statistics on Staffing  8.6 Indemnities and Insurance Premiums for Officers  8.7 Consultants and Competitive Tendering and Contracting  8.8 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  8.9 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  8.10.1 Directors' Report  8.10.1.1 Directors' Report  8.10.1.2 Significant changes in state of affairs  8.10.1.3 Principal activities  8.10.1.4 Dividends paid or recommended  8.10.1.5 Review of operations  8.10.1.6 Events after the end of the reporting period  8.10.1.8 Environmental matters  8.10.1.9 Options  8.10.1.10 Indemnification and insurance of officers and auditors  8.10.1.11 Proceedings on behalf of company  8.10.1.12 Auditor's independence declaration			
7 Training and Development undertaken and its impact 8.3 Impact and features of Certified Agreements and AWAS 8.4 Occupational Health and Safety performance 8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers 8.7 Consultants and Competitive Tendering and Contracting 8.8 Competitive Tendering and Contracting 8.9 Competitive Tendering and Contracting Practices 8.0 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 8.1 Directors' Report 8.2 Significant changes in state of affairs 8.3 Index of Significant changes in state of affairs 8.4 Index of Significant changes in state of affairs 8.5 Index of Significant changes in state of affairs 8.6 Index of Significant changes in state of affairs 8.7 Index of Significant changes in state of affairs 8.8 Index of Significant changes in state of affairs 8.9 Index of Significant changes in state of affairs 8.0 Index of Sign	8.	•	
8.3 Impact and features of Certified Agreements and AWAs  8.4 Occupational Health and Safety performance  8.5 Statistics on Staffing  8.6 Indemnities and Insurance Premiums for Officers  62  9. Consultants and Competitive Tendering and Contracting  9.1 Competitive Tendering and Contracting Practices  9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  64  10.1 Directors' Report  10.1.1 Directors  10.1.2 Significant changes in state of affairs  10.1.3 Principal activities  10.1.4 Dividends paid or recommended  10.1.5 Review of operations  10.1.6 Events after the end of the reporting period  10.1.7 Future developments and results  10.1.8 Environmental matters  10.1.9 Options  10.1.10 Indemnification and insurance of officers and auditors  10.1.11 Proceedings on behalf of company  10.1.12 Auditor's independence declaration			
8.4 Occupational Health and Safety performance 8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers  62  9. Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contractices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  64  10. Financial Statements  65  10.1 Directors' Report  10.1.1 Directors  10.1.2 Significant changes in state of affairs  10.1.3 Principal activities  10.1.4 Dividends paid or recommended  10.1.5 Review of operations  10.1.6 Events after the end of the reporting period  10.1.7 Future developments and results  10.1.8 Environmental matters  10.1.9 Options  10.1.10 Indemnification and insurance of officers and auditors  10.1.11 Proceedings on behalf of company  10.1.12 Auditor's independence declaration		· · · · · · · · · · · · · · · · · · ·	
8.5 Statistics on Staffing 8.6 Indemnities and Insurance Premiums for Officers  9. Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contracting Practices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64  10. Financial Statements 65  10.1 Directors' Report 10.1.1 Directors 10.1.2 Significant changes in state of affairs 10.1.3 Principal activities 10.1.4 Dividends paid or recommended 10.1.5 Review of operations 10.1.6 Events after the end of the reporting period 10.1.7 Future developments and results 10.1.8 Environmental matters 10.1.9 Options 10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration			
9. Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contracting Practices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64 10. Financial Statements 65 10.1 Directors' Report 10.1.1 Directors 10.1.2 Significant changes in state of affairs 10.1.3 Principal activities 10.1.4 Dividends paid or recommended 10.1.5 Review of operations 10.1.6 Events after the end of the reporting period 10.1.7 Future developments and results 10.1.8 Environmental matters 10.1.9 Options 10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration		·	
9. Consultants and Competitive Tendering and Contracting 9.1 Competitive Tendering and Contracting Practices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64  10. Financial Statements 65  10.1 Directors' Report 66  10.1.1 Directors 66  10.1.2 Significant changes in state of affairs 66  10.1.3 Principal activities 66  10.1.4 Dividends paid or recommended 67  10.1.5 Review of operations 68  10.1.6 Events after the end of the reporting period 67  10.1.7 Future developments and results 67  10.1.8 Environmental matters 67  10.1.9 Options 67  10.1.10 Indemnification and insurance of officers and auditors 67  10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration			
9.1 Competitive Tendering and Contracting Practices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64  10. Financial Statements 65  10.1 Directors' Report 66  10.1.2 Significant changes in state of affairs 66  10.1.3 Principal activities 66  10.1.4 Dividends paid or recommended 67  10.1.5 Review of operations 68  10.1.6 Events after the end of the reporting period 67  10.1.7 Future developments and results 67  10.1.8 Environmental matters 67  10.1.9 Options 67  10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration	8.6	Indemnities and Insurance Premiums for Officers	62
9.1 Competitive Tendering and Contracting Practices 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services 64  10. Financial Statements 65  10.1 Directors' Report 66  10.1.2 Significant changes in state of affairs 66  10.1.3 Principal activities 66  10.1.4 Dividends paid or recommended 67  10.1.5 Review of operations 68  10.1.6 Events after the end of the reporting period 67  10.1.7 Future developments and results 67  10.1.8 Environmental matters 67  10.1.9 Options 67  10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration	9.	Consultants and Competitive Tendering and Contracting	63
9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services  10.1 Financial Statements 10.1 Directors' Report 10.1.1 Directors 10.1.2 Significant changes in state of affairs 10.1.3 Principal activities 10.1.4 Dividends paid or recommended 10.1.5 Review of operations 10.1.6 Events after the end of the reporting period 10.1.7 Future developments and results 10.1.8 Environmental matters 10.1.9 Options 10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration  65 65 66 67 68 69 69 60 60 60 60 60 60 60 60 60 60 60 60 60			
10.Financial Statements6510.1 Directors' Report6610.1.1 Directors6610.1.2 Significant changes in state of affairs6610.1.3 Principal activities6610.1.4 Dividends paid or recommended6610.1.5 Review of operations6610.1.6 Events after the end of the reporting period6710.1.7 Future developments and results6710.1.8 Environmental matters6710.1.9 Options6710.1.10 Indemnification and insurance of officers and auditors6710.1.11 Proceedings on behalf of company6710.1.12 Auditor's independence declaration68	9.2	·	64
10.1 Directors' Report 10.1.1 Directors 66 10.1.2 Significant changes in state of affairs 66 10.1.3 Principal activities 66 10.1.4 Dividends paid or recommended 66 10.1.5 Review of operations 66 10.1.6 Events after the end of the reporting period 67 10.1.7 Future developments and results 67 10.1.8 Environmental matters 67 10.1.9 Options 67 10.1.10 Indemnification and insurance of officers and auditors 10.1.11 Proceedings on behalf of company 10.1.12 Auditor's independence declaration 66 67		· · · · · · · · · · · · · · · · · · ·	
10.1.1Directors6610.1.2Significant changes in state of affairs6610.1.3Principal activities6610.1.4Dividends paid or recommended6610.1.5Review of operations6610.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68	10.		
10.1.2Significant changes in state of affairs6610.1.3Principal activities6610.1.4Dividends paid or recommended6610.1.5Review of operations6610.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68	10.1	·	
10.1.3Principal activities6610.1.4Dividends paid or recommended6610.1.5Review of operations6610.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68			
10.1.4Dividends paid or recommended6610.1.5Review of operations6610.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68			
10.1.5Review of operations6610.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68		·	
10.1.6Events after the end of the reporting period6710.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68		•	
10.1.7Future developments and results6710.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68		·	
10.1.8Environmental matters6710.1.9Options6710.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68			
10.1.9 Options6710.1.10 Indemnification and insurance of officers and auditors6710.1.11 Proceedings on behalf of company6710.1.12 Auditor's independence declaration68		·	
10.1.10Indemnification and insurance of officers and auditors6710.1.11Proceedings on behalf of company6710.1.12Auditor's independence declaration68			
10.1.11 Proceedings on behalf of company6710.1.12 Auditor's independence declaration68		·	
10.1.12 Auditor's independence declaration 68			

10.2	0.2 Auditors Independence Declaration			
10.3	Income	70		
10.4	Stateme	ent of Financial Position	71	
10.5	Stateme	ent of Changes in Equity	72	
10.6	Stateme	ent of Cash Flows	73	
10.7	Notes to	the Financial Statements	74	
	10.7.1	Summary of Significant Accounting Policies	74	
	10.7.2	Revenue and Other Income	82	
	10.7.3	Result for the Year	82	
	10.7.4	Interests of Key Management Personnel	82	
	10.7.5	Cash and Cash Equivalents	83	
	10.7.6	Trade and Other Receivables	83	
	10.7.7	Other Assets	83	
	10.7.8	Property, Plant and Equipment	84	
	10.7.9	Trade and Other Payables	85	
	10.7.10	Borrowings	86	
	10.7.11	Provisions	86	
	10.7.12	Financial Risk Management	86	
	10.7.13	Contingent Liabilities and Contingent Assets	87	
	10.7.14	Related Party Transactions	87	
	10.7.15	Cash Flow Information	88	
	10.7.16	Events after the end of the Reporting Period	88	
10.8.	Director	rs' Declaration	89	
10.9	Indeper	ndent Audit Report	90	
Inde	X		92	

### **List of Figures**

Figure 1: NQLC's Representative Body Area and Native Title Claims	17
Figure 2: Organisational Structure	18
Figure 3: Organisation Chart	61

#### **List of Tables**

Table 1: Elected Board of Directors as at 30 June 2011	18
Table 3: Office Bearers of the Board of Directors as of 30 June 2011	18
Table 2: Elected Board of Directors as at Ward Elections on 24 October 2011	18
Table 4: Office Bearers of the Board of Directors as of Office Bearers Election 21 February 2012	18
Table 5: Staff Positions	20
Table 6: Performance according to Functions and Outputs	25
Table 7: Budgets/Actual by main heads of Expenditure and Revenue	46
Table 8: Comparison of Grant Funding between Financial Years 2010-11 to 2011-12	47
Table 9: Number of Representatives on Board of Directors per Ward to be elected 2013	50
Table 10: Number of Board Meetings	53
Table 11: Number of Office Bearers Meetings	53
Table 12: Number of Other Meetings attended by Directors	54
Table 13: Board of Directors Training	54

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## **Glossary and Acronyms**

ACHA Aboriginal Cultural Heritage Act 2003 (Qld)

AgForce Queensland

AGI Activity Generated Income AGM Annual General Meeting

AIATSIS Aboriginal Institute of Aboriginal and Torres Strait Islander Studies

ALA Aboriginal Land Act 1991

ATSLIP Aboriginal Torres Strait Islander Implementation Program

Aurora The Aurora Project is the collective name for a number of programs that work with

Australia's Indigenous communities and organisations to facilitate prosperity through capacity building. Aurora Project was established in 2006 following the *Report into* 

professional development needs of the Native Title Representative Body lawyers in April 2005.

AWAs Australian Workplace Agreements the Board the Board of Directors of NQLC

CATSI Act Corporations (Aboriginal and Torres Strait Islander) Act 2006

Chairperson (of NQLC)

the Court the Federal Court of Australia
Cth The Commonwealth of Australia

CQLCAC Central Queensland Land Council Aboriginal Corporation
DERM Department of Environment and Resource Management

DOGIT Deed of Grant in Trust EO Executive Officer (of NQLC)

Ergon Ergon Energy Corporation Limited

FaHCSIA Department of Families, Housing, Community Services and Indigenous

Affairs

FAME Future Act, Mining and Exploration (FAME) Unit

FANs Future Act Notices

FCA Federal Court of Australia

Hon Honourable

ILUA Indigenous Land Use Agreement MoU Memorandum of Understanding

MP Minister of Parliament

NNTT National Native Title Tribunal

NQLC North Queensland Land Council Native Title Representative Body

**Aboriginal Corporation** 

NQMA North Queensland Miners Association

NTA Native Title Act 1993 (Cth)

NTRB Native Title Representative Body NTSU Native Title Services Unit (of NQLC) PBC Prescribed Bodies Corporate

s. section of an Act

SSM Small Scale Mining

the State the State Government of Queensland

USL unallocated State land

# 1. Report by the Chairperson



Errol Neal, Chairperson of NOLC, opening the National Native Title Conference 2012, in Townsville

As Chairperson, my vision is to improve our engagement with traditional owners both at the membership level and in our native title service delivery. We will continue to establish a broader membership base and improve our consultative processes with our constituents through our regional ward representative system which I believe has served the NQLC well as a representative organization.

In June 2012, the NQLC had the honour of co-hosting the National Native Title Conference in Townsville. I was heartened to see our brothers and sisters from across Australia firmly committed to native title and justice for our people.

The North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) obtained strong results in the performance of its native title functions during 2011-12. There were a number of native title consent determinations with a further number of claims scheduled for determination in early 2012-13. Determined claims included: Wanjurr Majay; Djiru People 2 and 3; Mulruidji People and Muluridji People 2; Combined Gunggandji; and Juru (formerly known as Birri Gubba [Cape Upstart]), one of the oldest claims in the region. To these people I offer my congratulations and the hope for a better future for their families. The NQLC has also assisted in the negotiation of numerous Indigenous Land Use Agreement's some associated with consent determinations and others stand alone native title agreements usually resulting from Future Act activity within registered native title claims. I would like to thank the hard work of the staff of the NQLC associated with achieving these major results for Aboriginal claimant groups.

It is particularly pleasing to see some consent determinations in the southern portion of our region. With the recent Gugu Badhun (August 2012) and Jangga (September 2012), there have now been four native title claims determined for native title groups that were formerly assisted by Central Queensland Land Council Aboriginal Corporation, since the NQLC commenced delivering services in that region on 1 July 2008. The NQLC's operations from our Townsville and Mackay offices are now performing particularly well and delivering high quality services to the traditional owners across the region.

Our regional ward elections were held on the 24 October 2011 and resulted in one new NQLC Board of Directors member being elected, Danny Hooligan from the Mount Garnet Ward. Coralie Cassady was formerly invited by the elected Board to fill the vacancy in the Townsville/Ayr Ward. I was elected the new Chairperson and I wish to thank the outgoing Chairperson Terry O'Shane who remains on the Board, for his many years of service as Chair of the NQLC.

As Chairperson, my vision is to improve our engagement with traditional owners both at the membership level and in our native title service delivery. We will continue to establish a broader membership base and improve our consultative





processes with our constituents through our regional ward representative system which I believe has served the NQLC well as a representative organization. During late 2011, our Board experienced some difficulties with our decision making processes which I can now report has been resolved and the NQLC Board is committed to improving outcomes for native title claimants and holders on the ground.

In June 2012, the NQLC had the honour of co-hosting the National Native Title Conference in Townsville. I was heartened to see our brothers and sisters from across Australia firmly committed to native title and justice for our people. In a major announcement at the conference, the Attorney General, Nicola Roxon, announced proposed changes to the *Native Title Act 1993* (Cth) which the NQLC will have to very closely examine in the coming months.

The conference also witnessed a protest group, disillusioned with the native title system whose representatives I allowed, as co-host, to make an unscheduled address to the conference. Sovereignty is an emotive term for our people. All of us identify with the dubious manner in which Aboriginal sovereignty has been dealt with in Australia and the ramifications of the famous Mabo Case. What is not clear to me after listening to their representatives, is there is no practical agenda that offers a clear way forward to achieve Aboriginal sovereignty. Until that can be enunciated and demonstrated by its proponents, the NQLC remains committed to achieving significant benefits for traditional owners that are delivered through the native title system.

With the large number of native title determinations achieved by the NQLC up until 30 June 2012, we had a total number of 13 Prescribe Body Corporates (PBC) in our region which are eligible to apply for



a limited annual regional funding allocation from Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). Indicative funding levels in this area have been around \$400,000 per annum which is not likely to increase despite an increasing number of PBC's entitled in my view to some ongoing funding support particularly in their crucial establishment phase. Surely regional allocations should be based on the number of registered native title PBCs in the region requiring support not an ever dwindling carving up of a capped regional allocation. The recent proposed tax exemption of native title payments for PBCs is welcome if it delivers to PBCs tangible economic benefits and reduces their administrative burdens in compliance areas.

FaHCSIA has also announced a review of Native Title Representative Bodies (NTRB) to proceed during 2012-13. This was supposed to be a precursor to the end of the current recognition period for NTRBs which expires 30 June 2013. This review will not be complete by then and at the time of writing this report the Minister has invited current NTRBs to apply for up to two years additional recognition until the native title review process is completed. The NQLC will be monitoring the review process and applying for the maximum recognition period being currently offered due to our demonstrable track record of achieving native title outcomes throughout the representative region.

Mr Errol (Mala) Neal Chairperson, NQLC

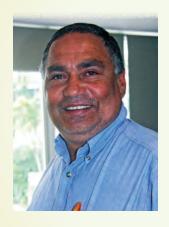
# **Board of Directors**



determinations since the establishment as a NTRB.

expected eleven native title consent determinations in 2012-13.

Bonita Mabo and a dancer from the Komet Dance Group, Mabo Lecture at National Native Title Conference 2012, Townsville.



Chairperson Errol Neal (Chairperson since February 2012) Yarrabah Ward

I'm a Traditional Owner from Yarrabah, think my strength has always been around having good relationships across my family and community, and true cultural interactions are my base.

I've grown up in a family who struggled for many years with issues around self-determination and natural justice, and who were trying to achieve change for our people.

I also had a lot of mentors, Mick Miller, Aunty Rose, Clarry Grogan and even my own Dad, Alfred Neal, who was a bush lawyer. All these people have heavily influenced the way I am, as did my mother, who is a very spiritual woman.

I think all these influences have helped me find a balance between cultural ways and the new ways.

So what I bring to the NQLC is the will to move forward and for us to survive and progress in terms of a whole future for our people.

Land issues are very important, especially management and caring for country.

Native title is one step, but a holistic approach lies in furthering economic development and sustainability.

Personally-speaking, I have a family and I'm also the Mayor of Yarrabah at this point in time.

I value the time I have to spend with family and connecting with friends and that's where my strength comes from too.



**Director Director Terry** (Chairperson until February 2012)
Cairns Ward

I'm a seafarer by profession, I've been around Aboriginal organisations since I was 14 years of age. I'm 66 this year, born and bred in Cairns and spent all my life up here.

I've had a long involvement with the Land Council, I was a Chair for ten or eleven years. I've got plenty of experience I suppose I work on the issues of governance mainly.

The future is a hard question because of the political dynamics. I imagine if we are still a Land Council we will morph into a central Prescribed Body Corporate (PBC) because there's an enormous amount of work to be done across the region. I think Traditional Owners will be better served by having one central regional body addressing all those things - places like Mt Garnet are not the centre of activity in administration, but they are at the centre of mineral exploration so they actually need a fair bit of back-up. I think there's a necessity for it.

I like playing golf, riding my bike, swimming, reading newspapers and I like to keep count of political happenings in the world.



**Deputy Chairperson Vince Mundraby** (Deputy Chairperson since February 2012) Yarrabah Ward

I'm a Mandingalbay Yidinji Traditional Owner from in and around the Cairns/Yarrabah region.

I have a bit of knowledge in regards to Wet Tropics, Great Barrier Reef and sea country issues, Indigenous consumer affairs and also on local government, as a former Mayor of my community.

My experience is ongoing knowledge of native title claims processes and compliance with relevant local, state, federal legislation.

I hope the NQLC is transitioning into an organisation that will assist PBCs in the region, post-native title determinations

I like fishing and walking about, talking to countrymen.



**Director Catherine Joseph**(Deputy Chairperson until February 2012)
Yarrabah Ward

I'm from Atherton and I grew up on the Tablelands. Our background is Yidinji and I grew up knowing and being with most of my old people. I was fortunate enough to spend time with my Elders and learn about my culture, the Yidinji culture. My mum was very good at bringing me with them hunting and gathering and learning, I used to prefer to do that rather than go to school.

I bring support for our people in our struggle and trying to get what we deserve, but even now the Government makes it hard. I'd like to see the Land Council still here in five years, helping our people and getting the determinations.

I like to camp and fish if I can, but I lost my husband and I'm on my own and it's hard for me to get around and do the things I used to do.

So gardening mainly now and looking after my children, my great grandchildren.



Treasurer Danny Hooligan (Treasurer since February 2012) Mt Garnet Ward

I'm a Police Liason Officer at the Mt Garnett Police Station.

I grew up in Mt Garnet and I'm Warungnu.

I was a founding member of the NQLC and have watched it grow to what it is now.

In five years time I'd like to see us expand a lot to be bigger as a Land Council. I like a variety of sports: soccer, Australian Rules, rugby league and Union.

Danny was elected for Mount Garnet Ward on 24 October 2011



**Director Vana O'Shane** (Treasurer until February 2012) Cairns Ward

Vana O'Shane is a Western Yalanji women.

She has been a member of the Board of Directors since 2009.



# **Beverly Bowyang**Director (resigned 30 November 2011) Mt Garnet Ward

Beverly was the member for Mount Garnet Ward prior to Danny Hooligan being elected on 24 October 2011



Secretary Patricia Dallachy
Correspondence Secretary (since February 2012)
Charters Towers/Hughenden Ward

I was born in Charters Towers and taken to Palm Island where I grew up.

My country is Gudjal.

I've travelled around Queensland and lived in Victoria and New South Wales for a while. I started doing cultural heritage and did a course with the top archaeologists and anthropologists.

I'm fighting for rights. I'd like to see the NQLC expand across everything to help all Indigenous people.

I like to do gardening and am trying to reintroduce rainforest plants and all our native fruits I grew up with.



**Director Dawn Hart** Innisfail Ward

I was born and bred in Innisfail and I'm Djiru women from my mother's side. I was one of the ones that initiated our claim.

I'm a Mum, Grandmother and Great-Grandmother.

I've been part of a few community organisations in housing, legal aid and health and I've been on the NQLC board since 2002.

I hope the NQLC is still here in five years time, I want to give it up before then and let some of the young ones come in. I'd like to see us stronger. I've enjoyed every minute of my time here.

Other than that I just stay at home and my grand children, and great grandchildren I've got now, come to see me.

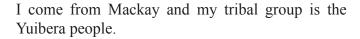


**Eddie Smallwood**Correspondence Secretary (until 24 October 2011)
Townsville/Ayr Ward

Eddie Smallwood was the Correspondence Secretary prior to Patrica Dallachy, Eddie Smallwood's directorship ended with Ward elections on 24 October 2011



**Director Gary Mooney** Proserpine/Mackay Ward



I've had about eighteen years in Murri Watch and I've done two-and-a-half years as a Police Liaison Officer. I've also worked in housing co-operative for twenty years and as a bar manager. As a bar manager, I had a lot of Indigenous bands play, that broke barrier down. A lot of our people relate to their songs and music.

I'd like to see the Land Council still running in five years, bringing all the native title claims together and working to better themselves, their claim, and our standards of living, so we all can move forward.

I live on country, I like lying down relaxing on the beach, fishing and seeing my grandkids. I live out on the beach. I don't have any TV or nothing like that or electricity or nothing.



**Director Kaylene Malthouse**Tablelands Ward

I am a Traditional Owner of the Upper Malanburra clan, Yidinji tribe in the Goldsborough Valley, Tablelands region.

I've been on the NQLC board for three terms and I've enjoyed contributing.

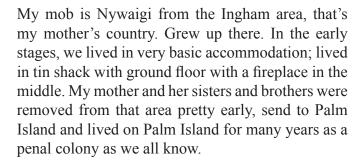
I've worked for the Department of Communities for four years and bring communication and people skills to the board here, as well as a woman's perspective.

In five years time I'd like to see the NQLC operating to full capacity for Indigenous people, covering all areas of community involvement - I'd like to see life after native title for us.

I also like to go on country, swimming and spending time with my grandkids.



**Director Phil Rist**Tully/Palm Island Ward



I was with Queensland Parks and Wildlife Service for many years and I was the first Indigenous Marine Park Inspector - this was before native title legislation.

Then I was a founding member of the Girringun Aboriginal Corporation, we've been in existence for about sixteen years now and represent nine tribal groups.

So I have some governance and cultural expertise and a bit of leadership, I suppose. We are bound by legislation but it will be interesting to see how, as a Land Council, we'll evolve into picking up other long-term issues like natural resource management and cultural heritage. I see the need for a peak organisation that can do a whole range of things.

I love footy and time with family.



**Director Coralie Cassady** Townsville/Ayr Ward

Caroline Cassady was invited to be member of the Board of Directors after Townsville/Ayr Ward failed to be filled with the Ward elections. Coralie was appointed on 20 April 2012.

# 3. Report by the Executive Officer



The NQLC continues to represent 98% of registered native title claims in the region and have well established systematic processes to progress native title claims to consent determination. This is evidenced by another seven claims being determined in 2011-12.

A significant issue for the 2011-12 year was the increase in activity in the region involving mining and major infrastructure projects..... This led to a consequent increase in the demands on the NQLC's resources to assist the native title claimant groups with these native title agreement making processes.

The NQLC expects the level of Future Acts Notice mining and exploration activity to increase, particularly the southern region of the NQLC with significant coal and mineral deposits, due to the planned lodgement of new native title claims....

As new claims come on line in the southern portion of our area with significant mining and exploration activity within their boundaries, there will be a need for additional resources to be allocated to the Mackay and Townsville offices of the NQLC for both claim and Future Act, Mining and Exploration Unit processing work.

Magnetic Island, off Townsville

### 3.1 Summary of Significant Issues and Developments

As Acting Executive Officer appointed since the conclusion of the reporting period, I find it difficult to provide details of significant issues encountered during this period and refer you to the excellent detail contained in section 5.2 about the North Queensland Land Council's Native Title Representative Body Aboriginal Corporation (NQLC) performance during 2011-12 reporting period.

I can offer however, the following comments about significant issues within the NQLC's regional context of service delivery in 2011-12. The NQLC continues to represent 98% of registered native title claims in the region and have well established systematic processes to progress native title claims to consent determination. This is evidenced by another seven claims being determined in 2011-12.

The strengthening of the Federal Court's role in the mediation of native title claims with the consequent removal of the National Native Title Tribunal role in this area is a positive move. Nevertheless the Court must understand the significant amount of work the NQLC undertakes in complying with its orders, particularly where there is more active case management by the Court. Our ability to respond to mediated matters, Federal Court orders, particularly involving those of an inter or intra indigenous nature in the compressed timeframes offered by the Court, is problematic and is often governed by the NQLC's ability to commission an appropriately qualified external anthropological consultant at short notice. This becomes starkly evident when the dispute is of an emergent nature and has not been provided for in the approved Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) budget. Greater flexibility for the NQLC to develop appropriate responses on behalf of native title claimants is warranted in this area.

The NQLC's demonstrated ability to progress claims is impacted not only by the Court but also on the capacity and willingness of other stakeholders and parties involved on the native title system to resolve claim issues. Of these stakeholders the State of Queensland's capacity to contribute to the resolution of native title claims particularly the acceptance of connection reports, tenure resolution

and the negotiation of complex Indigenous Land Use Agreement's (ILUA) is a major factor affecting the NQLC's performance. The recent abolition of approximately 14,000 public servants in Queensland by the newly elected Newman Government has the capacity to significantly slow down the native title claim resolution process for claimants if the Queensland Government's Aboriginal Torres Strait Islander Land Implementation Program (ATSLIP) staffing is cut in line with other government departments. A loss of 30% of staff in the native title section will inevitably impact negatively on the State's ability to continue to progress the current number of claims in the NQLC region, let alone the number of new claims planned to be lodged by the NQLC in the next financial year.

Although the more active role of the Federal Court is reducing disposition rates of native title claims in the system there is still a perception in the native title holding community that claims take too long to process to fruition and that often, significant elders do not live to see the results of claims lodged during their lifetime. Whilst that is a distressing fact of current native title process the drive to reduce disposition times is welcome, yet there needs to be some caution exercised to ensure adequate research and attention can be given to complex and detailed matters requiring resolution by claimant groups through the native title process.

A significant emerging issue is evidenced by the lodgement late in the reporting period on nonclaimant applications, particularly in urban areas, by local government bodies wishing to develop infrastructure on tenures where native title may exist and the land is currently unclaimed by any native title group. Currently the Cairns and Townsville areas remain unclaimed despite there being claims over those cities historically. In these circumstances the NQLC is faced with the impossibility of launching a claim over the tenure concerned or a broader claim for the affected group/s within the response timeframes to a notification of the acceptance of a non-claimant application. Further, due to public works usually being involved in the land subject to the non-claimant application, there is likely to have been prior extinguishment once the tenure history is conducted. All the NOLC believes it can do in the circumstances where the land is unclaimed, is to advise potential native title parties to apply for

respondent party status and attempt to negotiate some more appropriate arrangements. The length of time it takes to negotiate and register an ILUA to allow these works to proceed acts as an impediment to good faith agreements in this area between councils and potential native title holders.

A significant issue for the 2011-12 year was the increase in activity in the region involving mining and major infrastructure projects, often those given high economic status by the State Government with altered and compressed approvals processes. This led to a consequent increase in the demands on the NOLC's resources to assist the native title claimant groups with these native title agreement making processes. Although the cost of assisting with these negotiations is recovered in full by the NQLC from proponents, it still places demands on our staff and legal teams and claimant groups to respond within timeframes and negotiate often intense and complex negotiation regimes. The NQLC expects the level of Future Acts Notice mining and exploration activity to increase, particularly the southern region of the NQLC with significant coal and mineral deposits, due to the planned lodgement of new native title claims. The NQLC managed over one million dollars in managed funds from project negotiations on behalf of NT groups represented by the NQLC. The Future Acts Mining & Exploration Unit (FAME) of the NQLC has recently had staffing increased to cope with increased workload, particularly in our Mackay and Townsville offices.

The large number of ILUA's negotiated by the NQLC over the history of the organization requires monitoring of the conditions agreed to by the parties to ensure the spirit and details of those agreements are being adhered to by all parties. The NQLC has put some effort into developing databases of ILUA conditions and action implementation timeframes within the region by those groups represented by the NQLC, and is working with groups requiring assistance in this area to improve the outcomes being achieved through these agreements. This should be a continuing focus for the NQLC in the next few years whilst traditional owners organization's self-management capacity is developed via our assistance program.

The NQLC is also cognizant of the potential impact of the Native Title Representative Bodies Review announced by the Commonwealth during the reporting period. Emerging clarity about the process in the coming months will inform the NQLC's response to the review process.

In conclusion, the progress of the sea country project during 2011-12 has been positively received by traditional owner groups and the engagement they had with a wide range of agencies involved in this project is encouraging and the project will continue in 2012-13.

### 3.2 Overview of Performance and Financial Results.

The performance of the NQLC's native title functions evidenced by the number of determinations and ILUA's negotiated during 2011-12 was extremely good. The NQLC has again achieved an Unqualified Audit Report for 2011-12.

There are a number of negative aspects of the NQLC's financial performance where there has been for two consecutive years of fluctuating results. This year's surplus follows an over expenditure of in 2010-11. This year's surplus will be recovered by the funding body and has the potential to negatively impact on future allocations to the NQLC from FaHCSIA. The NQLC is improving its internal control mechanisms to ensure, in future years, NQLC expenditure matches approved budget allocations from FaHCSIA.

I attribute part of the problem this year to inadequate monitoring and allocation of Activity Generated Income (AGI) during 2011-12. Our estimation of AGI was grossly underestimated for the 2011-12 year. The NQLC's FaHCSIA Budget prediction was \$35,000 however our annual financial statements reveal actual AGI received was \$227,321. A similar situation occurred in 2010-11 when the NQLC estimated \$41,654 of AGI and received \$164,908. This aspect of our financial management has been addressed with a realistic estimate of AGI in our 2012-13 budget and better internal monitoring and control mechanisms to ensure it is allocated and expended appropriately at regular periodic intervals over the financial year.

The over expenditure in capital largely occurred in the last month of the financial year when there was the purchase of sorely needed video conferencing equipment to reduce inter office travel. It had been planned to proceed in 2010-11 and budgeted, but the purchase did not take place until the current reporting period. The NQLC has been strictly adhering to funding conditions around procurement and budget reallocations and has adhered to all Program Funding Agreement conditions in 2012-13.

#### 3.3 Outlook for the following Year

The NQLC is expecting another strong performance in the performance of its native title functions in 2012-13. The following claims are scheduled to be determined during 2012-13:

- · Gugu Badhun
- Combined Mandingalbay Yidinji/ Gunggandji
- Mamu
- Jangga
- Tableland Yidinji
- Tagalaka
- Djungan

The NQLC will be lodging a further number of claims during 2012-13 particularly in the southern portion of our representative area as outlined in

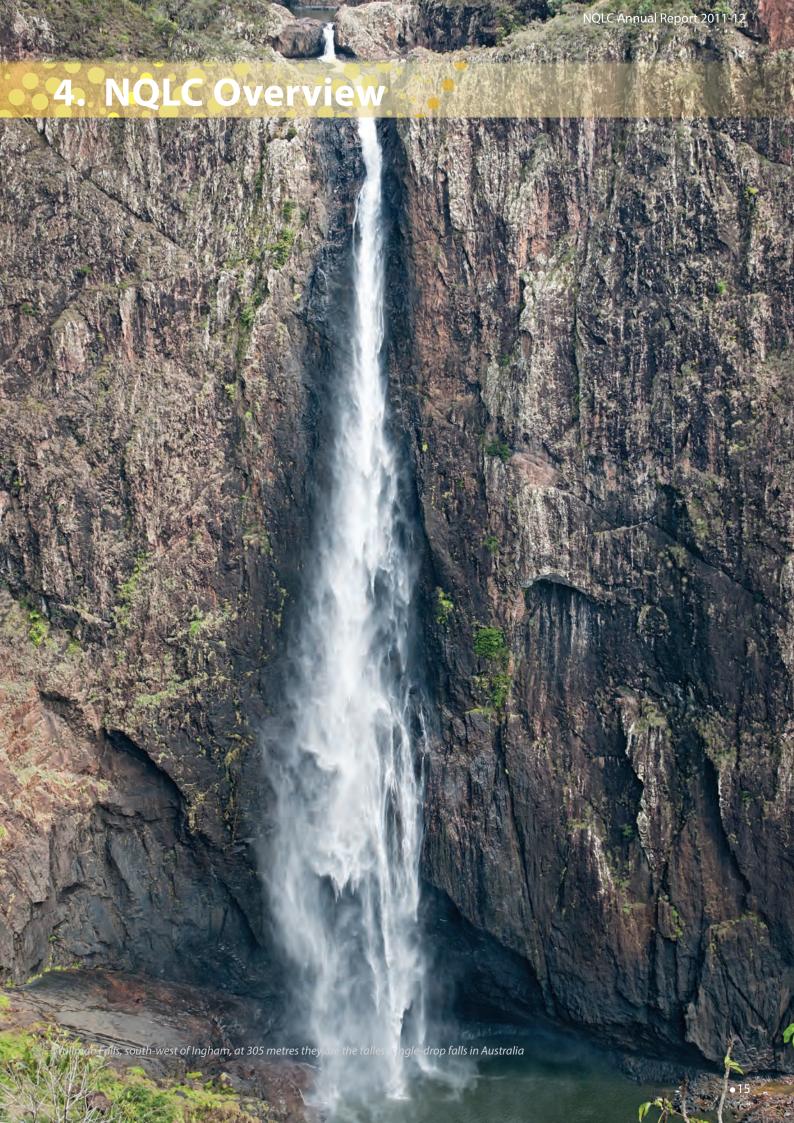
our Operational Plan. Internal research on the Townsville area is nearly complete and there are a number of new claims in the Birri Gubba Nation Group that will be lodged in 2012-13.

We expect the level of FAME work to expand and have provided for additional resources to cope with anticipated increased activity in our 2012-13 budgets. As new claims come on line in the southern portion of our area with significant mining and exploration activity within their boundaries, there will be a need for additional resources to be allocated to the Mackay and Townsville offices of the NQLC for both claim and FAME processing work. This trend I believe, will continue particularly as Justice Dowsett's docket is scheduled for completion by December 2012 and Justice Logan's existing docket is due to be completed by December 2013.

Claim activity will be more centred in the future for service from our regional offices.

Ian Kuch Acting Executive Officer





#### 4.1 Overview Description of NQLC

The North Queensland Land Council is a recognised Native Title Representative Body (NTRB) under s. 203AD of the *Native Title Act 1993* (NTA) for the Northern Queensland invitation area.

The land area of the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) extends from the Daintree and Bloomfield Rivers in the north to just south-east of Sarina in the south and west to beyond Richmond and Croydon (see Figure 1: NQLC's Representative Body Area and Native Title Claims). The region includes the local government authorities of Bowen Shire Council, Burdekin Shire Council, Cairns Regional Council, Cassowary Coast Regional Council, Charters Towers Regional Council, Croydon Shire Council, Etheridge Shire Council, Flinders Shire Council, Hinchinbrook Shire Council, Isaac Regional Council, Mackay Regional Council, McKinlay Shire Council, Palm Island Aboriginal Shire Council, Richmond Shire Council, Tablelands Regional Council, Townsville City Council and Yarrabah Aboriginal Shire Council.

The region of the NQLC extends east to include the waters that are within the Exclusive Economic Zone of Australia. The land and waters covered by NQLC are approximately 943,300 km<sup>2</sup>, of which approximately 411,164 km<sup>2</sup> is land.

The region is as diverse in its landscapes as it is in its cultural diversity, from the marine environment of the Great Barrier Reef to the coastal and upland to the western areas which covers seven bioregions on land. These bioregions include the Central Queensland Coast, Brigalow Belt and Wet Tropics of the coastal and upland areas, then the Einaseligh Uplands and Desert Uplands to out west to the Mitchell Grass Downs and the Savannah Gulf Plains.

There is a major concentration of Indigenous population on the coast that becomes less dense as you move westwards. The region contains two large Deed of Grant in Trust (DOGIT) communities governed by Yarrabah and Palm Island Aboriginal

Shire Councils. There are also major Indigenous populations in Townsville/Thuringowa, Cairns, Mackay, Innisfail, Mareeba, Burdekin, Charter Towers, Mossman, Bowen, Atherton, Sarina, Ingham, Tully, Cardwell, Richmond, Nebo/Mirani, Herberton, Ravenshoe, Kuranda, Mount Garnet, Croydon and Jumbun Community.

#### 4.2 Roles and Functions

#### 4.2.1 Legislation

The primary legislation which the NQLC is concerned with, is the Commonwealth *Native Title Act 1993* (NTA) which defines the statutory functions of an NTRB. The NQLC, in the context of representing native title claims also deals with the *Native Title (Queensland) Act 1993* and other relevant federal and state legislation.

NQLC was incorporated on 28 March 1994 under the then Aboriginal Councils and Associations Act 1976 and is now registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act). The NQLC is required to comply with various conditions of the CATSI Act and Corporations Law which cover such matters as the setting up and functioning of the corporate governance of the organisation, holding of the Annual General Meetings (AGM) and the provision of the yearly financial statements.

The NQLC, like all other organisations is subject to a raft of general legislation, examples being:

- Commonwealth Authorities and Companies Act 1997;
- Taxation and Superannuation Laws; and
- Industrial Relations and Workplace Legislation.

#### 4.2.2 Legislative Functions

As a recognised NTRB, the NQLC has the following statutory functions under the NTA:

- facilitation and assistance functions:
- certification functions;
- dispute resolution functions;
- notification functions;
- agreement making functions; and
- internal review functions.

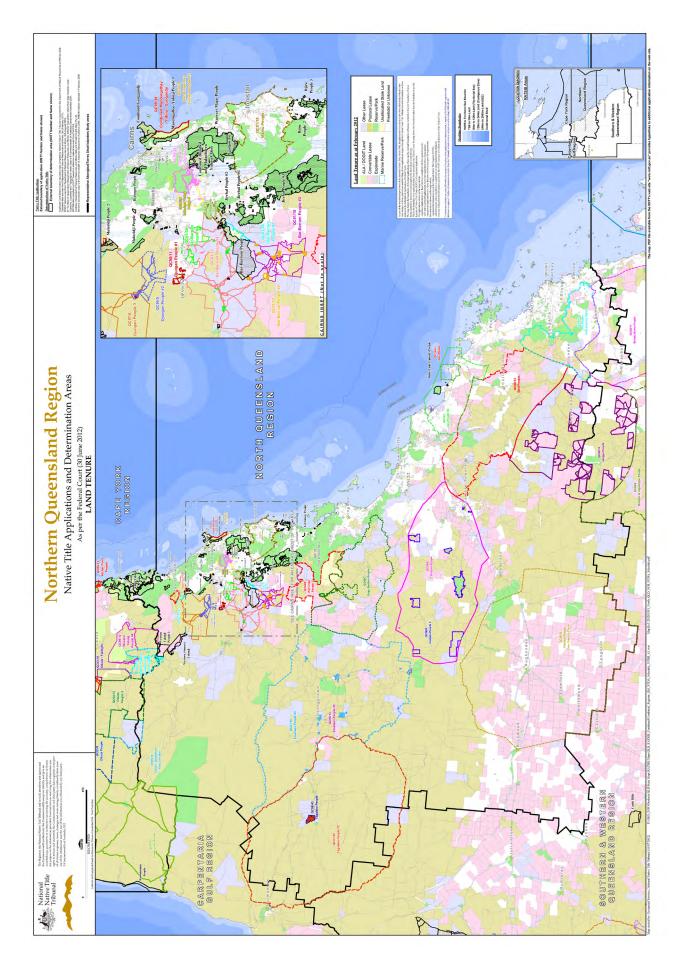


Figure 1: NQLC's Representative Body Area and Native Title Claims (This map is courtesy of the National Native Title Tribunal)

Figure 2: Organisational Structure

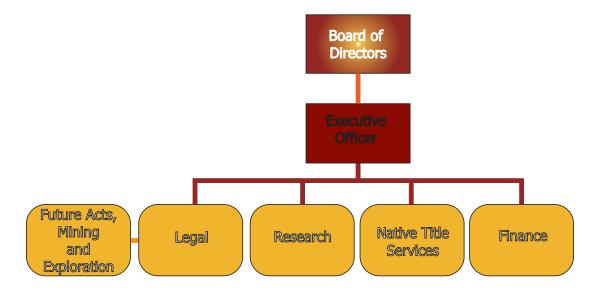


Table 1: Elected Board of Directors as at 30 June 2011

Ward	Elected Board Member	
Cairns	Mr Terry O'Shane	
	Ms Vana O'Shane	
Hugheden/ Charters Towers	Ms Patricia Dallachy	
Innisfail	Ms Dawn Hart	
Mount Garnet	Ms Beverly Bowyang	
Proserpine/Mackay	Mr Gary Mooney	
Tablelands	Ms Catherine Joseph	
	Ms Kaylene Malthouse	
Townsville/Ayr	Mr Eddie Smallwood	
Tully/Palm Island	Mr Philip Rist	
Yarrabah	Mr Errol Neal	
	Mr Vince Mundraby	

Table 3: Office Bearers of the Board of Directors as of 30 June 2011

Office Held	Elected Office Bearers
Chairperson	Mr Terry O'Shane
Deputy Chair	Ms Catherine Joseph
Correspondence Secretary	Mr Eddie Smallwood
Treasurer	Ms Vana O'Shane

Table 2: Elected Board of Directors as at Ward Elections on 24 October 2011

Ward	Elected Board Member	
Cairns	Mr Terry O'Shane	
	Ms Vana O'Shane	
Hugheden/ Charters Towers	Ms Patricia Dallachy	
Innisfail	Ms Dawn Hart	
Mount Garnet	Mr Danny Hooligan	
Proserpine/Mackay	Mr Gary Mooney	
Tablelands	Ms Catherine Joseph	
	Ms Kaylene Malthouse	
Townsville/Ayr	Ms Coralie Cassady	
Tully/Palm Island	Mr Philip Rist	
Yarrabah	Mr Errol Neal	
	Mr Vince Mundraby	

Table 4: Office Bearers of the Board of Directors as of Office Bearers Election 21 February 2012

Office Held	Elected Office Bearers
Chairperson	Mr Errol Neal
Deputy Chair	Mr Vincent Mundraby
Correspondence Secretary	Ms Patricia Dallachy
Treasurer	Mr Danny Hooligan

Note the Office Bears are elected at the first Board meeting following the first AGM.

Other functions arising out of the NTA:

- enter written arrangements with neighbouring NTRB's regarding facilitation and assistance functions;
- identification of native title holders;
- promotion of understanding of native title;
- informing native title holders and Body Corporates of matters impacting native title;
- · consult with Aboriginal communities; and
- cooperate with other NTRB's to maximise efficiencies

#### 4.2.3 Corporate Governance Policies

The function of the Board of Directors (Board) is to set the broad policies and directions of the organisation. The Rules provide for a separation of powers which keeps the Board at arms length from the day to day management of the organisation, which is the responsibility of the Executive Officer (EO). For more details see section 6 Corporate Governance.

#### 4.3 Organisational Structure

Figure 2 outlines the flow chart of the organisational structure.

Table 1 lists the Board members as at 30 June 2011, while Table 2 lists the Board members as at 30 June 2012. Table 3 lists the office bearers as at 30 June 2011, while Table 4 lists the office bearers as 30 June 2012. NQLC Rules have at for a long period, referred to the four office bearers positions (see Table 3 and 4), which included the position of 'Secretary'. With the change to the CATSI Act this reference was changed to refer to it as the 'Correspondence Secretary' to distinguish this position from the position of 'Secretary' referred to in the CATSI Act. Under the CATSI Act 'large' corporations are required to have a 'Secretary', this position is the equivalent of a 'Company Secretary' under the Corporation Law. NQLC is classified as a 'large' sized corporation for CATSI Act purposes. NQLC therefore has both CATSI Act Secretary and a Correspondence Secretary.

Listed in Table 5 (over the page) are the various staff positions filled as at 30 June 2011.

#### 4.4 Outcome and Output Structure

The NQLC has detailed objectives and outcome statements along with key performance indicators to measure outcome targets in our *Strategic Plan*. The basic structure of our key performance indicators are extracted from our approved Strategic Plan. NQLC has continued to implement the output groups reporting structure, including the development of electronic record keeping and reporting on output groups. The NQLC provides reports to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) three times annually.

The NQLC has continued to utilise appropriate internal systems to record achievements against the output group structure. These include outcomes database, meetings database and output group timecards for the time costing of Native Title Services, Legal and Research Units' staff against these outputs and a modification of our accounting system to record financial transactions in the various output groups.

The NQLC continues to achieve and deliver a high standard of service provided to native title holders. The NQLC aims to have at least four meetings per year for each native title working group. In priority claims and intensive negotiations (for example to settle the claim, develop Indigenous Land Use Agreements or negotiate mining agreements) there are often many more meetings than the minimum requirement. This ensures that native title holders are informed about progress and developments in the negotiation of their claims, as well as providing the maximum opportunity for traditional owners to make a direct contribution towards the conduct of their claims.

**Table 5: Staff Positions** 

Units	Staff Position
Executive	Executive Officer
	Administrative Officer to the Executive Officer
Legal	Principal Legal Officer
3	Supervising Litigation Officer
	Senior Legal Officer
	Legal Officer x 4
	Administrative Officers - Legal x 5
	Senior Legal Officer - Future Acts, Mining and Exploration - (FAME) x 2
	Exploration and Mining Co-ordinator - FAME
	Compliance Officer- FAME
	Administrative Officer - FAME x 2
	Native Title Compliance, Reporting and Mapping Officer
Research	Director of Legal Services, Research and Policy
	Co-ordinating Senior Anthropologist
	Senior Anthropologist
	Junior Anthropologist x2
	Administrative Officer Anthropology
	Administrative Officer - Legal
Native Title	Operations Manager
Services Unit	Project Officer - Coastal
(NTSU):	Project Officer - Tablelands
	Project Officer - Western
	Project Officer - Special Projects
	Project Officer - Future Acts, Mining and Exploration x 2
	Project Officer x 2
	Administrative Officer - NTSU
	Administrative Officer - Receptionist/Logistics
	Corporate Resource Officer
Finance	Chief Financial Officer
	Finance Officer
	Administrative Assistant- Finance
	Receptionist
	Finance Trainee



#### 4.5 Key Features-Strategic Plan, Operational Plan

#### Strategic Plan

As an Aboriginal Community based organisation the NQLC has its global goals set out in its vision statement contained within the approved *Strategic Plan*.

#### **Our Vision Statement**

The vision of the NQLC is for a region in which the native title rights of every native title holder is legally recognised and in which Aboriginal people benefit economically, socially and culturally from the secure possession of their traditional land and waters. To ensure the continuance of an organisation with good governance as a fundamental and which gives traditional owners a representative Board through the Ward election process.

#### Our Goal Statement

Our goal is to assist Aboriginal people in the NQLC region to maximise native title and the benefits that flow from native title outcomes and ensure that their native title rights and interests are recognised, protected, maintained and developed.

#### Our Values

The NQLC adheres to the following values:

- Respect for elders and the traditional laws and customs they hold.
- Servicing the native title community in a professional and accountable manner.
- Maintaining our commitment to securing the traditional land, waters and sea country of native title holders in an efficient, transparent and diligent manner.
- Providing a suitable workplace to progress native title claims that is safe, harmonious and productive.

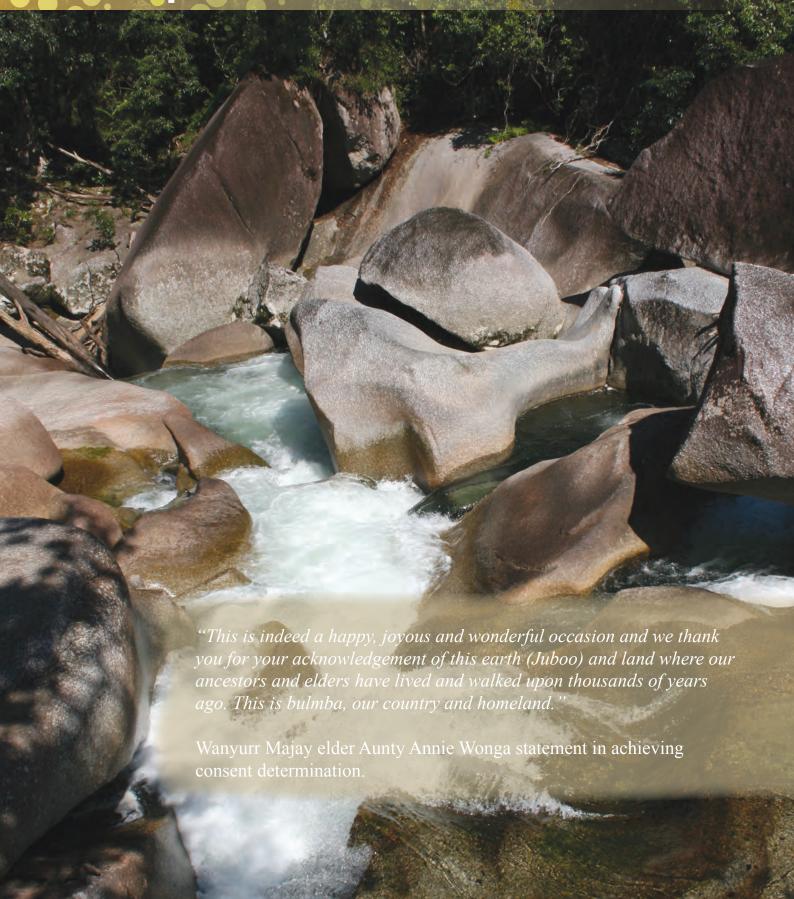
The Strategic Plan also deals with:

- NQLC relationship with stakeholders and other non-government organisations;
- governance;
- Prescribed Bodies Corporate;
- key functions of the NQLC; and
- training and capacity building.

#### **Operational Plan**

The annual Operational Plan, which is approved by both the Board and FaHCSIA, outlines the activities we intend to undertake with each of the native title claims and special projects within the NQLC region for the following year.

# 5. Report on Performance



Boulders on Wanyurr Majay

### 5.1 Review of Performance during the Year in relation to Strategic and Operational Plan and by Functions

The performance of the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) for the year ending 30 June 2012 according to statutory function is summarised in Table 6 on the next page.

#### Review of Performance - Overview and Outputs Achieved

The Federal Court of Australia (the Court) has said that new claims should be finalised within eighteen months from their lodgement. This means new claims will have to be researched to a much higher degree than has been in the past, prior to lodgement. Within existing claims the Court has put all applicants on notice that they expect connection to be resolved expeditiously. The need to carry out research on existing claims where this has not been done in the past therefore grow considerably. Anecdotal evidence suggest that across country the number of connection reports being produced or waiting to be produced are numerous and the small number of highly qualified researchers available to undertake anthropological research remains an ongoing difficulty. NQLC has a number of determinations in the 2012-13 financial year and when these matters are finalised that will mean the majority of existing claims will have been completed, opening the way for concentration of new claims.

It is pleasing to note in a recent case *Castle Hill Exotics Pty Ltd and State of Queensland and Others* (QUD43/2011) (30 September 2011) in Brisbane Justice Logan commented:

Well, I have to say, my experience with the North Queensland Land Council in the time I've had the list is that the representation that they offer is sound.

The State Government of Queensland (the State) has continued to demand more and more evidence of connection resulting in considerable work having to be done to supplement already existing connection reports.

NQLC believes that issues of cultural heritage are inextricably linked to native title and has at times had to expend its energies assisting groups to protect cultural heritage as a way of protecting their native title rights. Many of the Indigenous Land Use Agreements (ILUA), which are entered into as a claim progresses towards a consent determination, contain provisions designed to protect against damage to cultural heritage in the future.

Table 6: Performance according to Functions and Outputs

Facilitation and Assistance	Number
1. The Claims Experience	
Claimant Applications	
Active claims represented at 30 June 2011	37
Plus Claims filed this year by NQLC	2
Less Claims Determined 2011-12	7
Less Claims Dismissed 2011-12	Nil
Less Claims Withdrawn 2011-12	0
Less non native title outcome 2011-12	2
Active Claims represented at 30 June 2011	29 (see note 1 below)
Number of these registered by National Native Title Tribunal (NNTT)	29
Claims in Development	2 (see note 2 below)
Non-Claimant Applications (as relevant)	4
Compensation Claims (as relevant)	2
2. The Agreements Experience	2
Future Act Notices (FANs) received	3,734
Response to Future Acts	11,202 (see note 3 below)
Agreements (a) concluded, (b) in development	(a) 4 (b) Numerous
Indigenous Land Use Agreements (ILUA) (a) concluded and registered, (b) in development	(a) 29 (b) Numerous
Complaints and Disputes:	
Complaints (a) received, (b) resolved, (c) pending	(a) 7 (b) 3 (c) 4
Disputes relating to native title applications	Numerous
Disputes relating to ILUAs, rights of access and other matters	Numerous
Requests for Review of decisions not to assist- (a) received, (b) completed	(a) 1 (b) 1

- Note 1 One claim NQLC ceased to act for but is ongoing
- Note 2 There is in excess of thirty native title claims which may be lodged in the future. Given the new Federal Court of Australia (that is, once a native title application public notification has closed, the claim has eighteen months in the mediation list and will only remain there if the Court is convinced that the claim will be settled within two years. If the Court is not convinced, the claim will be put on the trial list. In addition, the NQLC Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) funding level does not allow for the lodgment of new claims with the new Court regime.
- Note 3 NQLC responds to FANs received by:
  - (a) Sending out copies of the notices to the persons appointed by each claim group for the receipt of FANs;
  - (b) Providing strategic advice to groups about the impact of Future Acts;
  - (c) Where instructed, formulating submissions on behalf of claimants to Future Acts; and
  - (d) Where a Future Act consists of a notification pursuant to the *Mineral Resources Act 1989*, that an Exploration Permit is intended for issue with the Native Title Protection Conditions attached, advising claimants about the effect of those Native Title Protection Conditions and post issue of the permit assisting groups to implement the Native Title Protection Conditions.
  - (e) Where appropriate, assist native title groups with mining agreements.Improved administration practices has seen a reduction in the required number of responses to FANs by the NQLC.

#### 5.2 Actual Performance in relation to Performance Targets and Reasons for Differences

#### Agwamin-Wagaman (Proposed Claim)

Anthropological research has been provided by consultants to NQLC.

Progress on this proposed claim has had to give way to a number of urgent matters occurring on claims before the Court

# Attending to statutory obligation to handle Future Acts Notification where there is no registered claim

Of the total mining and exploration Notices received (224) in the period, 70 affected lands that were not subject to a native title determination application. In circumstances where a s. 29 notice is issued affecting lands not subject to a current claim, NQLC writes to proponents advising them of their obligations under the Aboriginal Cultural Heritage Act 2003 (Old) (ACHA), which requires persons to take all reasonable and practicable measures to ensure that the activity does not harm Aboriginal cultural heritage. Further, we encourage the proponent to contact NQLC for assistance in identifying the relevant 'Aboriginal Party' being the person recognised in accordance with tradition or law as having responsibility for the area or object, as required by the ACHA.

#### Barada Barna People

The Barada Barna People (QUD380/2008) filed on 12 November 2008, a claim over part of the former Wiri#2 (QUD6251/1998) native title claim area. This native title application is represented by Dillon Lawyers. The Wiri#2 claim was dismissed by the Federal Court for procedural reasons. NQLC represents a number of Wiri claimants as respondent parties to Barada Barna People as this claim encroaches on Wiri country. NQLC has assisted the Wiri claimants with preparation of Form 5 Notices and filing of several affidavits in support of assertions that Wiri people hold native title in parts of the Barada Barna claim area.

Two directions hearings were held and attended during the reporting period.

#### Bar Barrum Cluster - Bar Barrum #2 to #7

The six Bar Barrum claims making up the Bar Barrum cluster cover a very large area generally to the west of Mareeba and Herberton and extending west to encompass Mount Garnet and Almaden. The historic township of Irvinebank is approximately in the centre of the claim areas. The six claims are Bar Barrum People #2 (QUD6015/01), Bar Barrum People #3 (QUD6017/01), Bar Barrum People #4 (QUD6030/01), Bar Barrum People #5 (QUD6031/01), Bar Barrum People (QUD6032/01) and Bar People Barrum #7 (QUD6033/01).

The original Bar Barrum native title claim was determined in 2001. This claim was not an 'area claim' and consisted of a number of parcels spread out over a large area of Bar Barrum lands. All of the Bar Barrum lands are now within the cluster and were filed in 2001.

Drawing upon the connection material collected for the original determination, a further detailed connection report was commissioned and submitted to the State in June 2009.

The State of Queensland responded to the consolidated connection material in December 2009. This led to the Applicant and the State agreeing to a connection mediation process to be chaired by the National Native Title Tribunal (NNTT). The parties consequently agreed in mediation that the connection material of the Applicant would be supplemented by further specific anthropology work and in the collection of direct evidence from the contemporary claim group.

A supplementary report was provided to the State in May 2011 and the direct evidence was provided to the State in July 2011. Following a review of the material, the State advised NQLC that it will be willing to enter into substantive negotiations towards a consent determination following resolution of some further issues.

On 3 February 2012 the State advised that it accepted connection for the purposes of negotiations towards a consent determination. The Applicant, State and other respondents have formulated and agreed upon a program for consent determination in September 2012.

#### Birri People

The Birri People's (QUD6244/98) claim was lodged on 2 April 1998. The claim south-west of Townsville is over land and waters and centres around the township of Collinsvale boundaries, from as far east as Mount Anerdeeb south to Glenden, and west to Mingela and the base of the Kirk River.

The Birri people were privately represented until 13 February 2009 when NQLC filed a Notice of Change of Solicitor for the Applicant. Little connection research was undertaken until NQLC filed the Notice of Change of Solicitor for the Applicant. The Applicant provided connection material to the State for review as part of the mediation process. The Applicant has now terminated the services of NQLC and has engaged a private lawyer to assist them with prosecuting the claim. The NQLC keeps a watching brief over this matter.



Combined Gunggandji

Combined Gunggandji (QUD6013/01) native title application was lodged on 27 April 2001 and was registered.

Considerable progress has been made in this matter with seven ILUAs being authorised and lodged for registration and all parties agreeing to a draft determination.

The matter continued to be negotiated during the reporting period culminating in a consent determination of native title in December 2011.



#### Combined Mandingalbay Yidinji Gunggandji

Combined Mandingalbay Yidinji Gunggandji (QUD6016/01) is largely located within the Yarrabah Aboriginal Shire Council which is a DOGIT east of Cairns. The claim was filed on 3 December 1999.

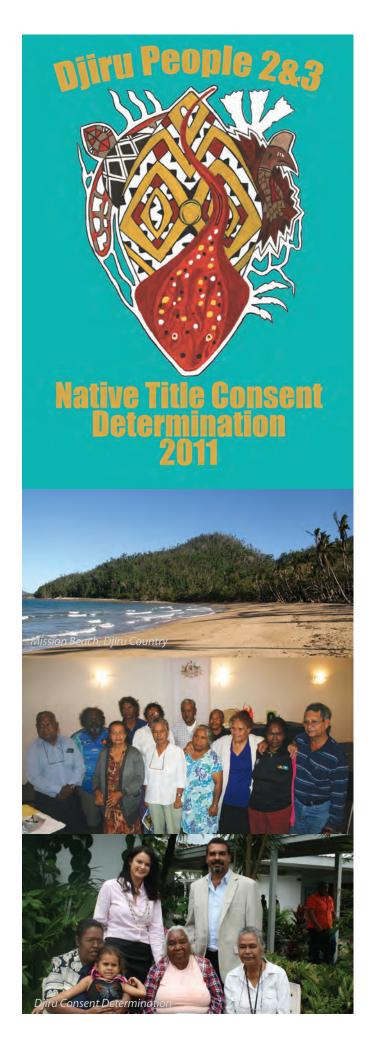
This matter has continued in Federal Court Case Management convened by Federal Court Registrar, Ms Louise Anderson. Through this process, six ILUAs have been completed, authorised, executed and lodged for registration. A number of objections to the ILUAs were dealt with by the NNTT with none of the objections being upheld.

One of those ILUA's was an ILUA with the Wanyurr Majay People that recognised certain rights of theirs to come onto the claim area and carry out certain traditional activities.

The claim, originally scheduled for determination in December 2011, was delayed due to a number of intra and inter indigenous disputes which were the subject of further negotiation and mediation. The claim is now to be determined in the following financial year.

#### Country Based Management Planning

This project is ongoing as National Parks are being gazetted whereby requiring consultation with traditional owners in developing plans of management for the new National Parks. The consultation process with traditional owners has been assisted by the NQLC and the Department of Environment and Resource Management (DERM) developing the *Traditional Owner Communication Protocol Agreement*. This mechanism assists by identifying the traditional owner groups for the National Park, weather the National Park is a new gazetted park and/or the park management plan is being reviewed. Currently the Danbulla National Park Management Plan is being developed and this consultation is being applied.



#### Djiru Cluster- Djiru People #2 & #3

These claims located around the area of Mission Beach have both been registered. Djiru People #2 (QUD6003/03) was filed on the 7th April 2003 and Djiru #3 (QUD 6006/03) was filed on 7th July 2003.

A number of ILUAs have been authorised and registered including: Cassowary Coast Regional Council, Ergon Energy and State of Queensland Protected Area and Tenure Resolution ILUAs.

Consent determination was achieved on 1 September 2011.

The NQLC has been negotiating with the Queensland State Government since 2003 to have certain parcels of unallocated State land (USL) of significance to the Djiru people made transferable under the State of Queensland's *Aboriginal Land Act 1991* (ALA). The parcels were regulated as transferrable under the ALA with the transfer taking place on 27 June 2012.

The NQLC has assisted the Djiru people in establishing the Djiru Warrangburra Aboriginal Corporation to hold these parcels for the Djiru people. The corporation was registered by the Office of the Registrar of Indigenous Corporations on 20 August 2009.

#### Djungan Cluster- Djungan People #1, #2, #3 & #4

Located west, north-west of Mareeba, these claims are registered and were filed with Federal Court on the following dates:

Djungan People #1 (QUD208/97) - 17 May 1995; Djungan People #2 (QUD6022/98) - 19 April 1996; Djungan People #3 (QUD6116/98) - 19 February 1997; and

Djungan People #4 (QUD6036/01) - 5 October 2001

Connection was agreed by all parties and a number of ILUAs were authorised and will be lodged for registration in the new financial year. Throughout the reporting period the negotiation of the determination of the Djungan claims continue to be negotiated by all parties. An interesting feature with respect to the ILUAs was that they were couched in terms of body corporate ILUAs with the s. 87 agreement being used as a vehicle to record consent of the parties to obey the terms and conditions of the ILUAs prior to determination and registration.

The Djungan claims are to be determined in August 2012.





#### Djungan People - Small Scale Mining ILUA

The Djungan People Small Scale Mining (SSM) ILUA expired in 2009. In July 2010, the Djungan People (jointly with the Ewamian and Western Yalanji Peoples) commenced negotiations between the native title parties, the North Queensland Miners Association (NQMA) and the State with the view of developing a new SSM ILUA. In March 2011 the NQMA requested the NNTT assist in the negotiations. Substantive negotiations concluded in September 2011 however drafting of the ILUA has been slower than expected. It is expected that drafting will be settled and authorisation conducted in the 2012-13 period.

#### Ewamian Cluster- Ewamian People #2 & #3

The State has now accepted connection for the purpose of substantive mediation.

A timetable to progress to determination in the latter part of 2013 has been agreed.

Ewamian people have already in place a number of ILUA's . Further ILUA's are being developed.

One particular challenge for this claim will be settling pastoral ILUA's.

#### Ewamian People - Small Scale Mining ILUA

The Ewamian People SSM ILUA expired in 2008. In July 2010 the Ewamian People (jointly with the Western Yalanji and Djungan Peoples) commenced negotiations between the native title parties, the NQMA and the State with the view of developing a new SSM ILUA. In March 2011 the NQMA requested the NNTT assist in the negotiations. Substantive negotiations concluded in September 2011 however drafting of the ILUA has been slower than expected. It is expected that drafting will be settled and authorisation conducted in the 2012-13 period.

#### Galilee Basin Gas Exploration Project

Arrow Energy proposes to conduct a program of exploration for coal seam gas in the Galilee Basin. The proposed area of the tenement impacts upon the native title application areas of the Gudjala People #1 (QUD80/2005) and Gudjala People #2 (QUD147/2006), as well as those of the Ewamian, Ngawun Mbara and Yirendali Peoples. NQLC is assisting the Gudjala People in their negotiations with Arrow Energy. Delays continued to be experienced in the proposed meeting timetable due to Arrow Energy's commitment to other negotiations conducted in the Bowen Basin area. Consequently only one negotiation meeting was held early in the reporting period with the Gudjala Negotiation Team (August 2011). A notice pursuant to s. 29 of the Native Title Act 1993 (Cth) (NTA) of proposed grant to authority to prospect 714 to Arrow Energy

was issued with a notification date of 21 March 2012. It is expected that more regular meetings pursuant to the right to negotiate will occur during the next reporting period with a view to reaching a negotiated outcome by way of s. 31 Deed and Ancillary Agreement.

#### Gimuy (Walubara) Yidinji (Proposed Claim)

The Gimuy Yidinji proposed claim is situated within Cairns Regional Council.

NQLC has been unable to progress this matter and understand the Gimuy Yidinji people are currently progressing a claim without our assistance.

#### Gudjala People and Gudjala People #2

Gudjala People #1 (QUD80/2005) and Gudjala People #2 (QUD147/2006) claims were filed by the Central Queensland Land Council Aboriginal Corporation (CQLCAC) in 2005 and 2006 respectfully. They include the town of Charters Towers and comprise approximately 19,1681 km² mainly to the north-west of that town. After filing in 2006, Gudjala People #2 was finally registered on 30 of June 2010. During these dates this matter was considered by the NNTT, the Federal Court, the Full Federal Court, was remitted back to the Federal Court and finally reconsidered by the NNTT.

On the 17th of June 2011 the decision of Dodd on behalf of the *Gudjala People Core Country Claim* #1 v State of Queensland [2011] FCA 690 was handed down. This was an application to remove an Applicant who had resigned and this application was opposed by the Commonwealth of Australia, who argued that a new authorisation meeting was required. The Hon. Justice Logan found that the original authorisation was not expressed in terms of joint authority, but rather authorised each of the named persons personally. Logan also found that both the NTA and the Federal Court Rules empowered the Court to remove Mr Santo from the application.

These matters are being run together and over the last twelve months have advanced in discussions with the State of Queensland. Two directions hearings were held during the reporting period, Logan placed the matters into case management. During the reporting period the Applicant submitted further connection material to the State for review as part of the case management process. On 31 May 2012 the State advised that it accepts the Applicant's connection material for the purpose of substantive negotiations towards a consent determination subject to the Applicant providing draft legal submissions by 25 October 2013. A consent determination timetable has been settled by all parties, it is anticipated that a consent determination will be held on country at Charters Towers in 25 November 2013. In the meantime the Applicant is negotiating several ILUAs with respondent parties which operate to inter alia facilitate the consent determination. It is anticipated that these proceedings will be placed on the determination list.

#### Gugu Badhun People #2

The Gugu Badhun people are located in the Kennedy District to the west of Ingham and north-west of Townsville. The claim is over land and waters which covers an area that goes from the Upper Burdekin River north to Meadowbank Station and south to Clarke River. The registered Gugu Badhun claim (QUD85/05) was lodged on 22 April 2005 with the assistance of the former CQLCAC.

The State and respondent parties accepted connection for this claim and the Court ordered that the matter be referred to intense case management before a Court Registrar for the purpose of a consent determination. Several ILUAs were negotiated and signed by the Applicant to facilitate the making of a consent determination and a streamlined tenure approach was adopted by the State to expedite the making of the determination. A consent determination hearing will be held on country at Greenvale on 1 August 2012 where Justice Logan will deliver a judgment recognizing the Gugu Badhun People as native title holders exercising native title rights and interests in the determination area.

#### Hay Point Expansion ILUA

An ILUA to facilitate the expansion of the Hay Point Port Terminal was negotiated with representatives for persons who hold or may hold native title over the proposed project area. The parties to the ILUA are BM Alliance Coal Operations Pty Ltd (ABN 67 096 412 752) as manager for and on behalf of BHP Coal Pty Ltd ACN 010 595 721, BHP Queensland Coal Investments Pty Ltd ACN 098 876 825, UMAL Consolidated Pty Ltd ACN 000 767 386, Mitsubishi Development Pty Ltd ACN 009 779 873, QCT Mining Pty Ltd ACN 010 487 840, QCT Investment Pty Ltd ACN 010 487 831 and QCT Resources Pty Ltd ACN 010 808 705. The State of Queensland is also a party to the ILUA.

Persons who hold or may hold native title over the proposed project area authorised the ILUA on 26 August 2011 at Mackay. The ILUA was registered on 30 May 2012. Implementation of the ILUA is ongoing.

#### Implementation of ILUAs

ILUAs often provide for ongoing activities that occur post determination, these matters can arrange from land exchange agreements to heritage clearance matters, other areas of ongoing co-operation between Indigenous groups developing mining proponents and State Government. Where the ILUA concerns companies that can pay for the matters outlined in the ILUA, like development proponents and mining companies, the ILUA will normally provide for payments by that proponent or mining company. However, where the ILUA involves other benefits to the traditional owners, such as land exchange where in exchange of releasing land from native title claims the native title holders gain other land (freehold) these arrangements are inevitably with the State, which does not pay anything towards the cost of implementation (other than possible stamp duty and transfer fee reductions). The NQLC therefore needs to provide a supporting role to these groups to carry out the implementation of the ILUA to achieve the on the ground results.



#### Jangga People

The Jangga people are located to the west of Mackay in Central Queensland and in the south of what is known as the Bowen Basin.

The registered Jangga claim (QUD6230/98) was lodged on 2 April 1998 with the assistance of the former CQLCAC. As with all claims represented by the former CQLCAC, written instructions were obtained for the NQLC to be the representative of the Jangga people from 1 July 2008.

Two directions hearings were held during the reporting period. The matter was ordered to mediation towards a consent determination before the NNTT. During mediation the Applicant negotiated body corporate ILUAs to facilitate the making of a consent determination. The ILUAs are with the State of Queensland regarding several protected areas, numerous pastoralists regarding access and Ergon Energy regarding access and native title and cultural heritage compliance. On 17 May 2012 the Court made Orders programming the matter to a consent determination to take place on country at Glenden on 9 October 2012.

#### Juru (Cape Upstart)

Juru (Cape Upstart) (QUD6249/98) (formerly known as Birri Gubba [Cape Upstart], filed on 19 June 1997) native title application is over Cape Upstart National Park, south-west of Ayr-Homehill.

The Federal Court of Australia made a determination of native



#### Juru People

The Juru People (QUD554/10) was filed on 15 December 2010 and was registered on 27 May 2011. The claim covers the Abbot Point Port Area and State Development Area. The State of Queensland has accepted the anthropological material provided by the Applicant and has advised they are prepared to enter into substantive negotiation towards a consent determination. A mediation program to progress the matter to determination is currently being formulated. It is anticipated Juru People QUD554/10 will be combined with Juru People #2 QUD7/12 prior to determination.

#### Juru People #2

The Juru People #2 (QUD7/12) was filed 5 January 2012 and registered 11 April 2012. The claim covers the rest of Juru core country. The State of Queensland has accepted the anthropological material provided by the Applicant and has advised they are prepared to enter into substantive negotiation towards a consent determination. A mediation program to progress the matter to determination is currently being formulated. It is anticipated Juru People #2 QUD7/2012 will be combined with Juru People QUD554/10 prior to determination.

#### Juru People – Port of Abbot Point and State Development Area ILUA

An ILUA to facilitate the expansion of the Abbot Point Port and State Development Area was negotiated by the Juru People, North Queensland Bulk Ports and the Co-ordinator General. The Juru People authorised the ILUA on 13 August 2011 at Bowen. Implementation of the ILUA is ongoing.

#### Mamu People

The Mamu People (QUD6014/01) registered native title application was lodged on 6 April 2001 and is located in the Innisfail region.

The State of Queensland has accepted the anthropological material provided by the Applicant and has advised they are prepared to enter into substantive negotiation towards a consent

determination. The Federal Court of Australia has advised that this is likely to occur in September 2012.

A number of ILUAs to compliment the determination have been registered.

Manbarra - Palm Island Improved Land Management Practices ILUA

NQLC is pleased to report that the Palm Island Improved Land Management Practices ILUA was authorised on 27 November 2011. The ILUA is between the Manbarra People (the traditional owners), the State of Queensland and the Palm Island Aboriginal Shire Council. The ILUA was registered on 7 July 2012.

The ILUA provides various consents for housing and infrastructure. It also allows for the grant of an *Aboriginal Land Act 1991* ninety-nine year lease over part of the island to the Manbarra People. Implementation of the ILUA is ongoing.

Mandingalbay Yidinji People #2 and Wanyurr Majay People (Lower Coastal Yidinji- Southern Cluster) (Dispute Resolution)

Mandingalbay Yidinji People #2 (QUD6007/00) claim was lodged privately on 10 August 2000 and without NQLC assistance and covers an area including Woolanmaroo. The area of Mandingalbay Yidinji #2 registered claim is over a former pastoral lease. Mandingalbay Yidinji purchased the last few weeks of the lease term (Queensland Government having made it known that the lease would not be renewed) and lodged the claim whilst the lease still existed seeking to take advantage of s. 47A of the NTA, whereby the extinguishment that would have occurred due to the granting of the pastoral lease is to be ignored.

The Mandingalbay Yidinji #2 claim now has independent legal representation.

An anthropological advice was obtained from Dr Pannell.

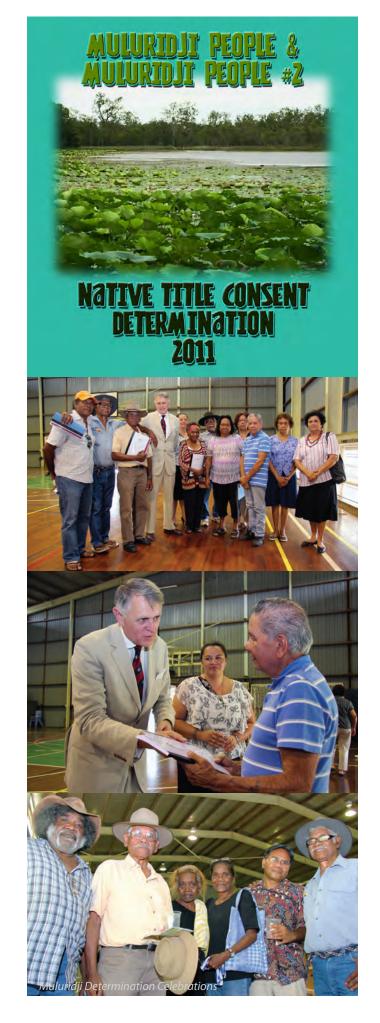
The dispute between the Wanyurr Majay people and the Mandingalbay Yidinji was not able to be resolved and the Court made orders affectively propelling this matter towards a trial. As a result, the Applicants of the Mandingalbay Yidinji People #2 withdrew the claim.

# Muluridji Cluster- Muluridji People and Muluridji People #2

There are two Muluridji people claims, these being Muluridji People (QUD6208/98) in an around Mareeba and the Hann National Park and Muluridji People #2 (QUD6035/01) being lands to the west of Mount Molloy. This is some 60 km north-west of Cairns.

The original connection material of the Applicants date from 2006 and following negotiations with the State of Queensland and the commissioning of new studies, detailed supplementary connection material was submitted to the State in June 2009. The Queensland State Government responded in a positive manner to the additional connection material and the Applicant and the State agreed to connection mediation chaired by the NNTT in order to finalise the proof of native title for the purposes of substantive mediation, that is, acceptance of connection. The Applicant and the State subsequently agreed that the Applicant would address a number of specific anthropology issues raised by the State but more particularly and in order to assist the State to reach a decision expeditiously, the Applicant would collect direct evidence in the form of statements or affidavits from a representative cross section of the contemporary claim group. This work was well advanced as at 30 June 2010.

The Applicant provided the State with the direct evidence in the form of affidavits from the contemporary society of Muluridji on 30 September 2010. The State of Queensland advised on 8 November 2010 that they had accepted the anthropological material for the purpose of substantive negotiations. Notwithstanding the State's acceptance of the material, the other component to the work to be completed was in relation to specific genealogical questions raised by the State and further affidavits. It was expected that this material be delivered to the State on or before 31 March 2011. The Applicant provided the State with a Genealogical Report





completed by the NQLC anthropologists and further affidavit material on 29 April 2011.

Directions hearing held 30 May 2011, the Court indicated a suitable date for consent determination of the claims would be December 2011 and ordered the Applicant to notify the Deputy District Registrar in writing as to the present position on the progress of negotiations of the parties towards the making of a consent determination.

With the assistance of the NNTT a detailed timetable for resolution towards consent determination was agreed to by NQLC, the State of Queensland and key respondent parties.

A number of ILUAs had been negotiated to assist in the resolution of the claim. In particular, ILUAs with the Tablelands Regional Council, Ergon Energy, the State of Queensland for Protected Areas. These ILUAs were authorised by the claimant group on 23 and 24 June 2011. The State of Queensland and Ergon ILUA's were lodged with the NNTT in August and notification commenced October 2011 both ILUA's were accepted and registered 20 January 2012. The Tableland Regional Council ILUA was lodged with the NNTT mid-October 2011 and registered by NNTT on 16 March 2012.

The Applicant and Working Group have negotiated a Use and Access Agreement and Memorandum of Understanding with the Wildlife Conservancy of Tropical Queensland and these were finalised and executed by the parties on 22 November 2011.

The Federal Court of Australia set down the Muluridji matters for a determination hearing on 14 December 2011 at Mareeba. These matters were successfully determined by his Honour Justice Logan on 14 December 2011 in Mareeba.

#### National Native Title Council Support

The NQLC was a member of the National Native Title Council in 2011-12.

# National Native Title Tribunal Arbitration of Future Act Determination Application

This is an ongoing activity. Of the 224 s. 29 Notices received in the 2011-12 period, no proponent has triggered the s. 35 provision.

#### Ngawun Mbara People Core Country Claim

The Ngawun Mbara (QUD448/2006) claim comprises around 13,752 km², immediately north of the town of Richmond, and was filed in 2006 by CQLCAC to replace three Woolgar claims. It was amended by CQLCAC in 2007 in response to advice from the NNTT. Despite that advice it failed the registration test and was ordered to show cause why it should not be dismissed in May 2008. NQLC became responsible for this matter in June 2008. The claim was discontinued on 8 December 2011.

#### Pastoral ILUA Template (Delbessie Agreement)

Since August 2010, NQLC with the DERM, Agforce and Queensland South Native Title Services have been a part of a consultative committee convened by the NNTT to develop a template Pastoral ILUA. The template Pastoral ILUA aims to address pastoral lessee's interests and native title parties' interests in relation to pastoral leases.

In October 2011 the Pastoral Template ILUA was finalised, as well as a guide to the ILUA.

# Protection of native title rights and interest and promote sustainable development in Sea Country.

The NQLC in collaboration with traditional owners associated with sea country have completed the Far North Queensland Sea Country Plan. This was presented and endorsed at the NQLC Sea Country Forum. In addition to the Far North Queensland Sea Country Plan, the traditional owners has endorsed the NQLC to engage the consultant Deloitte to develop in collaboration with the Sea Country Steering Committee a implementation Sea Country

Business Plan that will enable the sea country traditional owners to continue to protect the native title rights and interests over their sea country.

# Tableland Yidinji Cluster- Tableland Yidinji and Tableland Yidinji People #3

The Tableland Yidinji people are located in the general area of Lake Tinaroo and its catchments and west to the boundary of the town of Atherton. Tableland Yidinji People (QUD6030/99) was first filed on 25 October 1999, while Tableland Yidinji People #3 (QUD208/04) was lodged on 14 October 2004.

The primary connection report of the Tableland Yidinji people was submitted to the State of Queensland in 2005. Following negotiations with the State a further supplementary report together with two specific topic reports authored by relevant experts have also been submitted. The State has provided a date in October 2010 at which it will provide its assessment of the consolidated connection material. The State's response indicated further work would be required by the Applicant. The Applicant provided the State with Legal submissions and further affidavit material in July 2011.

On 29 September 2011 the State advised the Applicant that they had accepted the anthropological material for the purpose of substantive negotiations towards consent determination.

With the assistance of the NNTT, the NQLC, State of Queensland and participating respondent parties agreed on a detailed timetable for resolution towards consent determination in December 2012.

A number of ILUAs have been negotiated to assist in the resolution of the claim. In particular, the ILUAs with the Ergon Energy, the State of Queensland for Protected Areas and the Cairns Regional Council. These ILUAs were authorised by



the claimant group and executed by the Applicant members on 22 May 2012. The Ergon Energy ILUA was notified by NNTT on 29 August 2012. The Cairns Regional Council ILUA was executed by the Council on 3 September and provided to NNTT for registration. The State of Queensland Protected Area's ILUA required re-executing by the Applicant due to sectional changes within the DERM, the Applicant re-executed the ILUA on 20 September 2012 and provided the ILUA copies to the State on 26 September 2012.

During 2010 the Tableland Yidinji people concluded a comprehensive local government ILUA with the Tablelands Regional Council. As at 10 December 2010 the ILUA was registered by the NNTT.

Due to intra-Indigenous issues these matters have been listed for intense case management before Registrar's Chris Fewings and Ann Daniel. A case management conference has been scheduled for 5 and 6 November 2012 to discuss these issues.

The Federal Court of Australia has set down the Tableland Yidinji matters for a determination hearing on 14 December 2012.

#### Tableland Yidinji People Small Scale Mining ILUA/ s. 31 Ancillary Deed

Two s. 29 Notices affecting the Tableland Yidinji People were Notified on 14 December 2012. Each proponent has been contacted to provide certain materials to allow the Tableland Yidinji People to determine the breadth/intensity of negotiations required. Materials have been received from one proponent. A meeting of the Tableland Yidinji People is to be convened in the first quarter of the 2012-13 period to secure instructions to proceed.

#### Tagalaka People and Tagalaka People #2

Tagalaka People (QUD6109/98) native title application is located around the township of Croydon, which is west of Cairns. It is a registered claim that was filed with the Federal Court on 29 September 1998.

Tagalaka People #2 (QUD6020/01) is a registered claim and was filed on 29 June 2001. This native title application takes in a large proportion of

Croydon Shire Council, along with smaller portions of Etheridge and Carpentaria Shire Councils. There are 47 pastoralist respondent parties; the majority is represented by AgForce Queensland.

The matters are currently being case managed by a Court Registrar and a consent determination is expected in December 2012.

#### Townsville (Proposed Claim)

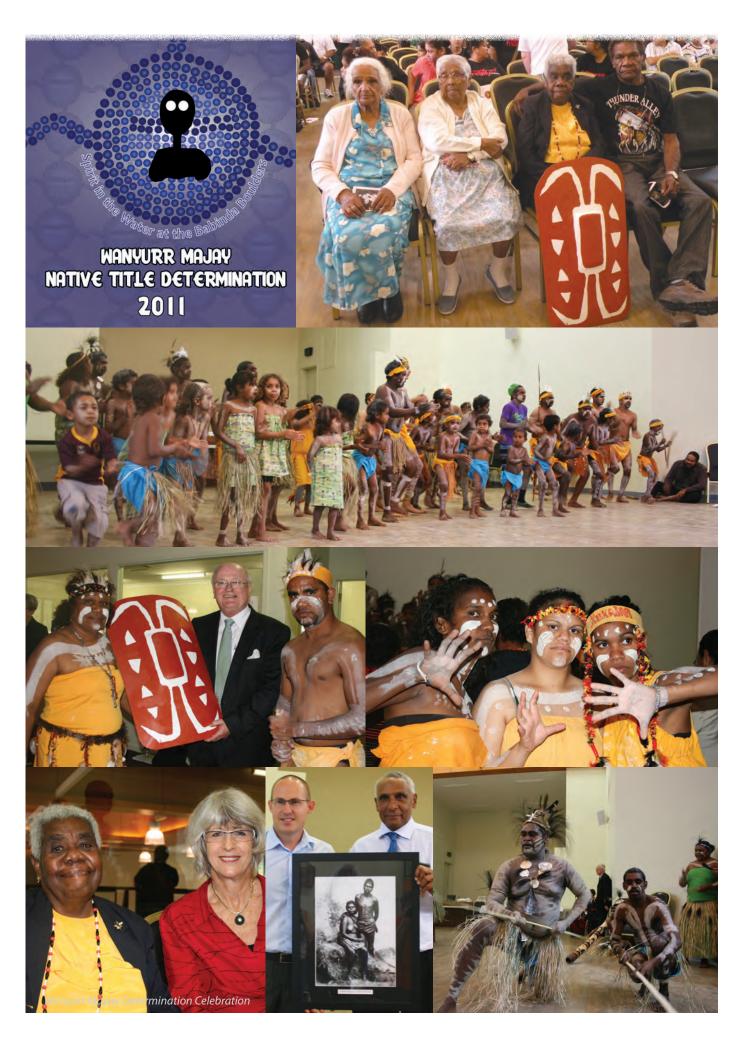
This proposed claim was formerly represented by the former CQLCAC. The NQLC have reviewed the available anthropological material collected by CQLCAC. Anthropological research over the area has been identified. Preliminary anthropological research was completed in 2011 by NQLC in-house anthropologist. The anthropological research is ongoing at present.

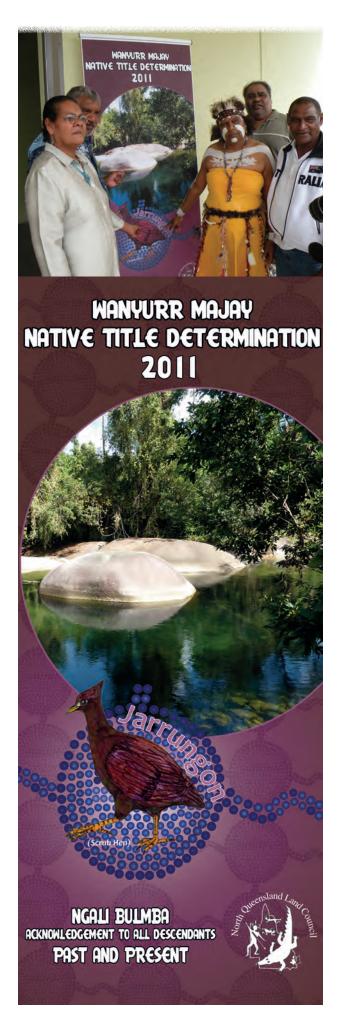
Wanyurr Majay People (Lower Coastal Yidinji-Southern Cluster)

The Wanyurr Majay native title determination application (QUD296/08) was registered on 4 February 2009. The majority of the claim is within the boundary of the Wooroonooran National Park.

His Hounour, Justice Dowsett gave a consent determination on 31 August 2011 at Babinda. The consent determination recognise non-exclusive native title in the claim area.







#### Warrungu People #2

The Warrungu people are located in the Kennedy district to the north-west of Cardwell. The Warrungu People #2 (QUD111/04) was filed on 30 June 2004.

The primary connection report of the Warrungu people was submitted to the Queensland State Government in 2005. The Applicant subsequently agreed to provide a supplementary connection report. The field research for this report was hampered by a number of delays including record flooding and a cyclone in the claim area in early 2009. The supplementary report was finally submitted in January 2010 and the Applicant and the State agreed to connection mediation chaired by the NNTT in order to facilitate agreement on what additional work may be required. The Applicant subsequently agreed to additional work consisting of direct evidence from the contemporary claim group and additional anthropology work.

A further supplementary anthropological report was provided to the State in June 2011 and direct evidence was provided to the State in July 2011. On 31 May 2012 the State advised that it accepted connection for the purposes of negotiations towards a consent determination.

The Applicant, State and other Respondents have formulated and agreed upon a program for consent determination in August-September 2012.

#### Water Management

Water Management is an ongoing project as traditional owners continue to engage with third party interest to protect their own native title rights and interests to water. Consultation is also ongoing in relations to traditional owners allocation to the use of water for traditional owners commercial and cultural activities. This is being developed in the Mitchell River catchment area.

The Mitchell River catchment area involves three traditional owner groups the Bar Barrum, Western Yalanji and Muluridji.

### Western Yalanji People Cluster- Western Yalanji #4 to # 6

The Western Yalanji People cluster is made up of two registered native title claims and a third combined registered native title application:

- Western Yalanji People #4 (QUD6008/99) filed on 18 March 1999;
- Western Yalanji People #6 (QUD6037/01) filed on 5 September 2001; and
- Western Yalanji Combined #5 and #7 (QUD6003/01) filed on 23 April 2007.

The Western Yalanji people's claims are located west of the Great Dividing Range and inland from the Daintree National Park.

The Western Yalanji claims are currently managed by a Court Registrar.

These matters have been delayed due to inter-Indigenous disputes. The Western Yalanji #6 claim will require further research, whereas the parties to Western Yalanji People #4 and Western Yalanji Combined #5 & #7 are now working towards a consent determination by September 2013.

# Western Yalanji People and Muluridiji People (Dispute Resolution)

The Muluridji people assert interests in the area of Western Yalanji People #6 (QUD 6037/01). On 25 November 2011, the Court ordered each of the Western Yalanji proceedings to intensive case management by the a Court Registrar. Between April and May 2012, several intensive case management conferences were convened. An intensive case management conference between the two groups is proposed for July 2012.

#### Western Yalanji People- Small Scale Mining ILUA

The Western Yalanji People SSM ILUA expired in June 2011. In July 2010 the Western Yalanji People (jointly with the Ewamian and Djungan Peoples) commenced negotiations between the native title parties, the NQMA and the State with the view of developing a new SSM ILUA. In March 2011 the NQMA requested the NNTT assist in the negotiations. Substantive negotiations concluded in September 2011 however drafting of the ILUA

has been slower than expected. It is expected that drafting will be settled and authorisation conducted in the 2012-13 period.

#### Wiri People Core Country Claim

Wiri People Core Country (QUD372/06) was lodged in the Federal Court of Australia on 29 September 2006 and is currently not in mediation. The claim area is over land and waters and centers around the township of Nebo, south-west of Mackay. Boundaries from as far west as Lenton Downs Station, north to Sandy Creek and east to Mount Nice

Two directions hearings were held and attended during the reporting period. During the reporting period a further consultant anthropologist was engaged by NQLC to prepare a connection report for the purpose of mediation. The anthropologist has completed all field work and research and connection material is to be provided to the State by 5 October 2012. Upon receiving the connection material the State has 28 days to advise how long it will take them to review and provide comment on that material. NQLC anticipates that upon receiving the State's review comments the matter will be referred to intense case management before a Court Registrar.

#### Yirendali People Core Country Claim

Yirendali People Core Country Claim (QUD495/06) is situated in Hughenden area. It was lodged on 13 December 2006 by CQLCAC and is registered. The NQLC became responsible for it in June 2008. After repeated and unsuccessful attempts to obtain instructions, NQLC was forced to withdraw as the legal representative for this matter in July 2010. Yirendlai people are represented by Dillon Lawyers. NQLC maintains a watching brief.

#### Yuibera People

This claim (QUD6223/98) was lodged 8 July 1998 and subsequently registered. The claim was located in the Mackay area. The claim was withdrawn on 20 June 2011. During this funding period anthropological research was undertaken by a consultant anthropologist.

#### 5.3 Narrative Discussion and Analysis of Performance

#### 5.3.1 Trend Information

The following trends continue to have an impact on native title claims:

- Continuing difficulty of availability of experienced native title researchers, especially as more and more claims in all Native Title Representative Bodies (NTRB) regions reach the point where research is required.
- The increasing pressure from the Federal Court to dispose of claims.
- The increasing pressure from the Courts has an impact not only on NTRBs but also on the State. Anecdotal evidence suggests that the Crown Law Department dealing with native title matters is particularly under pressure.
- The NNTT's approach to the application of the registration test, which appears to be of an overly technical nature and often inconsistent in application.
- The Queensland State Government's hardening attitude and literal (and in NQLC's opinion is often erroneous) interpretation of the case law in regard to connection material.
- On the positive side, the attitude of the State that following the delay in the determination of the Girrmay matter, namely that full genealogies were to be supplied on each matter, has softened and in some matters it has been possible to agree that sample genealogies of named families will be sufficient.
- The State appears to also suffer from difficulty of obtaining qualified and experience Anthropologists to assess connection reports.
- Respondents to claims have in many cases demanded that ILUAs be entered into dealing with their interest prior to consenting to a determination to native title. The Courts have indicated that ILUAs are not the concern of the Court and the Courts are there to deal with the application for the determination of native title only. There has been some encouraging statements to the effect that it is an abuse of process for a respondent to decline to consent unless an ILUA is entered into.

In our previous Annual Reports, we noted a number of matters which are reproduced below; these comments appear to be as equally applicable to the current reporting period as they were to the previous periods.

The State of Queensland appears to adopt criteria for assessing connection which is more stringent than that which might be required in a trial. For example, the State now continually asks for examples of the use of certain native title rights with the very clear implication that if those examples are not forthcoming then that right does not exist. This is contrary to the decisions of the Federal Court. In particular, the Court has recognised that a right may be possessed without that right actually having to be exercised in any particular way or indeed at all.

The State appears to be moving in the direction of a conservative interpretation of anthropological issues in native title claims which firstly does not reflect the remedial and beneficial nature of the NTA. Secondly, it is inconsistent with their policy to assess connection material for mediation purposes only, with a view to proceeding to a consent determination where the Federal Court only has to be satisfied that there is a reasonable basis to draw a reasonable inference from the material to be satisfied that the requirements of the Act have been met.

NQLC has noticed that the protracted nature of native title matters does have an adverse impact upon some of the applicants and members of working groups who end up spending an inordinate amount of their private time attending to these matters. In short, they suffer from 'burn out'.

We have previously commented upon the number of minor respondent parties to some native title claims especially those respondents whose interest seem to be little more than the interest of any member of the

public. NQLC has long been critical of funding of such parties in light of the fact that the State has a role to ensure that public interests are protected. Whilst the number of such parties appears to be decreasing the NQLC still believes that the NTA should be amended to require that a respondent should have an interest approaching, if not actually, a proprietary interest.

Whilst there have been a number of minor amendments to the NTA there appears to be a reluctance by Parliament to deal with serious defects in the NTA. For example, the NTA contains a certain illogicality in that a determination of native title is a determination of what is and has always been. It is therefore illogical to say that, a determination will affect the rights of another person. If native title exists and has always existed then the other parties' rights are presently burdened by that native title in any event.

Announcements by the Attorney General in June focused around the government's intention to make changes to the taxation treatment of payments received by traditional owners as a result of mining or other agreements.

Whilst these announcements were pleasing as far as they went, it was great disappointment that it did not deal with any changes to the burden of proof in native title matters.

#### 5.3.2 Factors, Events or Trends Influencing Performance

NQLC continues to hold concerns that the 'reporting by numbers' approach does not reveal anything about the quality of or the difficulty of achieving the outcomes reported.

Unfortunately, there is still a continual pursuit by some respondent parties to use the native title process as a means of self-gain particularly in regard to the upgrade of land tenure. NQLC sees this as an abuse of process.

NQLC has been and continues to be critical of the processes that are adopted by the State of Queensland in regard to applications by private individuals seeking an upgrade of land tenure. Currently the State, through its various agencies, sets about assessing an application without any consideration of native title issues so that after a period of time (in some cases two years) the applicant receives a letter from the State indicating that the State is prepared to grant the upgrade subject to resolving native title issues. This creates unrealistic expectations in the applicant as to how swiftly the resolution of the native title might be. Given that the letter from the State usually sets a price for the State's consent, the applicant is often disappointed to learn native title holders will want something in return for the agreement and questions then arise. Assuming an agreement can be reached, who will fund the very expensive process of drawing up and authorising an ILUA? NQLC's view is that the applicant should first be referred to the NTRB so that the likelihood of the native title holders being prepared to enter into an agreement is considered initially.

An observable trend is the use of the native title system by respondent parties, such as Local Government authorities, to seek rectification of past wrongdoings or failures in exchange for consent determinations. Rather than base their decision to consent on proper considerations, such as proof of connection, the process is being used to force native title holders to agree to the correction of mistakes which have nothing to do with the native title holders. Examples of this type of mistake are roads constructed outside of road reserves, aerodromes and other facilities constructed outside of the reserves set aside for the same, illegal infrastructure constructed without proper tenure and similar.

The following factors also influenced performance:

- native title law being the subject of evolving Federal Court of Australia decisions;
- frequent changes to reporting criteria;
- ever changing demands of the State of Queensland and their various interpretations of case law;
- inconsistencies of the State of Queensland from one case to anther;
- difference of the interpretation of the native title case law between different judges of the Federal Court;

- inconsistency of approach by the NNTT to registration testing;
- the practice of native title law exists in a constantly changing environment making orderly progression of claims difficult; and
- availability of qualified anthropological consultants.

#### 5.3.3 Significant changes in nature of Principal Functions/Services

NQLC continues to concentrate on its core functions and core native title work. Accordingly, there has been no significant changes in the delivery principles functions/services NQLC delivered in the financial year 2011-12.

# 5.3.4 Performance against Service Charter/Standards, Complaints Data and the NCLC's response to Complaints

In accordance with funding requirements the NQLC developed a *Strategic Plan*.

The *Strategic Plan* sets out our values as follows:

- cultural sensitivity, including the respect for traditional law and customs of the native title group;
- professional service of high quality in accordance with the requirements and functions identified in the NTA:
- fair, transparent, accountable, responsible and just operations and processes;
- leadership and excellence in corporate governance practice;
- honesty, professionalism and accountability to native title holders in the delivery of our services;
- optimum distribution of resources to achieve native title outcomes;
- maximum participation of native title holders in decision making processes;
- collaboration with native title holders and other stakeholders in the native title processes;
- responsiveness to the changing operating environment of NTRBs;
- maintenance of a harmonious and productive workplace conducive to the achievement of native title outcomes; and
- encouragement and promotion of employment, training and professional development of Indigenous people within the region.

The NQLC maintains these values through ensuring that our internal processes and policies are aimed at delivering the best possible service to our clientele. Examples of the policies and processes employed are:

- NQLC maintains a policy of avoiding overlapping claims by applying dispute resolution mechanisms to all disputes prior to claim lodgment. This dovetails with our policy of providing to the maximum extent possible, in-house legal representation of claims by minimising the instances in which conflict of interest will prevent in-house representation.
- Each claim has a claim team which is comprised of a Project Officer, Legal Officer and Anthropologist.
- We maintain a Register of Complaints.
- Our Rule Book embraces the 'separation of powers' principle with the roles and responsibilities of the Board of Directors (Board) and the administration arm under the guidance of the Executive Officer (EO).
- The Federal Court, in consultation with the Native Title Representative and Service Bodies, has set a list of claims in priority order and the applicants and the State now work on those claims in the order of priority which ensures each is focused on the same claims which helps to ensure an orderly progress in claims.

The Board sets broad policies and groups are allocated assistance in accordance with these policies. Subject to compliance with policies the professional staff acts on the instructions of the native title holding group via the working group and applicants ensuring maximum participation of the native title holders.

These policies achieve significant cost reductions allowing for the retention of professional in-house staff and ultimately greater benefit to native title groups for each dollar spent.

For claims where consultant anthropologists are used, the staff anthropologists and lawyers act as a liaison point for the consultant.

Claim groups therefore have a clear understanding of the in-house personnel who are directly assisting their claim. The first point of contact for clients in any matter is the Project Officer assigned to their claim.

Our policy of having an assigned Project Officer for each claim allows us to promote that person as the primary point of contact for the native title groups. Experience shows that many Indigenous people feel more comfortable in talking, as a first point of contact, with another Indigenous person.

The Project Officer passes enquiries to the Anthropologist or Legal Officer, as the case may be and either relays a response to the enquirer or arranges for the Anthropologist or Legal Officer to respond directly.

This ready access to the professional staff conducting claims is one way of minimizing complaints. Experience shows that complaints arise out of lack of information or lack of understanding processes.

We respond to complaints in the shortest reasonable time frame

We believe that progress on claims show that policies and adherence to our values are producing outcomes for native title holders.



### 5.4 Summary of Financial Information- Budgets/Actual by main heads of Expenditure and Revenue - Table 7

Table 7: Budgets/Actual by main heads of Expenditure and Revenue

NTRB Functions  (Funds utilised under Native Title Funding Agreement)	(1) Actual 2010-11 \$'000	(2) Budget 2011-12 (Budget) \$'000	(3) Actual 2011-12 \$'000	(4) Variation (column 3 minus column 2)
Expenditure				
Capital	130,433	190,000	332,008	142,008
Activities	5,643,664	5,200,000	5,546,143	346,143
Corporate	3,108,153	3,127,000	3,346,018	219,018
Total	8,882,250	8,517,000	9,224,168	707,168
Income				
FaHCSIA Funding	7,333,346	8,477,000	8,477,000	0
Activity Generated Income	758,808	35,000	227,321	192,321
Other Income	94,438	5,000	907,985	902,985
Total	8,186,592	8,517,000	9,612,305	1,095,305
Surplus/Deficit	(695,658)	0	388,137	388,137

#### 5.4.1 Discussion and Analysis of the NQLC's Financial Performance against Budget

During this reporting period NQLC successfully attained seven native title determinations in the Federal Court of Australia which is an exceptional result.

Work involved in preparation for this outcome has been spread over many years and it is most fulfilling to see these favourably resolved. The costs associated with achieving these determinations are high due to the numerous community meetings; claimant meetings, applicant meetings and case meetings as required in due process. Some of these costs were incurred in the prior period due the Court imposed deadlines and this contributed to a deficit in 2010-11.

The 2010-11 deficit is acknowledged to be partly the result of a timing difference between the two financial years as it has been reversed to some degree by the resultant surplus in 2012.

A large contribution to the resultant surplus was the extraordinary demand for managed grants activities and the NQLC are confident that this specialised service division will experience an going expansion

We note that other budget variances were in the areas of wages (over budget) and consultants fees (under budget), representing the utilisation of employees to achieve outcomes rather than external consultants and anthropologists. This proved to provide a significant overall cost saving to the NQLC.

Another main area of budget variance was in capital expenditure. The NQLC were finally able to obtain and install video conferencing equipment which is designed to reduce future travel costs by providing the ability to meet electronically.

#### 5.4.2 Discussion of any significant changes from the prior Year or from Budget

The NQLC was principally funded by FaHCSIA during 2011-12. A comparison of funding with the previous financial year is summarised below.

Table 8: Comparison of Grant Funding between Financial Years 2010-11 to 2011-12

	2010-11 \$	2011-12 \$
Operations	8,751,818	8,892,161
Capital	130,433	332,008
Total	8,882,250	9,224,169

Revenue from FaHCSIA increased by 16% and overall by 17% due to the contribution from managed grants activities.

The amount of funding spent on NTRB Operational activities increased by \$341,917 which was largely as a result of the increase in capital expenditure (refer to Table 8) required to support the expansion in activities.

The NQLC has again achieved an 'unqualified audit opinion' from our official examiners, WHK NQ.

## 5.5 Developments since the end of the Financial Year that have affected or may significantly affect the NQLC's Operations in Future

With the increases of the amount to data represented by the electronic documents and the need to regularly exchange data between Cairns Head Office and the offices between Townsville and Mackay, our internet demand has increased considerably and the NQLC will have to plan for the expansion of current capacity.

No other events have arisen since the end of the financial year that may affect our operations in the future.

There have been reductions in government funding for State agencies who play a major role in the native title resolution program, notably the Aboriginal Torres Strait Islander Land Implementation Program (ATSLIP).

Recent discussions with senior ATSLIP Officers indicate a staffing reduction at over 30% within their unit. The indication is that whilst they can continue to commit to their current program during 2012-13, native title claims may experience delays in processing by the State after that due to staffing reduction.



#### 6.1 Statement of the Main Corporate Governance Practices in Place

Our main corporate governance practice, starts with the clear statement in the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) Rule Book which provides for the roles of the Board of Directors (Board) and the Executive Officer (EO) in accordance with the 'separation of powers principle'. The formal adoption of this principle by the NQLC in 2001 set the platform for the continued good governance of the organisation over the ensuing years. Strong adherence to this principle has brought tangible benefits in the efficiency and capacity of the organisation to deliver native title services. Clause 15 of the Rule Book provides as follows:

*The Board is responsible for:* 

- the setting of policy and of determining the priorities of the business or functions of the Corporation.
- the setting of and approvals of budget plans.
- strategic planning.
- statutory functions.
- any functions required to be carried out by the Corporation in accordance with conditions attached to any grant of monies.
- appointment of auditors.
- appointment of an Executive Officer.
- setting, running and keeping records of all Annual General Meetings, all General Meetings and all Ward Meetings of the Corporation.
- appointment of a Contact Person.
- representing the Corporation at political forums, seminars and meetings relevant to the functions or objects of the Corporation.
- general planning for the carrying out of the objects and goals of the Corporation.

Clause 15 of the NQLC Rules also provides that the function of the EO is as follows:

The Executive Officer is appointed by the Board to manage the affairs of the Corporation and is responsible for implementing the policies and general planning set by the Board and conducting the day to day business of the Corporation.

The NQLC also has a Policy and Procedures Manual containing Board approved policies and procedures.

The role of the EO is further defined in the Policy Manual section 4.1 as follows:

*The EO is responsible for:* 

- The day to day management and administration of the NQLC (in accordance with the policy guidance of the policy and guidelines of this Manual);
- *Implementing decisions of the Board*;
- Managing the day to day financial resources of the organisation within FACSIA [now known as Department of Families, Housing, Community Services and Indigenous Affairs, FaHCSIA] guidelines and in accordance with the approved budget and variations;
- Managing the staff of the organisation including appointments, disciplinary and grievance procedures and performance review;
- Providing advice and assistance to the Board to facilitate effective decision making processes for the functions of NTRB [Native Title Representative Body];
- Identifying funding sources and in kind support from the Government and non Government agencies;
- Ensuring that Aboriginal Groups within the gazetted area of the NQLC are aware of the

- functions and policy framework of the organisation;
- Ensuring that the operations within the organisation are integrated with and complimentary to the operation of other Indigenous organisations within the region;
- Promoting the role of the Land Council at a local, regional, state and national level;
- Developing advocacy positions and submissions on behalf of the NQLC.

#### 6.2 Name of the Senior Executive and their Responsibilities

The EO is Mr Dewayne Mundraby.

The responsibilities of the EO are stated in section 6.1 above.

#### 6.3 Senior Management Committees and their Roles - Separation of Powers

Separation of Powers is dealt with in section 6.1 above.

The NQLC is controlled by a Board in accordance with the requirement of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act).

Members of the Board are elected on a Ward system which is designed to ensure that there is representation across the geographic area covered by NQLC. Members elected have a term for approximately two years (holding office from the end of one Annual General Meeting (AGM) until the AGM following in approximately two years). Ward elections last took place on 24 October 2011, with the next elections to occur prior to the AGM 2013. The number of representatives elected to the Board from each Ward is seen in Table 9.

Table 9: Number of Representatives on Board of Directors per Ward to be elected 2013

Name of Ward	Number of Representatives
Cairns Ward	2
Innisfail Ward	1
Tableland Ward	2
Mount Garnet Ward	1
Yarrabah Ward	2
Hughenden/Charters Towers	1
Proserpine/Mackay Ward	1
Townsville/Ayr Ward	1
Tully/Palm Island Ward	1

Policies of the NQLC require that the mode of communication between members of staff of the Association and the Board shall at all times be through the EO.

The Rules provided that the Board from time to time, in their discretion, can create sub-committees to deal with such matters as the Board may direct. One formal sub-committee was created in the financial year.

In addition, the Rules provide as follows:

- 13 EXECUTIVE COMMITTEE & OTHER SUB COMMITTEES
- (1) There shall be a sub-committee known as the Executive Committee;
- (2) The Executive Committee shall be composed of those persons who from time to time hold the position of:-
  - Chairperson
  - Deputy Chairperson
  - Treasurer
  - Correspondence Secretary

and such other person or persons (if any) as the Board may from time to time determine.

- (3) The Executive Committee has the power to exercise the powers of the Board in the following circumstances:
  - (a) Where an urgent decision is required on a matter and there is either:-
    - (i) insufficient time to call a Board meeting for the purpose; or
    - (ii) the calling of a Board meeting would involve the incurring of expenses to the Corporation that in the reasonable opinion of the Chairperson is unwarranted in all the circumstances.
  - (b) In particular but without limiting the generality of sub rule (a) above, the Executive Committee has the power to bind the Corporation to funding or other agreements which are, in the reasonable opinion of the Chairperson, necessary for the on-going business of the Corporation.
- (4) The Executive Committee has the power to apply the Common Seal to agreements or other documents requiring the same where the Executive Committee has used its powers for matters set out in rule 3 (a) above.
- (5) A quorum for a meeting of the Executive Committee shall be four persons.
- (6) All actions of the Executive Committee shall be reported to the next Board meeting of the Corporation and all minutes of the Executive Committee meetings shall be supplied to the next Board meeting of the Corporation.

The Board may choose to ratify any actions of the Executive Committee

- (7) (a) Meetings of the Executive Committee may be called by:-
  - (i) the Chairperson;
  - (ii) two members of the Executive Committee
  - (c) The amount of notice of an Executive Committee meeting shall be a reasonable amount taking into account the urgency of the need for a meeting but in any event, no less than 24 hours.
  - (d) Notice of an Executive Committee meeting may be given by fax, email, telephone, mail or any other method that allows the recipient to actually receive the notice.
- (8) The Executive Committee shall have such other powers and responsibilities as the Board may from time to time determine.
- (9) The Board may at any time appoint other Sub Committees from its members and shall determine the responsibilities and powers of the Sub-Committee.
- (10) Unless otherwise decided by the Board, a Sub-Committee, other than the Executive Committee shall:-
  - (a) have a quorum of three (3) at its meetings, unless the sub-committee resolves that a larger number shall be the quorum:
  - (b) appoint one of its members to be responsible for calling meetings of the sub-committee and inform the Chief Executive Officer of the name of the responsible person.
- (11) Meetings of the Executive Committee or of a sub-committee may be held at two or more venues using any technology that gives the members of the Committee the ability to participate and to have discussion with their fellow members and to come to a collective decision on a matter. (example telephone conference).

#### 6.3.1 Number of Board of Directors meetings, attendance by Members

In this financial year there were six Board meetings (see Table 10) and three meetings only for the Office Bearers (see Table 11). In addition to the these meetings, there was another nine meetings attended by the Board members (see Table 12).

Table 10: Number of Board Meetings

Number of Meetings/ Days	Type of Meeting	Dates	Number of Members who attended meetings
1a & b	Face to Face	12-13 July 2011	8
2a & b	Face to Face	14-15 September 2011	10
2c	Face to Face	16 September 2011	8
3a	Face to Face	2 November 2011	12
3b	Face to Face	3 November 2011	11
Other	AGM/No Quorum	23 November 2011	Board & Membership
Other	AGM	30 November 2011	Board & Membership
4a, b & c	Face to Face	21-23 February 2012	11
4d	Policy & Procedure Workshop	24 February 2012	4
5	Face to Face	31 March 2012	8
6а	Policy & Procedure Workshop	18 April 2012	8
6b	Face to Face	20 April 2012	8

Table 11: Number of Office Bearers Meetings

Number of Meetings	Type of Meeting	Dates	Number of Members who attended
1	Face to Face	15 July 2011	4
2	Teleconference	28 February 2012	6
3	Face to Face	16 May 2012	4

Table 12: Number of Other Meetings attended by Directors

Number of Meetings/ Days	Type of Meeting (Meetings in Cairns unless stated otherwise)	Dates	Number of Members who attended meet- ings
1	Informal Board/re Chair Business	28 August 2011	8
2	CEO Appraisal Sub-Committee	1 Septmber 2011	2
3	ORIC Visit	9 September 2011	10
4	CEO Appraisal Sub-Committee	3-4 October 2011	4
5	CEO Appraisal Sub-Committee	12 October 2011	4
Other	Ward Elections/No Quorum	17 October 2011	Board & Membership
Other	Ward Elections	24 October 2011	Board & Membership
6	Social Compact Meeting, Brisbane	24-25 October 2011	2
7a	Rainforest Aboriginal Peoples' Alliance Visitt	16 April 2012	7
7b	Informal Meeting	17 April 2012	8
8	MABO Day March, Townsville	3 June 2012	9
9	Djiru Handover, Mission Beach	27 June 2012	1

Table 13: Board of Directors Training

Number of Training Events	Type of Training	Dates	Number of Members who attended
1	First Nations Pathways Conference	28-30 November 2011	1
2	Shane Carroll/Governance Course	19 April 2012	9
3	AIATSIS National Native Title Conference 2012	4-6 June 2012	11

#### 6.3.2 Training etc Arrangements for Board of Director Members

The Board attendance of training is seen in Table 13.

#### 6.4 Corporate and Operational Planning and associated Performance Reporting and Review

The Board aims to have a minimum of four meetings plus a planning meeting each year. The number of meetings may increase subject to any extraordinary events or circumstances which arise during the subject year that require the attention and determination of issues by the Board.

The Board receives reports from:

- the EO
- the Principal Legal Officer
- Research Unit
- Native Title Services Unit Manager (including Project Officer's Activities)
- Chief Financial Officer (Financial Statements)

The NQLC has a *Strategic Plan*. In accordance with FaHCSIA requirements, NQLC prepares on a yearly basis, an Operational Plan for approval by FaHCSIA and attends to changes of that Operational Plan during the financial year as required. In accordance with FaHCSIA requirements, NQLC reports on its performance three times annually.

# 6.5 Approach adopted to identifying areas of significant Financial or Operational Risk and arrangements in place to Manage Risks

NQLC as per the FaHCSIA's *Terms and Conditions Native Title Agreement, For Agreements entered into from 1 July 2010*, employees a in-house Certified Practising Accountant, who is also a Fellow of the Institute of Professional Secretaries. NQLC has external auditors who undertake its' annual audit. In addition, the NQLC in the current financial year engaged the services of an external accountancy firms to provide further advice in relation to our accountancy practices.

In so far as operational risk management is concerned NQLC has a long-standing policy of managing these types of risks by engaging in a number of internal processes. These include:

- regular planning meetings;
- internal strategic claim team meetings;
- six monthly prioritisation meetings with National Native Title Tribunal and State Government of Queensland; and
- twelve monthly overview and forward strategic planning meetings.

#### 6.6 Policy and Practices on the establishment and maintenance of appropriate Ethical Standards

The separation of powers has been incorporated in the NQLC's Rule Book and sets out clearly the delineation of the roles of the NQLC Board and Administration (see section 6.1).

The Board has voluntarily adopted a Code of Conduct in relation to its meetings and processes.

The legal professional staff are subject to and adhere to the ethics of the legal profession in Queensland.

The NQLC's policy manual covers:

- grievance procedures;
- process for travel allowance;
- procurement activities;
- use of motor vehicles:
- asset management;
- financial reporting;
- information management;
- · computer and internet usage; and
- · staff disciplinary matters.

#### 6.7 Nature and amount of Remuneration for Senior Management and how it is determined

Subject to adequate funding from FaHCSIA, senior management remuneration other than the EO and some senior staff are based on by NQLC's Enterprise Agreement 2011-14. The EO remuneration is determined by the Board and the other senior staff remuneration is determined by EO.



#### 7.1 Significant Developments in External Scrutiny

There has been no development in external scrutiny from previous years. North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) continues to have its finances audited in accordance with the requirements of the *Terms and Conditions Native Title Agreement, For Agreements entered into from 1 July 2010* and received an unqualified audit report for the reporting period.

#### 7.2 Judicial decisions and decisions of Administrative Tribunals

None of the actions or decisions of the NQLC have been subject to judicial review or review by administrative tribunals.

#### 7.3 Evaluation and/or Audit Reports - Findings and Responses

The audit of NQLC's finances was unqualified.

#### 7.4 Other External Reviews

On 29 June 2011, the Registrar of Indigenous Corporations made a decision to have a examination of NQLC conducted by examiner appointed by him pursuant to the *Corporations (Aboriginal and Torres Strait Islander) Act 2006.* The result from the examination was that:

- the corporation's level of compliance with the Act and its rule book is generally high;
- operating systems and procedures within the corporation are well established and effective;
- financial records and other documentation of the corporation are in good order; and
- the corporation is operating viably and was solvent at the time of the examination.

Management of Human Resources Assessment of effectiveness in managing and developing human resources to achieve NTRB functions and achieve NTRB objectives. Finch Hatton Gorge in Eungella National Park, Mackay •59

### 8.1 Workforce Planning, Staff Turnover and Retention

At of 30 June 2012 the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) had forty-three full-time staff and one part-time staff, of which 43% were Aboriginal people. Of those Aboriginal staff 74% have links to the claimants groups in the NQLC region. The NQLC staff make up is shown below:

- one Executive Officer (EO);
- ten in-house Lawyers;
- three in-house Anthropologists;
- one Chief Financial Officer;
- one Corporate Officer;
- one Operations Manager;
- eight Project Officers;
- one Exploration and Mining Coordinator;
- one Compliance Officer- Future Act, Mining and Exploration;
- one Corporate Resource Officer;
- one Compliance, Reporting and Mapping Officer;
- thirteen Administrative Officers:
- · one Finance Trainee; and
- one Receptionist.

See also the Organisation Chart (Figure 3) over the page.

In this financial period seven individuals left the organisation and four individuals were recruited. Two of theses individuals, Project Officers, left the organisation and the positions were filled again in the same financial year. One of these positions, the Townsville Project Officer position, was required to be filled twice and was filled the second time by Indigenous staff member who obtained this higher position. Four other individuals left the organisation and these positions were not filled in the same financial period. A new position of Administration Officer- Finance, was created to assist with the increased workload of the Finance Unit.

An important factor in the NQLC's success in achieving native title outcomes has been the stability of core staff, plus the NQLC ability to adapt to changes in non-core staff. NQLC has been fortunate that no core staff has been lost in the last financial year. The retention levels at senior staff level is illustrated by the following;

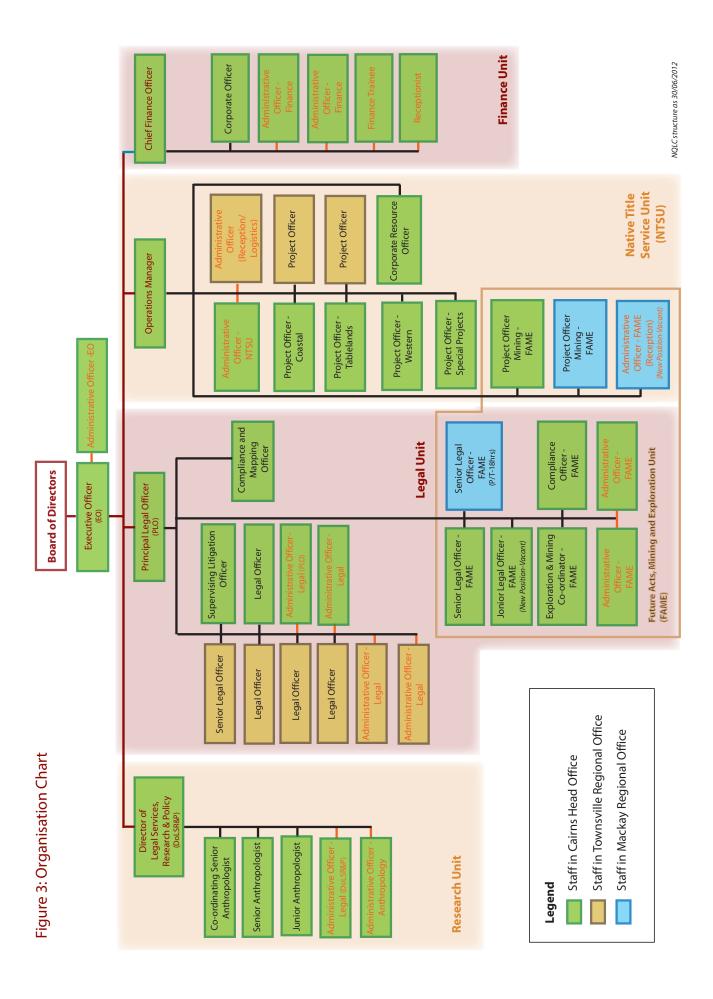
- EO had held his present position for seven years (employed by the NQLC for twelve years);
- Principal Legal Officer, has held his position for twelve years;
- Operations Manager (former Native Title Services Unit Manager [NTSU]) has held a management position for six and half years (employed by the NQLC for nine years);
- Director of Legal Services, Research and Policy, has been employed by the NQLC eight and half years; and
- Chief Financial Officer, has held his position for six and half years.

There are similar retention rates in the rest of the organisation, as illustrated by the Aboriginal staff who hold the following positions:

- Exploration and Mining Coordinator, has been employed by NQLC for eleven and half years;
- Administrative Officer- NTSU, has been employed by NQLC for ten and half years;
- Special Project Officer, has been employed by NQLC for ten years;
- Corporate Resource Officer and a Administrative Officer, have both been employed by NQLC for seven years;
- Two Project Officers that have been working for the NQLC for approximately six years (one of these individuals came to the NQLC from the Central Queensland Land Council Aboriginal Corporation), with another Project Officer has been employed with the organisation for five years; and
- two Senior Legal Officers have been at the Land Council for at least four and half years.

# 8.2 Training and Development undertaken and its impact

The NQLC 2011-14 Certified Agreement, shows the NQLC is committed to Indigenous staff through the Indigenous Recruitment and Career Development Strategy. This commitment is also seen through the 41% of the staff at the NQLC are Indigenous and of this number, 58% of the Indigenous staff in the organisation have moved through the organisation into positions which require greater skills and/or remuneration than their starting position. A case in



point is Mr Dewayne Mundraby who began with the NQLC twelve years ago as the Project Officer and moved through the various positions in the organisation to become the EO in August 2005, as part of the succession planning policy designed to provide practical training to an Indigenous person to take over this role.

NQLC seeks to take advantage of any appropriate training courses that are offered for minimal costs and tries to ensure that so far as is possible, staff have appropriate training available to them. Professional staff such as lawyers and accountants are obliged by their professional bodies to undertake a certain amount of compulsory training each year. Examples of training which NQLC was able to arrange for staff include Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), Department of Families, Housing, Community Services and Indigenous Affairs and Aurora sponsored courses.

# 8.3 Impact and features of Certified Agreements and AWAs

The NQLC Collective Agreement 2011-14 has enabled the NQLC to attract and retain staff who now have a clear picture of the remuneration scales within the agreement and provides security for staff in relation to their rates of pay. The agreement also provide a number of protections for staff in relation to conditions of employment. The former collective agreement ceased in May 2010 and was renegotiated this financial year and approved by Fair Work Australia on 17 February 2012.

# 8.4 Occupational Health and Safety performance

NQLC under the old Workplace Health and

Safety Act 1995 and Workplace Health and Safety Regulations 1997 had a Workplace Health and Safety Officer and implemented an Occupation Health and Safety Committee and elected Health and Safety Representative which are in line with the new Queensland Work Health and Safety Act 2011 and Work Health and Safety Regulations 2011, which were implemented on 1 January 2012.

The corporation maintains appropriate workers' compensation insurance with WorkCover Queensland. There were no WorkCover Claim was claimed in this financial year.

#### 8.5 Statistics on Staffing

The organisational chart shows the NQLC's current staff structure at the 30 June 2011 (see Figure 3). See also section 8.1, Workforce Planning, Staff Turnover and Retention.

### 8.6 Indemnities and Insurance Premiums for Officers

The NQLC holds Professional Indemnity Insurance for claims up to ten million dollars at a cost of \$29,970 This insurance covers the professional legal and anthropological staff and senior management.

NQLC also holds insurances for workers' compensation, motor vehicles and other property in accordance with the usual practices of business and in compliance with appropriate laws and the terms and conditions of Program Funding Agreement. Workers' compensation insurance is held at a cost of \$17,200.96.



# 9. Consultants and Competitive Tendering and Contracting



#### 9.1 Competitive Tendering and Contracting Practices

The North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) has a Register of Anthropological Consultants. Consultants are required to provide details of the charges for their services.

Where appropriate NQLC encourages a competitive process by advertising for expressions of interest, for the carrying out of new anthropological research. Often in relation to anthropological and other research consultants, it is necessary to retain the same consultant who has previously worked with the group in question or provided previous reports and is therefore the person in the best position to provide further services.

#### 9.2 Number of Consultancy Services Contracts and Total Expenditure on Consultancy Services

Contracts for external consultants fall into two different types: contracts for the production of research and contracts for the provision of legal services.

Contracts for production of research (anthropological, historical or cultural heritage) are written for services to be provided involving a specified number of days work for a fixed figure.

Contracts for legal consultants tend to be written for two purposes. Firstly, for the provision of specific advice on specific issues such as obtaining the opinion of Counsel on legal issues. Usually a fixed fee for such contracts can be negotiated, but on occasions the fee is based on an hourly rate. Secondly, contracts for legal consultants to act (generally on behalf of a claim group or in respect of an ongoing matter) tend to be written on the basis of payments in accordance with the relevant court scale of costs, or an agreed scale of costs, with the total value not to exceed an agreed cap.

During the reporting period, NQLC expenditure from Department of Families, Housing, Community Services and Indigenous Affairs funds for these contracts categories were:

- Twenty-four anthropology consultants contracts with a total value of \$410,707.89, which were undertaken by eight consultants.
- Twelve legal consultants who undertook thirty-one different native title briefs with a total value of \$269.084.28.
- Four finance consultants who undertook five consultancies with a total value of \$75,709.09.
- Seven consultants undertook nine consultancies which dealt with human resources issues. The total value of these consultancies were \$37.176.97.
- Five consultants who gave corporate advice to the Board undertook five consultancies with the total value of these consultancies being \$32,744.85.
- Two training consultants who undertook two contracts with a total value of \$6,971.84.
- One media consultant who undertook two contracts with a total value of \$4,850.
- One sea country consultant who undertook work worth \$819.00.



## 10.1 Directors' Report 30 June 2012

Your directors present their report on North Queensland Land Council Native Title Representative Body Aboriginal Corporation for the financial year ended 30 June 2012.

## 10.1.1 Directors

The names of each person who has been a director during the year and to the date of this report are:

- · Terry O'Shane
- Catherine Joseph
- Beverly Bowyang (Resigned 30 November 2011)
- Vince Mundraby
- Kaylene Malthouse
- Dawn Hart
- Errol Neal
- Gary Mooney
- · Patricia Dallachy
- Phillip Rist
- · Vana O'Shane
- Eddie Smallwood (Resigned 24 October 2011)
- Coralie Cassady (Appointed 20 April 2012)
- Danny Hooligan (Appointed 21 February 2012)

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

## 10.1.2 Significant changes in state of affairs

No significant changes in the corporation's state of affairs occurred during the financial year.

## 10.1.3 Principal activities

The principal activity of North Queensland Land Council Native Title Representative Body Aboriginal Corporation during the financial year were the relief of poverty, sickness, destitution, serious economic disadvantage, distress, suffering and misfortune of Aboriginal people, groups and communities within the area.

No significant changes in the nature of the entity's activity occurred during the financial year.

## 10.1.4 Dividends paid or recommended

No dividends were paid or declared since the start of the financial year. No recommendation for payment of dividends has been made.

## 10.1.5 Review of operations

A review of the operations of the corporation during the financial year and the results of those operations show a profit of \$720,144 in the year.

## 10.1.6 Events after the end of the reporting period

No matters or circumstances have arisen since the end of the financial year which significantly affected or could significantly affect the operations of the corporation, the results of those operations or the state of affairs of the corporation in future financial years.

## 10.1.7 Future developments and results

Likely developments in the operations of the corporation and the expected results of those operations in future financial years have not been included in this report as the inclusion of such information is likely to result in unreasonable prejudice to the corporation.

#### 10.1.8 Environmental matters

The corporation's operations are not regulated by any significant environmental regulations under a law of the Commonwealth or of a state or territory.

## 10.1.9 **Options**

No options over issued shares or interests in the corporation were granted during or since the end of the financial year and there were no options outstanding at the date of this report.

No shares were issued during or since the end of the year as a result of the exercise of an option over unissued shares or interests

## 10.1.10 Indemnification and insurance of officers and auditors

No indemnities have been given or insurance premiums paid, during or since the end of the financial year, for any person who is or has been an officer or auditor of North Queensland Land Council Native Title Representative Body Aboriginal Corporation.

## 10.1.11 Proceedings on behalf of company

No person has applied for leave of court to bring proceedings on behalf of the corporation or intervene in any proceedings to which the corporation is a party for the purpose of taking responsibility on behalf of the corporation for all or any part of those proceedings.

The corporation was not a party to any such proceedings during the year.

## 10.1.12 Auditor's independence declaration

The lead auditor's independence declaration in accordance with *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, for the year ended 30 June 2012 has been received and can be found on page 4 of the financial report.

## 10.1.13 Sign off details

Signed in accordance with a resolution of the Board of Directors:

Director: Miricia allachy

Dated: 19 October 2012

# 10.2 Auditors Independence Declaration To The Board North Queensland Land Council Native Title Representative Body Aboriginal Corporation

I declare that, to the best of my knowledge and belief, during the year ended 30 June 2012, there have been:

- (i) no contraventions of the auditor independence requirements as set out in the Corporations (Aboriginal and Torres Strait Islander) act 2006, in relation to the audit; and
- (ii) no contraventions of any applicable code of professional conduct in relation to the audit. Which No

WHK-NQ

Jason Taylor Principal

19 October 2012

Cairns

## 10.3 Income Statement For the Year Ended 30 June 2012

		2012	2011
	Note	\$	\$
Revenue from continuing operations	2	9,612,305	8,180,578
Other income		11,818	6,015
Administration expenses		(807,590)	(708,324)
Computer & IT expenses		(173,092)	(119,845)
Consulting & professional fees	3	(1,125,107)	(1,142,231)
Depreciation and amortisation expense	3	(177,315)	(189,143)
Employee benefit expense	3	(4,022,221)	(3,913,527)
Insurance		(70,035)	(57,186)
Motor vehicle expenses		(111,764)	(118,351)
Meeting expenses		(35,858)	(91,153)
Native title expenses	3	(400,000)	(348,598)
Other expenses		(508,996)	(654,116)
Training expenses		(40,149)	(57,829)
Travel	3	(1,024,083)	(1,049,104)
Rent	3 _	(407,769)	(302,412)
Profit (loss) for the year	_	720,144	(565,226)

## 10.4 Statement of Financial Position 30 June 2012

		2012	2011
	Note	\$	\$
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	5	1,542,426	800,244
Trade and other receivables	6	338,921	317,884
Other assets	7	37,835	66,377
TOTAL CURRENT ASSETS		1,919,182	1,184,505
NON CURRENT ASSETS			
Property, plant and equipment	8	1,214,371	1,047,859
TOTAL NON CURRENT ASSETS		1,214,371	1,047,859
TOTAL ASSETS		3,133,553	2,232,364
LIABILITIES			
CURRENT LIABILITIES			
Trade and other payables	9	1,288,697	1,139,362
Borrowings	10	48,180	43,975
Short term provisions	11 _	448,461	373,128
TOTAL CURRENT LIABILITIES		1,785,338	1,556,465
NON CURRENT LIABILITIES			
Borrowings	10	4,639	52,468
TOTAL NON CURRENT LIABILITIES		4,639	52,468
TOTAL LIABILITIES		1,789,977	1,608,933
NET ASSETS		1,343,576	623,431
EQUITY			
Retained earnings		1,343,576	623,431
TOTAL EQUITY	_	1,343,576	623,431

## 10.5 Statement of Changes in Equity For the Year Ended 30 June 2012

## 2012

		Total
	\$	\$
Balance at 1 July 2011	623,431	623,431
Profit or loss attributable to members	720,144	720,144
Balance at 30 June 2012	1,343,576	1,343,576

## 2011

		Total
	\$	\$
Balance at 1 July 2010	1,188,657	1,188,657
Profit or loss attributable to members	(565,226)	(565,226)
Balance at 30 June 2011	623,431	623,431

## 10.6 Statement of Cash Flows For the Year Ended 30 June 2012

	Note	2012	2011
		\$	\$
CASH FLOWS FROM OPERATING ACTIVITIES:			
Receipt of grants		8,477,000	8,769,472
Other receipts		2,008,373	801,675
Interest received		62,522	72,373
Payments to suppliers and employees		(9,423,250)	(9,630,428)
Interest paid	_	(6,830)	(10,456)
Net cash provided by (used in) operating activities	15	1,117,815	2,636
CASH FLOWS FROM INVESTING ACTIVITIES:			
Proceeds from sale of plant and equipment		11,818	6,015
Purchase of property, plant and equipment	_	(343,827)	(309,725)
Net cash used by investing activities	_	(332,009)	(303,710)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Repayment of borrowings	_	(43,624)	(39,920)
Net cash used by financing activities	_	(43,624)	(39,920)
Net increase (decrease) in cash and cash equivalents held		742,182	(340,994)
Cash and cash equivalents at beginning of year	_	800,244	1,141,238
Cash and cash equivalents at end of financial year	5 _	1,542,426	800,244

## 10.7 Notes to the Financial Statements For the Year Ended 30 June 2012

## 10.7.1 Summary of Significant Accounting Policies

## (a) Basis of preparation

North Queensland Land Council Native Title Representative Body Aboriginal Corporation has elected to early adopt the Australian Accounting Standards – Reduced Disclosure Requirements as set out in AASB 1053: Application of Tiers of Australian Accounting Standards and AASB 2010–2: Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements. 15 As a consequence, the entity has also adopted AASB 2011–2: Amendments to Australian Accounting Standards arising from the Trans Tasman Convergence Project – Reduced Disclosure Requirements and AASB 2011–6: Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation – Reduced Disclosure Requirements. This is because the reduced disclosure requirements in AASB 2011–2 and AASB 2011–6 relate to Australian Accounting Standards that mandatorily apply to annual reporting periods beginning on or after 1 July 2011.

The financial statements are a general purpose financial statements that has been prepared in accordance with Australian Accounting Standards Reduced Disclosure Requirements and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and the *Native Title Act 1993*.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in financial statements containing relevant and reliable information about transactions, events and conditions. Material accounting policies adopted in the preparation of these financial statements are presented below and have been consistently applied unless otherwise stated.

The financial statements, except for the cash flow information, have been prepared on an accruals basis and are based on historical costs, modified, where applicable, by the measurement at fair value of selected non current assets, financial assets and financial liabilities. The amounts presented in the financial statements have been rounded to the nearest dollar.

The financial statements were authorised for issue on 8 October 2012 by the directors of the corporation.

## (b) Comparative figures

When required by Accounting Standards, comparative figures have been adjusted to conform to changes in presentation for the current financial year.

## (c) Property, plant and equipment

Each class of property, plant and equipment is carried at cost or fair value as indicated less, where applicable, any accumulated depreciation and impairment losses.

## **Property**

Land and buildings are shown at their fair value (being the amount for which an asset could be exchanged between knowledgeable willing parties in an arm's length transaction), based on periodic, but at least triennial, valuations by external independent valuers, less accumulated depreciation for buildings.

Any accumulated depreciation at the date of revaluation is eliminated against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset

## (i) Plant and equipment

Plant and equipment are measured on the cost basis less depreciation and impairment losses. Cost includes expenditure that is directly attributable to the asset.

Plant and equipment are measured on the cost basis and are therefore carried at cost less accumulated depreciation and any accumulated impairment losses. In the event the carrying amount of plant and equipment is greater than its estimated recoverable amount, the carrying amount is written down immediately to its estimated recoverable amount and impairment losses recognised either in profit or loss or as a revaluation decrease if the impairment losses relate to a revalued asset. A formal assessment of recoverable amount is made when impairment indicators are present.

The cost of fixed assets constructed within the consolidated group includes the cost of materials, direct labour, borrowing costs and an appropriate proportion of fixed and variable overheads.

Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Group and the cost of the item can be measured reliably. All other repairs and maintenance are recognised as expenses in the statement of comprehensive income during the financial period in which they are incurred.

## (ii) Depreciation

The depreciable amount of all fixed assets including buildings and capitalised leased assets, but excluding freehold land, is depreciated on a straight line basis over the asset's useful life to the corporation commencing from the time the asset is held ready for use. Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements. Land is not depreciated.

## (iii) Depreciation rates

The depreciation rates used for each class of depreciable assets are:

Class of Fixed Asset	Depreciation Rate
Buildings	2.5% - 5%
Plant and Equipment	10% - 33.33%
Furniture, Fixtures and Fittings	10% - 33.33%
Motor Vehicles	20% - 25%

The assets' residual values, depreciation methods and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. These gains and losses are included in the income statement.

#### (d) Financial instruments

## Initial recognition and measurement

Financial assets and financial liabilities are recognised when the entity becomes a party to the contractual provisions to the instrument. For financial assets, this is the equivalent to the date that the corporation commits itself to either the purchase or sale of the asset (i.e. trade date accounting is adopted).

Financial instruments are initially measured at fair value plus transactions costs, except where the instrument is classified 'at fair value through profit or loss' in which case transaction costs are expensed to profit or loss immediately.

## Classification and subsequent measurement

Financial instruments are subsequently measured at either fair value, amortised cost using the effective interest rate method, or cost. Fair value represents the amount for which an asset could be exchanged or a liability settled, between knowledgeable, willing parties in arm's length transaction. Where available, quoted prices in an active market are used to determine fair value. In other circumstances, valuation techniques are adopted.

Amortised cost is calculated as:

- (a) the amount at which the financial asset or financial liability is measured at initial recognition;
- (b) less principal repayments;
- (c) plus or minus the cumulative amortisation of the difference, if any, between the amount initially recognised and the maturity amount calculated using the effective interest method; and
- (d) less any reduction for impairment.

The *effective interest method* is used to allocate interest income or interest expense over the relevant period and is equivalent to the rate that exactly discounts estimated future cash payments or receipts (including fees, transaction costs and other premiums or discounts) through the expected life (or when this cannot be reliably predicted, the contractual term) of the financial instrument to the net carrying amount of the financial asset or financial liability. Revisions to expected future net cash flows will necessitate an adjustment to the carrying value with a consequential recognition of an income or expense in profit or loss.

The classification of financial instruments depends on the purpose for which the investments were acquired. Management determines the classification of its investments at initial recognition and at the end of each reporting period for held to maturity assets.

The corporation does not designate any interest as being subject to the requirements of accounting standards specifically applicable to financial instruments.

## (i) Financial assets at fair value through profit or loss

Financial assets are classified at 'fair value through profit or loss' when they are held for trading for the purpose of short term profit taking, derivatives not held for hedging purposes, or when they are designated as such to avoid an accounting mismatch or to enable performance evaluation where a group of financial assets is managed by key management personnel on a fair value basis in accordance with a documented risk management or investment strategy. Such assets are subsequently measured at fair value with changes in carrying value being included in profit or loss.

#### (ii) Loans and receivables

Loans and receivables are non derivative financial assets with fixed or determinable payments that are not quoted in an active market and are subsequently measured at amortised cost.

Loans and receivables are included in current assets, except for those which are not expected to mature within 12 months after the end of the reporting period.

## (iii) Held to maturity investments

Held to maturity investments are non derivative financial assets that have fixed maturities and fixed or determinable payments, and it is the corporation's intention to hold these investments to maturity. They are subsequently measured at amortised cost.

Held to maturity investments are included in non current assets, except for those which are expected to be realised within 12 months after the end of the reporting period, which will be classified as current assets. If during the period the corporation sold or reclassified more than an insignificant amount of the held to maturity investments before maturity, the entire held to maturity investments category would be tainted and reclassified as available for sale.

The corporation did not hold any held to maturity investments in the current or comparative financial year.

## (iv) Available for sale financial assets

Available for sale financial assets are non derivative financial assets that are either not suitable to be classified into other categories of financial assets due to their nature, or they are designated as such by management. They comprise investments in the equity of other entities where there is neither a fixed maturity nor fixed or determinable payments.

Available for sale financial assets are included in non current assets, except for those which are expected to be realised within 12 months after the end of the reporting period.

#### (v) Financial liabilities

Non derivative financial liabilities (excluding financial guarantees) are subsequently measured at amortised cost. Fees payable on the establishment of loan facilities are recognised as transaction costs of the loan. Borrowings are classified as current liabilities unless the corporation has an unconditional right to defer settlement of the liability for at least 12 months after the reporting date.

Fair value is determined based on current bid prices for all quoted investments. Valuation techniques are applied to determine the fair value for all unlisted securities, including recent arm's length transactions, reference to similar instruments and option pricing models.

#### **Impairment**

At the end of each reporting period, the association assesses whether there is any indication that an asset may be impaired. A financial asset or a group of financial assets is deemed to be impaired if, and only if, there is objective evidence that impairment as a result of one or more events (a "loss event") has occurred, which has an impact on the estimated future cash flows of the financial assets.

In the case of available for sale financial assets, a significant or prolonged decline in the market value of the instrument is considered to constitute a loss event. Impairment losses are recognised in profit or loss immediately. Also, any cumulative decline in fair value previously recognised in other comprehensive income is reclassified to profit or loss at this point.

In the case of financial assets carried at amortised cost, loss events may include: indications that the debtors or a group of debtors are experiencing significant financial difficulty, default or delinquency in interest or principal payments; indications that they will enter bankruptcy or other financial reorganisation; and changes in arrears or economic conditions that correlate with defaults.

When the terms of financial assets that would otherwise have been past due or impaired have been renegotiated, the association recognises the impairment for such financial assets by taking into account the original terms as if the terms have not been renegotiated so that the loss events that have occurred are duly considered.

## Financial guarantees

Where material, financial guarantees issued which require the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due, are recognised as financial liabilities at fair value on initial recognition.

The guarantee is subsequently measured at the higher of the best estimate of the obligation and the amount initially recognised less, when appropriate, cumulative amortisation. Where the entity gives guarantees in exchange for a fee, revenue is recognised under AASB 118 'Revenue'.

The fair value of financial guarantee contracts has been assessed using a probability weighted discounted cash flow approach. The probability has been based on:

- the likelihood of the guaranteed party defaulting in a period;
- the proportion of the exposure that is not expected to be recovered due to the guaranteed party defaulting; and
- the maximum loss exposed if the guaranteed party were to default.

## Derecognition

Financial assets are derecognised where the contractual rights to receipt of cash flows expires or the asset is transferred to another party whereby the entity no longer has any significant continuing involvement in the risks and benefits associated with the asset. Financial liabilities are derecognised where the related obligations are either discharged, cancelled or expired. The difference between the carrying value of the financial liability extinguished or transferred to another party and the fair value of consideration paid, including the transfer of non cash assets or liabilities assumed, is recognised in profit or loss.

When available for sale investments are sold, the accumulated fair value adjustments recognised in other comprehensive income are reclassified to profit or loss.

## (e) Impairment of non financial assets

At the end of each reporting period, the corporation assesses whether there is any indication that an asset may be impaired. The assessment will include considering external sources of information and internal sources of information. If such an indication exists, an impairment test is carried out on the asset by comparing the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use to the asset's carrying amount. Any excess of the asset's carrying amount over its recoverable amount is recognised immediately in profit or loss, unless the asset is carried at a revalued amount in accordance with another Standard (eg in accordance with the revaluation model in AASB 116). Any impairment loss of a revalued asset is treated as a revaluation decrease in accordance with that other Standard.

Where it is not possible to estimate the recoverable amount of an individual asset, the corporation estimates the recoverable amount of the cash generating unit to which the asset belongs.

## (f) Cash and cash equivalents

Cash and cash equivalents include cash on hand, deposits held at call with banks, other short term highly liquid investments with original maturities of three months or less which are convertible to a known amount of cash and subject to an insignificant risk of change in value, and bank overdrafts. Bank overdrafts are shown within short term borrowings in current liabilities on the statement of financial position.

## (g) Employee benefits

Provision is made for the corporation's liability for employee benefits arising from services rendered by employees to the end of the reporting period. Employee benefits that are expected to be settled within one year have been measured at the amounts expected to be paid when the liability is settled.

Employee benefits payable later than one year have been measured at the present value of the estimated future cash outflows to be made for those benefits. In determining the liability, consideration is given to employee wage increases and the probability that the employee may satisfy vesting requirements. Those cashflows are discounted using market yields on national government bonds with terms to maturity that match the expected timing of cashflows.

#### (h) Provisions

Provisions are recognised when the corporation has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured.

Provisions are measured at the present value of management's best estimate of the outflow required to settle the obligation at the end of the reporting period. The discount rate used is a pre tax rate that reflects current market assessments of the time value of money and the risks specific to the liability. The increase in the provision due to the unwinding of the discount is taken to finance costs in the income statement.

## (i) Trade and other payables

Trade and other payables represent the liability outstanding at the end of the reporting period for goods and services received by the corporation during the reporting period which remain unpaid. The balance is recognised as a current liability with the amounts normally paid within 30 days of recognition of the liability.

#### (i) Leases

Leases of fixed assets where substantially all the risks and benefits incidental to the ownership of the asset, but not the legal ownership that are transferred to the corporation are classified as finance leases.

Finance leases are capitalised by recording an asset and a liability at the lower of the amounts equal to the fair value of the leased property or the present value of the minimum lease payments, including any guaranteed residual values. Lease payments are allocated between the reduction of the lease liability and the lease interest expense for that period.

Leased assets are depreciated on a straight line basis over their estimated useful lives where it is likely that the corporation will obtain ownership of the asset or over the term of the lease.

## (k) Revenue and other income

Government grants are recognised at fair value where there is reasonable assurance that the grant will be received and all grant conditions will be met. Grants relating to expense items are recognised as income over the periods necessary to match the grant to the costs they are compensating. Grants relating to assets are credited to deferred income at fair value and are credited to income over the expected useful life of the asset on a straight line basis.

Interest revenue is recognised using the effective interest rate method, which for floating rate financial assets is the rate inherent in the instrument.

Revenue recognition relating to the provision of services is determined with reference to the stage of completion of the transaction at the end of the reporting period and where the outcome of the contract can be estimated reliably. Stage of completion is determined with reference to the services performed to date as a percentage of total anticipated services to be performed. Where the outcome cannot be estimated reliably, revenue is recognised only to the extent that related expenditure is recoverable.

All revenue is stated net of the amount of goods and services tax (GST).

## (1) Borrowing costs

Borrowing costs directly attributable to the acquisition, construction or production of assets that necessarily take a substantial period of time to prepare for their intended use or sale, are added to the cost of those assets, until such time as the assets are substantially ready for their intended use or sale.

All other borrowing costs are recognised in profit or loss in the period in which they are incurred.

## (m) Goods and services tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Tax Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense. Receivables and payables in the statement of financial position are shown inclusive of GST.

Cash flows are presented in the statement of cash flows on a gross basis, except for the GST component of investing and financing activities, which are disclosed as operating cash flows.

## (n) Critical accounting estimates and judgments

The directors evaluate estimates and judgments incorporated into the financial statements based on historical knowledge and best available current information. Estimates assume a reasonable expectation of future events and are based on current trends and economic data, obtained both externally and within the corporation.

The corporation assesses impairment at the end of the reporting year by evaluating conditions specific to the corporation that may be indicative of impairment triggers. Recoverable amounts of relevant assets are reassessed using value in use calculations which incorporate various key assumptions.

The value of the provision for impairment of receivables is estimated by considering the ageing of receivables, communication with the debtors and prior history.

## (o) Adoption of new and revised accounting standards

Standard Name	
AASB 1053 Application of Tiers of Australian Accounting Standards and amending standards	The adoption of these standards resulting in the removal of a number of disclosures in the general purpose financial statements in accordance with the Reduced Disclosure Requirements. There was no impact on the reported financial position and performance
AASB 124 Related Party Disclosures and amending standard AASB 2009 12	No significant changes on adoption of this standard.
AASB 2009 14 Amendments to Australian Interpretation – Prepayments of a Minimum Funding Requirement	No significant changes on adoption of this standard
AASB 2010 4 / 2010 5 Amendments and further amendments to Australian Accounting Standards arising from the Annual Improvements Project	No significant changes on adoption of this standard.
AASB 2010 6 Amendment to Australian Accounting Standards – Disclosures on transfers of financial assets	No significant changes on adoption of this standard.
AASB 2010 9 / Amendment to Australian Accounting Standards – Severe hyperinflation and removal of fixed dates for first time adopters	No impact since the entity is not a first time adopter of IFRS.
AASB 1054 Additional Australian disclosures / AASB 2011 1 Amendments to Australian Accounting Standards arising from Trans Tasman convergence	Minimal impact since most of the disclosures required by AASB 1054 are already included within the financial statements.
AASB 2011 – 5 Amendments to Australian Accounting Standards – Extending Relief from Consolidation, the Equity Method and Proportionate Consolidation [AASB 127, AASB 128 & AASB 131]	The group does not have any not for profit entities and therefore there is no impact from the adoption of this standard.

## 10.7.2 Revenue and Other Income

## (a) Revenue from continuing operations

	2012	2011
	\$	\$
Revenue from operations		
Grants	8,477,000	7,477,874
Provision of services	1,072,783	628,967
	9,549,783	8,106,841
Other revenue		_
Interest income	62,522	73,737
	62,522	73,737
_	9,612,305	8,180,578
(b) Other revenue		
- gain on disposal of property, plant and equipment	11,818	6,015
	11,818	6,015

## 10.7.3 Result for the Year

## (a) Expenses

		2011
	\$	\$
Other expenses		
Depreciation	177,315	189,143
Employee benefits expenses	4,022,221	3,913,527
Rental expenses	407,769	302,412
Meeting expenses	400,000	348,598
Travel	1,024,083	1,049,104
	6,031,388	5,802,784

## 10.7.4 Interests of Key Management Personnel

The totals of remuneration paid to the key management personnel of North Queensland Land Council Native Title Representative Body Aboriginal Corporation during the year are as follows:

	2012	2011
	\$	\$
Key management personnel compensation	646,667	695,014

## 10.7.5 Cash and Cash Equivalents

		2011
	\$	\$
Cash on hand	27,504	6,658
Cash at bank	1,514,922	793,586
	1,542,426	800,244

## (a) Reconciliation of cash

Cash at the end of the financial year as shown in the statement of cash flows is reconciled to items in the statement of financial position as follows:

	2012	2011
	\$	\$
Cash and cash equivalents	1,542,426	800,244
	1,542,426	800,244

## 10.7.6 Trade and Other Receivables

	2012	2011
	\$	\$
CURRENT	102,094	102,256
Trade receivables	99,207	60,748
Trust Ebsworth	51,699	59,754
Deposits	85,921	95,126
Other receivables	338,921	317,884

## (a) Financial assets classified as loans and receivables

	2012	2011
	\$	\$
Trade and other receivables		
Trade and other receivables	338,920	317,884
Financial assets	338,920	317,884

## 10.7.7 Other Assets

		2011
	\$	\$
CURRENT		
Prepayments	37,835	66,377
	37,835	66,377

## 10.7.8 Property, Plant and Equipment

## (a) Property Plant and Equipment detailed table

	2012	2011
	\$	\$
LAND AND BUILDINGS		
Freehold land		
At cost	290,000	290,000
Total Land	290,000	290,000
Building		
At cost	448,373	448,373
Accumulated depreciation	(161,882)	(148,533)
Total buildings	286,491	299,840
Total land and buildings	576,491	589,840
Furniture, fixture and fittings		
At cost	143,404	117,104
Accumulated depreciation	(108,018)	(98,755)
Total furniture, fixture and fittings	35,386	18,349
Motor vehicles		
At cost	625,297	539,450
Accumulated depreciation	(453,387)	(379,093)
Total motor vehicles	171,910	160,357
Office equipment		
At cost	760,611	528,931
Accumulated depreciation	(468,554)	(422,800)
Total office equipment	292,057	106,131
Leasehold Improvements		
At cost	173,277	173,277
Accumulated amortisation	(34,750)	(95)
Total leasehold improvements	138,527	173,182
Total plant and equipment	637,880	458,019
Total property, plant and equipment	1,214,371	1,047,859

## (b) Movements in Carrying Amounts

							Total
	\$	\$	\$	\$	\$	\$	\$
Balance at the beginning of year	290,000	299,840	18,349	160,357	106,131	173,182	1,047,859
Additions	-	-	26,300	85,847	231,680	-	343,827
Depreciation	-	(13,349)	(9,263)	(74,294)	(45,754)	(34,655)	(177,315)
Balance at 30 June 2012	290,000	286,491	35,386	171,910	292,057	138,527	1,214,371

## 10.7.9 Trade and Other Payables

	2012	2011
	\$	\$
CURRENT		
Trade & other payables	852,939	654,606
Annual leave entitlements	435,757	484,756
	1,288,696	1,139,362

## (a) Financial liabilities at amortised cost classified as trade and other payables

		2012	2011
		\$	\$
Trade and other payables:			
- total current		1,288,697	1,139,362
		1,288,697	1,139,362
Less:			
annual leave entitlements		(435,757)	(484,756)
Financial liabilities as trade and other payables	12	852,940	654,606

## 10.7.10 Borrowings

	2012	2011
	\$	\$
Secured liabilities:		
Bank loans	48,180	43,975
Total non current borrowings	48,180	43,975
<b>3</b> .		

		2011
	\$	\$
Secured liabilities:		
Bank loans	4,639	52,468
Total non current borrowings	4,639	52,468

#### 10.7.11 Provisions

		2011
	\$	\$
CURRENT		
Long service leave entitlements	448,461	373,128
	448,461	373,128

## 10.7.12 Financial Risk Management

The main risks North Queensland Land Council Native Title Representative Body Aboriginal Corporation is exposed to through its financial instruments are credit risk, liquidity risk and market risk consisting of interest rate risk, foreign currency risk and equity price risk.

The corporation's financial instruments consist mainly of deposits with banks, local money market instruments, short term investments, accounts receivable and payable and bank loans and overdrafts.

The totals for each category of financial instruments, measured in accordance with AASB 139 as detailed in the accounting policies to these financial statements, are as follows:

	2012	2011
	\$	\$
Financial Assets		
Cash and cash equivalents	1,542,426	800,244
Trade and other receivables	338,920	317,884
Total financial assets	1,881,346	1,118,128
Financial Liabilities		
Financial liabilities at amortised cost		
Trade payables	852,939	654,606
- Borrowings	52,818	96,443
Total financial liabilities	905,757	751,049

## 10.7.13 Contingent Liabilities and Contingent Assets

In the opinion of the Directors, the corporation did not have any contingencies at 30 June 2012 (30 June 2011:None).

## 10.7.14 Related Party Transactions

The corporation's main related parties are as follows:

## (a) Key management personnel

Any person(s) having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity is considered key management personnel.

For details of disclosures relating to key management personnel, refer to Note 4: Key Management Personnel Compensation.

## *(b) Other related parties*

Other related parties include immediate family members of key management personnel and entities that are controlled or significantly influenced by those key management personnel, individually or collectively with their immediate family members.

## (c) Transactions with related parties

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other parties unless otherwise stated.

The following transactions occurred with related parties:

## (d) Transactions with related parties - Trade and other receivables

#### (i) Trade and other receivables

Key management personnel:

Monies due from directors:

- beg	ginning	of the	year
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- end of the year

753	753
753	753

Travel allowance paid to a director in January 2008.

## 10.7.15 Cash Flow Information

## (a) Reconciliation of result for the year to cashflows from operating activities

Reconciliation of net income to net cash provided by operating activities:

	2012	2011
	\$	\$
Profit/(Loss) for the year	720,144	(565,226)
Cash flows excluded from profit attributable to operating activities		
Non cash flows in profit:		
- depreciation	177,315	189,143
<ul> <li>net (gain)/loss on disposal of property, plant and equipment</li> </ul>	(11,818)	(6,015)
Changes in assets and liabilities, net of the effects of purchase and disposal of subsidiaries:		
- (increase)/decrease in trade and other receivables	(21,036)	(91,570)
- (increase)/decrease in prepayments	28,542	(8,226)
<ul> <li>increase/(decrease) in trade and other payables</li> </ul>	149,335	232,619
- increase/(decrease) in employee benefits	75,333	251,911
Cashflow from operations	1,117,815	2,636

## 10.7.16 Events after the end of the Reporting Period

No matters or circumstances have arisen since the end of the financial year which significantly affected or may significantly affect the operations of the corporation, the results of those operations, or the state of affairs of the corporation in future financial years.

## 10.8. Directors' Declaration

The directors of the corporation declare that:

- 1. The financial statements and notes, as set out on pages 5 to 23, are in accordance with the *Corporations* (Aboriginal and Torres Strait Islander) Act 2006 and:
- a. comply with Accounting Standards Reduced Disclosure Requirement; and
- b. give a true and fair view of the financial position as at 30 June 2012 and of the performance for the year ended on that date of the corporation.
- 2. In the directors' opinion, there are reasonable grounds to believe that the corporation will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors.

Director: Microballachy

Dated: 19 October 2012

#### 10.9 Independent Audit Report

## To the members of North Queensland Land Council Native Title Representative Body Aboriginal Corporation



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INDEPENDENT AUDIT REPORT
TO THE DIRECTORS OF NORTH QUEENSLAND LAND COUNCIL NATIVE TITLE

#### Report on the Financial Report

We have audited the accompanying financial report of North Queensland Land Council Native Title Representative Body Aboriginal Corporation (the corporation), which comprises the statement of financial position as at 30 June 2012, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, notes comprising a summary of significant accounting policies and other explanatory information, and the directors' declaration.

#### Directors' Responsibility for the Financial Report

REPRESENTATIVE BODY ABORIGINAL CORPORATION

The directors of the corporation are responsible for the preparation and fair presentation of the financial report that gives a true and fair view in accordance with Australian Accounting Standards — Reduced Disclosure Requirements (including Australian Accounting Interpretations) and the Corporations (Aboriginal and Torres Strait Islander) Act 2006 and for such internal control as the directors determine is necessary to enable the preparation of the financial report that is free from material misstatement, whether due to fraud or error.

#### Auditor's Responsibility

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. Those standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Liability Limited by a scheme approved under Professional Standards Legislation other than for the acts or omission of financial services (icensees.

#### Independence

In conducting our audit, we have complied with the independence requirements of the Corporations (Aboriginal and Torres Strait Islander) Act 2006. We confirm that the independence declaration required by the Corporations (Aboriginal and Torres Strait Islander) Act 2006, provided to the directors of North Queensland Land Council Native Title Representative Body Aboriginal Corporation on 19 October 2012, would be in the same terms if provided to the directors as at the date of this auditor's report.

## Opinion

In our opinion, the financial report of North Queensland Land Council Native Title Representative Body Aboriginal Corporation is in accordance with the Corporations (Aboriginal and Torres Strait Islander) Act 2006,, including:

 giving a true and fair view of the company's financial position as at 30 June 2012 and of its performance for the year ended on that date; and

(ii) complying with Australian Accounting Standards – Reduced Disclosure Requirements (including Australian Accounting Interpretations) and the Corporations (Aboriginal and Torres Strait Islander) Regulations 2007 and any applicable determinations made by the Registrar of Aboriginal Corporations under Division 336 of the Act.

MIKNIQ

WHK NO

Jason Taylor Principal

Cairns, 19 October 2012

## Index

	Officer (of NQLC)
A	Chief Financial Officer (of NQLC)
Aboriginal employees 60–62	position 20, 55, 60–61
Aboriginal Institute of Aboriginal and Torres Strait	role 55
Islander Studies (AIATSIS 62	Combined Gunggandji 5
National Native Title Conference 1–4, 54	ILUAs 27
Aboriginal Land Act 1991 (ALA) 29	native title determination 2–3, 14, 27, 45
Agwamin-Wagaman	Combined Mandingalbay Yidinji Gunggandj
proposed native title application 26	ILUAs 28
Annual General Meeting 16, 18, 49–50, 53	native title application 28
Attending to statutory obligation to handle	native title determination 14, 28
Future Acts Notification where there is no	Wanyurr Majay ILUA 28
registered claim, 26	complaints 44–45
Audit Report 55, 58, 90–91	pending 25
unqualified audit 47, 58	received 25
Aurora 62	Register of 44
	resolved 25
В	connection
Barada Barna	acceptance 26, 29-31, 35, 37, 40
native title application 26	anthropological research 24, 26, 34–35,
Bar Barrum	37–38, 40–42, 44, 64
native title applications 26–27	claims, for 26-27, 29-31, 35, 37, 40-41
native title determination 27	issues 12, 24, 42–43
Water Management 40	consultants 46
Birri	anthropological 12, 26, 34, 41, 44–46, 64
native title application 27	competitive tendering and contracting
Birri Gubba (Cape Upstart). See Juru (Cape Upstart)	63–64
Birri Gubba Nation Group 14	corporate 64
Board of Directors (of NQLC) 2–3, 18–19, 22, 44,	finance 64
49–56, 64	human resources 64
Code of Conduct 56	legal 34, 64
corporate governance 19, 49–56	media 64
Declaration by the Board of Directors 89	planning 37, 64
election of 2, 8, 10, 18, 22, 50	register 64
members of Board 2, 4–10, 18–19, 66	training 64
number of Board meetings 52–55	Contact Officer v
office bearers 5–8, 18–19, 51–53	corporate governance 16, 19, 22, 44, 48–55
role 18–19, 22, 44, 49–56, 61	Corporations (Aboriginal and Torres Strait Islander)
separation of powers 19, 44, 49–51, 56	Act 2006 (CATSI Act) 16, 19, 50, 68, 74, 89
sub-committees 51–52, 54	Country Based Management Planning 28

role 51-52

Chief Executive Officer (of NQLC). See Executive

Central Queensland Land Council Aboriginal
Corporation (CQLCAC) 2, 31–32, 37–38, 41, 60

Chairperson (of NQLC) 5, 18
office bearers 51
report by 1–3

training 2-3, 54-55

D	E
Danbulla National Park Management Plan 28	Ewamian
Delbessie Agreement 37	Galilee Basin Gas Exploration Project 30
Department of Environment and Resource	native title applications 30
Management (DERM) 28, 37–38	Small Scale Mining ILUA 30, 41
Department of Families, Housing, Community	Executive Officer (of NQLC)
Services and Indigenous Affairs (FaHCSIA)	Conact Officer v
2–3, 12–13, 19, 22, 25, 46–47, 49, 55–56, 62,	position 18-20, 50-51, 54-56, 60-61
64	report by 11–14
Program Funding Agreement 14, 62	role 19, 44, 49–52, 55
determinations 3, 6, 11–13, 24, 42–43, 46	External Scrutiny 57–58
Bar Barrum 26–27	,
Combined Gunggandji 2–3, 14, 27, 45	F
Combined Mandingalbay Yidinji	FaHCSIA. See Department of Families, Housing,
Gunggandji 14, 28	Community Services and Indigenous Affairs
Djiru 2, 28–30	(FaHCSIA)
Djungan 14, 29	Far North Queensland Sea Country Plan.
Ewamian 30	See Protection of native title rights
Girrmay 42	and interest and promote sustainable
Gudjala 31	development in Sea Country
Gugu Badhun 2, 14, 31	Federal Court of Australia 12, 24–26, 28–29,
Jangga 2, 14, 32	31–36, 38, 41–44, 46
Juru (Cape Upstart) 2, 33, 45	Finance Unit (of NQLC) 18, 20, 55, 60–61
Mamu 14, 34	Financial Performance 13, 46
Muluridji 2, 35–36, 45	Financial Statements 65–91
not subject to a native title determination	Future Act, Mining, and Exploration Unit (of
26	NQLC) (FAME) 11, 13–14, 18, 20, 60–61
number of 4, 25, 46	Future Acts and Future Act Notices (FANs)
post determination 6	activity 2, 11, 13, 26
Implementation of ILUA 32	received, number of 25
Tableland Yidinji 14, 37–38	response to, number of 25
Tagalaka 14, 38	
Wanyurr Majay 2, 23, 38–40, 45	G
Warrungu 40	Galilee Basin Gas Exploration Project 30–31
Western Yalanji 41	Gimuy (Walubara) Yidinji
Djiru 8	proposed native title application 12, 31
Djiru Warrangburra Aboriginal Corporation	Gudjala 8
29	Galilee Basin Gas Exploration Project 30
ILUAs 29, 54	ILUAs 31
native title determination 2, 28–29	native title applications 31
Djungan	native title determination 31
ILUAs 29	Gugu Badhun
native title applications 29	ILUAs 31
native title determination 14, 29	native title appplication 31
Small Scale Mining ILUA 30, 41	native title determination 2, 14, 31

Н	M
H Hay Point Expansion ILUA 32 Human Resources 59–62, 64  Implementation of ILUAs 32 Indigenous Land Use Agreement (ILUA) 2, 12–13, 19, 24–25, 42–43 Combined Gunggandji 27 Combined Mandingalbay Yidinji Gunggandji 28 concluded and registered, number of 25	Mabo  20th Anniversary of Mabo 4  Mabo Case 3  Mabo Day March, Townsville 2–3, 48, 54  Malanburra Yidinji 9  Mamu  native title application 34  native title determination 14, 34  Manbarra - Palm Island Improved Land  Management Practices ILUA 34  Mandingalbay Yidinji 6. See Combined
development, number in 25 Disputes relating to, number of 25 Djungan 29 Gudjala 31 Gugu Badhun 31 Hay Point Expansion ILUA 32	Mandingalbay Yidinji Gunggandj Mandingalbay Yidinji People #2 and Wanyurr Majay People (Lower Coastal Yidinji- Southern Cluster) (Dispute Resolution) 34–35 Muluridji
Implementation of ILUAs 32 Juru (Cape Upstart) 33 Mamu 34 Manbarra - Palm Island Improved Land Management Practices 34 Muluridji 36 Pastoral ILUA Template (Delbessie Agreement) 37 Tableland Yidinji 37–38	ILUAs 36 native title determination 2, 35–36 Water Management 40 Western Yalanji People and Muluridiji People (Dispute Resolution) 41 Wildlife Conservancy of Tropical Queensland, Use and Access Agreement and MoU 36
Indigenous Land Use Agreements (ILUA).	N
See Small Scale Mining ILUA insurances 62	National Native Title Conference. See Aboriginal Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS
J	National Native Title Council Support 36
Jangga native title application 32 native title determination 2, 14, 32  Juru  Juru People - Port of Abbot Point and State Development Area ILUA 34	National Native Title Tribunal Arbitration of Future Act Determination Application 3 National Native Title Tribunal (NNTT) 12, 17, 25–26, 28, 30–32, 35–38, 40–42, 44, 55 Native Title Act 1993 (NTA) 3, 16, 19, 30–31, 34, 42–43, 44, 74
native title applications 34  Juru (Cape Upstart)  ILUAs 33  native title determination 2, 33, 45	native title applications numbers of 25 Native Title Services Unit (of NQLC) (NTSU) 18– 20, 44–45, 55, 60–61 Ngawun Mbara
L	Galilee Basin Gas Exploration Project 30
Legal Unit (of NQLC) 13, 18–20, 44–45, 55–56, 60–62 Letter to the Minister i	native title application 37

North Queensland Land Council Native
Title Representative Body Aboriginal
Corporation (NQLC)
Collective Agreement 2011-14 62
Offices
Cairns, Head Office 21, 47
Mackay, Regional 2, 11, 13–14, 47
Townsville, Regional 2, 11, 13–14, 47
Operational Plan 14, 22, 24, 55
organisational structure 18–20, 60–62
Overview 15–22
role and function 16, 19
Strategic Plan 19, 22, 44, 49, 55
Nywaigi 10

#### 0

Occupational Health and Safety 62 Operational Plan. See NQLC: Operational Plan

#### P

Pastoral ILUA Template (Delbessie Agreement) 37

Prescribed Bodies Corporate (PBC) 3, 5–6, 22 number of 3

Principal Legal Officer (of NQLC) position 20, 45, 60–61 role 55

Program Funding Agreement. See Dept FaHCSIA Program Funding Agrrement

Protection of native title rights and interest and promote sustainable development in Sea Country 22, 37, 64

## Q

Queensland 29

Queensland South Native Title Services 37

## R

ResearchUnit (of NQLC) 18-20, 44-45, 55, 60-62

#### S

s. 31 Deed and Ancillary Agreement 31, 38 Sea Country Business Plan. See Protection of native title rights and interest and promote sustainable development in Sea Country

Sea Country Steering Committee. See Protection of native title rights and interest and promote sustainable development in Sea Country

senior management

Board of Directors 50. *See* Board of Directors (of NQLC)

employees 56,62

Small Scale Mining ILUA

Djungan People 30

Ewamian People 30

Tableland Yidinji People 38

Western Yalanji People 41

Sovereignty 3

staff of NQLC 2, 13, 19–20, 44–46, 49, 51, 56, 60–62

State Government of Queensland (State) 24, 31,

connection (native title) 24, 26–27, 30–31,

34–37, 40–42 engagement with 29, 31, 42–44

ILUAs 29–30, 32–34, 36–38, 41, 43

ILUAs 29–30, 32–34, 36–38, 41, 4 limited resources 12, 42, 47

Strategic Plan. See NQLC: Strategic Plan

#### Т

Tableland Yidinji 6

ILUAs 37-38

native title application 37–38 native title determination 14, 38 Small Scale Mining ILUA/ s. 31 Ancillary

Deed 38

Tagalaka

native title applications 38 native title determination 14, 38

Townsville

proposed native title application 12, 14, 38 training. *See* Board of Directors (of NQLC): training employeess of NQLC 60–62

## W

Wanyurr Majay Combined Mandingalbay Yidinji Gunggandji ILUA 28 Mandingalbay Yidinji People #2 and Wanyurr Majay People (Lower Coastal Yidinji- Southern Cluster) (Dispute Resolution) 34-35 nativde title determination 2, 23, 38-40, 45 Wards (of NQLC) 2-3, 5-10, 18, 22, 49-50, 54 Warrungu 7 native title application 40 native title determination 40 Water Management 40 web site address v Western Yalanji 7 native title application 41 native title determination 41 Small Scale Mining ILUA 41 Water Management 40 Western Yalanji People and Muluridiji People (Dispute Resolution) 41 Wiri native title application 41 Workplace Health and Saftey. See Occupational Health and Safety

#### Y

Yirendali
Galilee Basin Gas Exploration Project 30
native title application 41
Yuibera 9
native title application 41



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