



# Annual Report

2014-2015



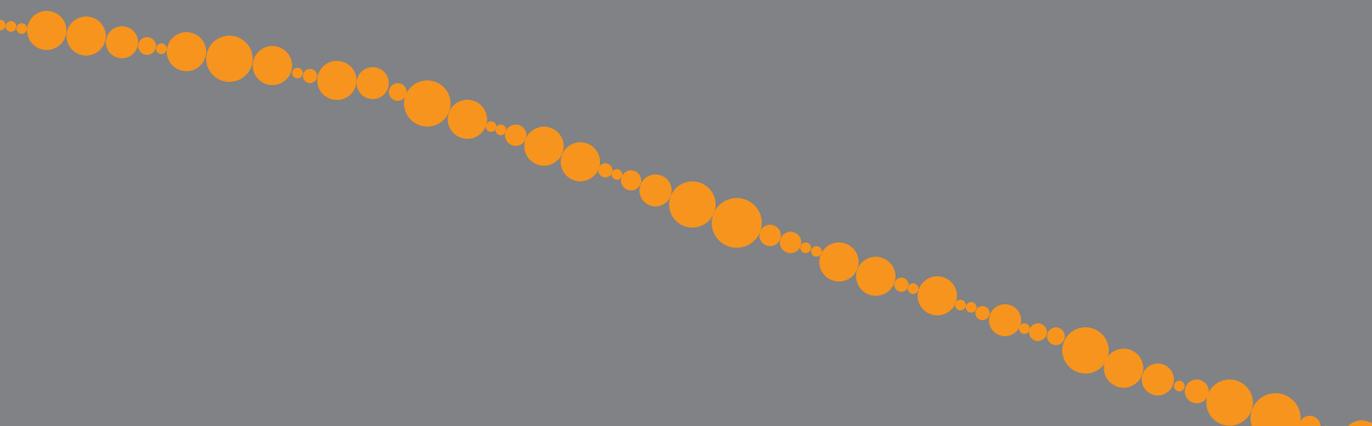
WARNING: While the North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC) has made every effort to ensure this Annual Report does not contain material of a culturally sensitive nature, Aboriginal people should be aware that there could be images of deceased people.

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*Preparation of this report is funded by the Department of Prime Minister and Cabinet.*





## North Queensland Land Council

Native Title Representative Body Aboriginal Corporation

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Senator The Hon Nigel Scullion  
Minister for Indigenous Affairs  
MG50, Parliament House  
CANBERRA ACT 2600

Dear Minister Scullion

**Re: North Queensland Land Council Native Title Representative Body Aboriginal Corporation Annual Report 2014-15.**

In accordance with the "Terms and Conditions for Native Title Agreements" I am pleased to present to you the North Queensland Land Council Native Title Representative Body Aboriginal Corporation's Annual Report for the period 1 July 2014 to 30 June 2015.

The document includes the Corporation's report of operations and performance of functions, along with the audited financial statements for the period.

I trust you will read the Report with interest.

Yours sincerely

Ian Kuch  
Chief Executive Officer

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# North Queensland Land Council Overview

**The North Queensland Land Council (NQLC) is a proactive Aboriginal Corporation recognised as a Native Title Representative Body (NTRB) under Section (s) 203AD of the Native Title Act 1993 (Cth) to preserve, protect and promote the recognition of native title in the North Queensland representative region. We strive to achieve the resolution of native title claims and support the ongoing aspirations of recognised native title holders.**

## 1.1 OVERVIEW DESCRIPTION

The NQLC is a recognised NTRB under s203AD of the *Native Title Act 1993* (NTA) for the Northern Queensland representative region. The NQLC receives the majority of its funding from the Department of the Prime Minister and Cabinet's Native Title Programme.

The land area of the 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). 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 the 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 culture, 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

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, Charters Towers, Mossman, Bowen, Atherton, Sarina, Ingham, Tully, Cardwell, Richmond, Nebo/Mirani, Herberton, Ravenshoe, Kuranda, Mount Garnet, Croydon, and the Jumbun Community.

## 1.2 ROLES AND FUNCTIONS

***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.***

the Einasleigh 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

### 1.2.1 LEGISLATION

The primary legislation which the NQLC is concerned with is the Commonwealth NTA which defines the statutory functions of an NTRB. The NQLC, in the context of representing native title



Figure 1: The area of responsibility of the NQLC Representative Body

claims also deals with the *Native Title (Queensland) Act (1993)* and other relevant federal and state legislation.

The 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.

### 1.2.2 LEGISLATIVE FUNCTIONS

As a recognised NTRB, the NQLC has the following statutory functions under section 203B of the NTA:

- Facilitation and assistance functions;
- Certification functions;
- Dispute resolution functions;
- Notification functions;
- Agreement making functions; and
- Internal review functions.

Other functions arising out of section 203BJ 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 Bodies Corporate of matters impacting native title;
- Consult with Aboriginal communities; and
- Cooperate with other NTRB's to maximise efficiencies.

Functions incidental to statutory functions:

In recent years the number of Registered Native Title Bodies Corporate [PBCs] has increased due to the number of determinations achieved by the NQLC. To support this demand, NQLC has increased its support for PBCs through approved funding and in the supply of training and support for corporations. In addition NQLC in partnership with AIATSIS is developing a PBC Toolkit as a comprehensive "how to" guide for PBCs, which in its completion can be rolled out nationally.

### 1.2.3 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 arm's length from the day to day management of the organisation - the responsibility of the Chief Executive Officer (CEO). For more details see section 5 Corporate Governance.

## 1.3 STRUCTURE

Figure 2 outlines the organisational structure of the NQLC.

Refer to Table 1 for a list of all Board Members, and Table 2 for a list of all Office Bearers as at 30 June 2015. The NQLC Rules have for a long period, referred to the four office bearers positions, 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. The NQLC is classified as a 'large' sized corporation for CATSI Act purposes,

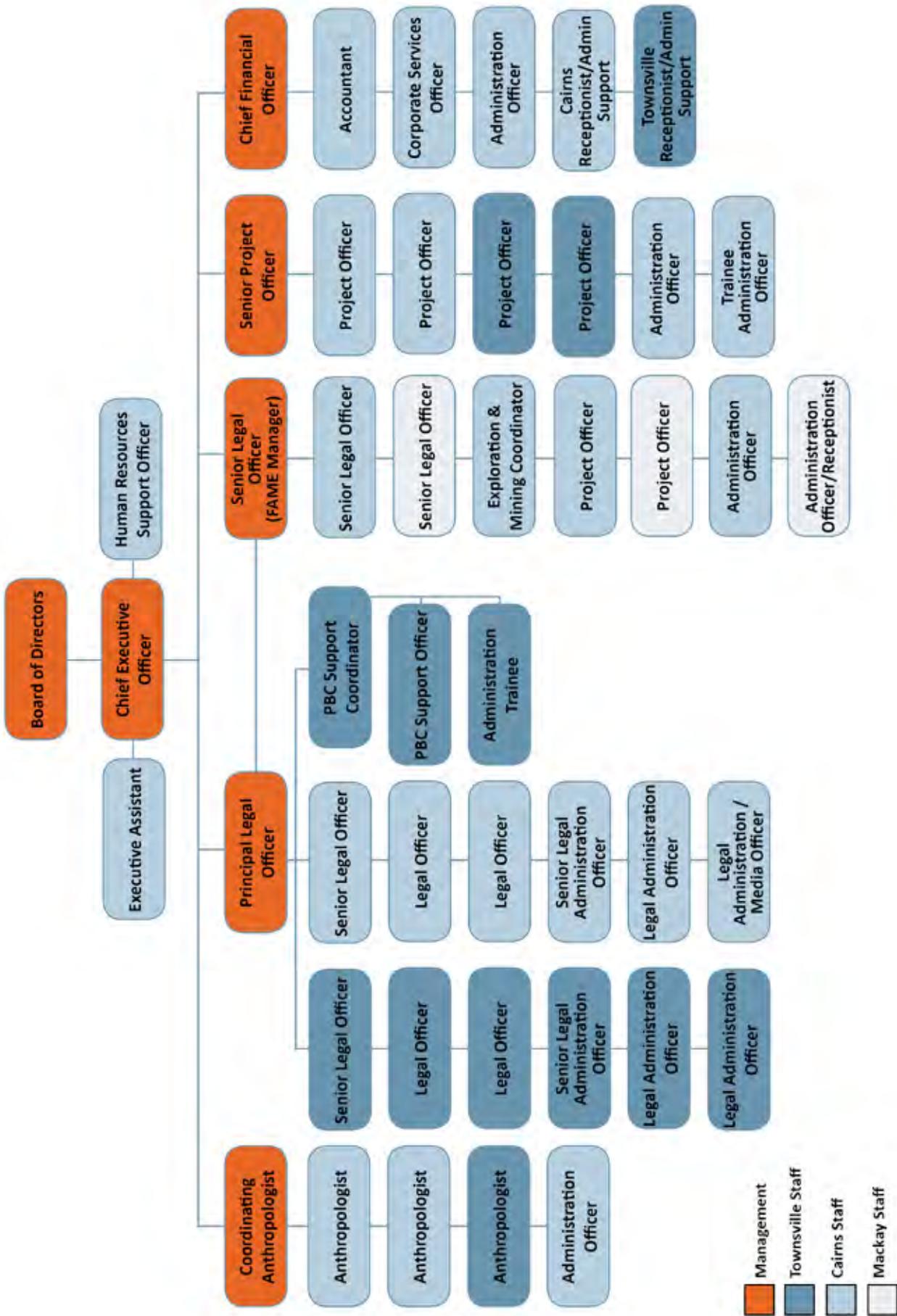


Figure 2: NQLC Organisational Structure

therefore the NQLC has both a CATSI Act Secretary and a Correspondence Secretary.

## 1.4 OUTCOME AND OUTPUT STRUCTURE

The NQLC has detailed objectives and outcome statements along with key performance indicators to measure outcome targets in its Strategic Plan. The 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 performance and financial reports to PM&C biannually.

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 Anthropological 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 ILUAs 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.

## 1.5 OUR VISION STATEMENT

Our vision is to provide a service region where the native title rights and interests of our constituents are recognised, respected and protected.

## 1.6 OUR MISSION STATEMENT

Our mission is to lead and coordinate, through the delivery of professional services, meaningful, fair and equitable native title outcomes for the native title holders of our region.

## 1.7 OUR VALUES

The NQLC adheres to the following values:

- Cultural sensitivity, including 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 process
- Responsiveness to the changing operating environment of NTRBs
- Maintenance of a harmonious and productive workplace conducive to the achievement of native title outcomes
- Encouragement and promotion of employment, training and professional development of Indigenous people within the region.

## 1.8 OPERATIONAL PLAN

The annual Operational Plan, approved by both the Board and The Department of Prime Minister and Cabinet, outlines the activities that the NQLC intend to undertake (native title claims and special projects) over the following year.

Table 1: Elected Board of Directors as at June 30 2015

Ward	Elected Board Member
Cairns	Colin Enoch
Hughenden/Charters Towers	Patricia Dallachy
Innisfail	Henry Epong
Mount Garnet Ward	Annette Hooligan
Proserpine/Mackay	Gary Mooney
Tableland	Kaylene Malthouse
	Tracey Heenan
Townsville/Ayr	Angelina Akee
Tully/Palm Island	Philip Rist
Yarrabah	Errol Neal
	Prunella Harris

Table 2: Office Bearers of the Board of Directors as at June 30 2015

Office Held	Elected Bearer
Chairperson	Errol Neal
Deputy Chair	Philip Rist
Correspondence Secretary	Gary Mooney
Treasurer	Patricia Dallachy

# Board of Directors



**Errol Neal**  
Yarrabah Ward

I'm a traditional owner from Yarrabah, I 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.



**Philip Rist**  
Tully / Palm Island ward

My mob is Nywaigi from the Ingham area, that's my mother's country, I grew up there. In the early stages, we lived in very basic accommodation; lived in a tin shack, ground floor with a fireplace in the middle. My mother, her sisters and brothers were removed from that area pretty early, sent to Palm Island and lived on Palm Island for many years as a penal colony as we all know.

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.



## Patricia Dallachy

Charters Towers/Hughenden Ward

I was born in Charters Towers and taken to Palm Island where I grew up. My country is Gudjala.

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



## Gary Mooney

Proserpine/Mackay Ward

I come from Mackay and my tribal group is the Yuibera people.

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 a 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 barriers 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 claims 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 electricity or nothing like that.



## 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.



## Tracey Heenan

Tableland Ward

I was born in Atherton, North Queensland and my tribal group is Tableland Yidinji.

I have been heavily involved in Bidji Bidji Aboriginal Housing Organisation for a number of years.

My mother, Catherine Joseph, is a Elder from Tableland Yidinji and has sat on the Board of North Queensland Land Council for many years. I am very proud to have followed in my mother's footsteps.

I enjoy watching my favourite NRL football team the Bulldogs and am also involved with Atherton Hockey Association. I thoroughly enjoy spending quality time with my family and friends.



## Colin Enoch

Cairns Ward

I was born in Brisbane and enjoy footy, fishing and following politics. My father is a Stradbroke Island man, and my mother is Yirrigandji and Kaanju.

I have been happily married for 36 years and have four beautiful daughters and eight grandchildren with two on the way.

I am one of the founding members of the North Queensland Land Council back in 1993 and have seen how far they have come since then. There are a lot of good people that work here and you really have to tip your hat to them. We have achieved many things for people on the ground and have done a great job in the native title space. I see NQLC having the ability to expand across all avenues of Indigenous affairs, starting first with the support of Prescribed Bodies Corporate, provided we get the funding to do so.

In addition to being on the Board of NQLC, I have sat on the Board of Njiku Jowan Legal Services for 25 years and have coached the Southern Suburbs footy team for 20 years straight. I also work at Peabody Energy as a Diesel Fitter, Trainer Assessor and Mine Rescue.



## Prunella Harris

Yarrabah Ward

I was born at Cairns Hospital. My father Stewart Harris is Gurubana Gunggandji and my mother Alice Fischer (nee) Meeks is Gudjala.

I have lived in both Yarrabah and Charters Towers. I went to Yarrabah Primary School and Charters Towers High School before moving back to Yarrabah. I have seven children and love hunting and camping on Country. It is where I can relax and be stress-free.

I have worked as a tutor for online computer courses, house keeping on Fitzroy Island, landscaping, a tour guide and cleaning new homes under construction. I also love working with NQLC. To relax and de-stress I like to go camping.



## Angelina Akee

Townsville Ward

I would like to firstly acknowledge my late husband, Hosea, who has been part of my journey with my traditional group Juru Bindal, and also my daughter Tanya and my family, the Ross Family, who have stood by me and supported me in my representation, not just with NQLC but with our PBC, Kyburra Munda Yalga Aboriginal Corporation RNTBC. I would also like to acknowledge all the elders and traditional owners within NQLC's region, the dedicated staff of NQLC and the Aboriginal and Torres Strait Islander people who are actively involved in working cooperatively with our staff. I would also like to acknowledge the Board of NQLC in their support and representation of the traditional owners within their region.

I was born in Mackay and raised in the town of Garbutt in Townsville. I'm a Garbutt Magpies supported through and through and played basketball, softball and netball in my younger days.

Along with being a Director of NQLC, I am involved in the Townsville Aboriginal and Torres Strait Islander Corporation for Women, the Chair of the Trustee for the Aboriginal and Torres Strait Islander Cultural Centre, Vice Chair of (Aboriginal and Islander (IBIS) Housing Society and Chair of Kyburra Munda Yalga PBC. I also do a lot of volunteer work for my people.

I would like to see NQLC develop a strategic focus toward pre and post determination support for PBCs, particularly economic development. I would also like to see further attention given to native title over sea country, townships lots and national parks. Another hope that I have for the Land Council is to involve our young men and women more and show them how they can contribute to the continued development of their region. To help them develop their career paths, potentially into native title lawyers and anthropologist. As Elders, we need to now nurture our young people to take more of an active role. Not only for native title outcomes but to strengthen their knowledge of traditional laws and customs, connection to country and women's and men's business.



## Henry Epong

Innisfail Ward

I am a born and bred Innisfail man and from the Mandubarra tribe.

I am one of seven children, with eight children of my own, 26 grandchildren and 14 great grandchildren.

I am passionate about marine life and am the president of Mandubarra Land & Sea Corporation, which has its own turtle rehabilitation program. I am also a member for the Local Marine Advisory Committee (LMAC).

I enjoy fishing and growing vegetables and love to be outdoors on Country.

NQLC has achieved a lot and I hope that they continue to receive the funding to remain up and running in order yo continue their great work within native title.



## Annette Hooligan

Mount Garnet Ward

I was born in Gordonvale hospital to parents Stewart Bong , a Yidinji Elder and Sarah Bong (nee Stewart) who is Tableland Yidinji. Gordonvale and Atherton were my hometowns growing up. My husband is Kevin, a born and bred Mt Garnet Traditional Owner and we have five children, and several grandchildren. I lived across both my traditional country and my husband's over the years but have been calling Mt Garnett home since 1978.

I have worked in many roles including as a Teacher Aide/Indigenous Liaison and as a labour worker with tomatoes, onions, chilli, herbs, potatoes and strawberries. I have also worked in aged and disability care, am a volunteer for members and representatives of Community Justice for the Magistrate Court and Chairperson for the Land Trust.

Camping and fishing on Country is one of my favourite things to do. I have some very special memories with my family camping on Country, especially during school holidays. My most favourite memory was during the last Easter holidays at Badjuballa Station with our grandchildren. I love spending time with my family and visiting Country.



Board of Directors: (Back row) Angie Akee, Henry Epong, Colin Enoch, Gary Mooney, Phil Rist and Tracey Heenan (Front row) Annette Hooligan, Patricia Dallachy, Prunella Harris and Kayleen Malthouse (absent: Errol Neal, Chairperson)

# Report by the Chairperson

Firstly I would like to acknowledge and pay my respects to the custodians of the land within the NQLC footprint. To the traditional owners, past and present, who fought for the rights and interests of the Aboriginal people, some of whom never lived to see the day their people gained native title and received the recognition and respect they deserved. To our people who were forcibly removed from their land, my fellow countrymen and dearly respected elders, I acknowledge you. I also wish to acknowledge the hard work, dedication and passion of the staff and constituents of the North Queensland Land Council who are continuing to fight for the rights and interests of our people.

NQLC is now in its 21st year of operation with 38 consent determinations under our belt including Juru People (Part A) and Juru People (Part B), which were achieved in the 2014/15 reporting period. NQLC is currently in a claims construction phase after the influx of determinations achieved in the years prior, which has kept the staff at NQLC busy researching and lodging new claims.

As the percentage of determined land within our region increases, we are broadening our focus and resources to better support the development of Prescribed Bodies Corporate (PBCs) in their post-determination phase. Currently we provide 18 PBCs with financial support, along with assistance in the development of governance structures, training and coordination of partnerships to strengthen economic development for each PBC.

This reporting period was mid-term for our current Board members, who remain focused on achieving results for the traditional owners within their wards and I would like to express my gratitude to my fellow Directors for their ongoing guidance and determination.

I would also like to extend my gratitude to the hard work and dedication of Mr Ian Kuch, who resigned from his position of Chief Executive Officer at the end of the 2014-2015 reporting period, after three years leading the charge. On behalf of the staff and Board of North Queensland Land Council, I wish Ian all the very best with his future aspirations and personal goals.



I would also like to welcome on board Mr Steve Ducksbury, who is stepping into the Chief Executive Officer role until the official recruitment process is finalised toward the end of 2015. Mr Ducksbury brings with him a wealth of experience within the native title sector, having worked in the sector for almost 20 years across State and Commonwealth Agencies and within the Native Title Representative Body. Our PBCs will also know Steve well from his role within our PBC Support Unit. I have every confidence that Steve will continue to lead the team to success.

In closing, I would like to extend my congratulations to the Juru People for their two (2) native title consent determinations during the 2014-2015 reporting period, and also show my deep respect to those who are currently in the claim lodging process, for their unwavering determination in the fight for recognition of their people. We have come along way and we will continue this fight for the recognition of traditional land ownership and for the unyielding social, economic and environmental outcomes that it will bring.

Errol Neal, Chairperson

# Report by the Chief Executive Officer

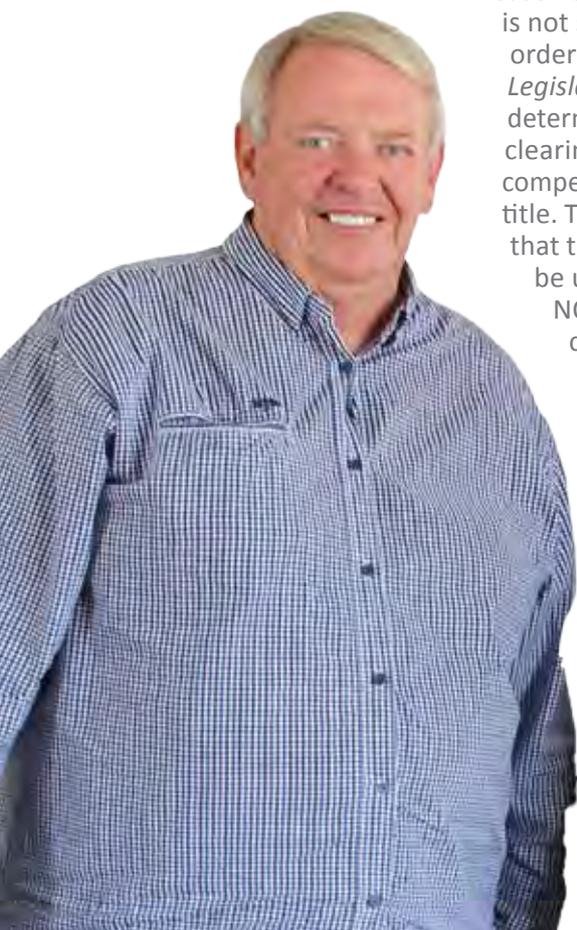
I am pleased to report that some of the issues noted in my report for 2013/14 have been substantially resolved in favour of the NQLC).

In March of this year, the High Court of Australia confirmed that in the Bar Barrum #4 claim, military hirings over parcels of land hired by the Commonwealth during World War II do not extinguish native title. As there were over 13,000 such hirings made during World War II this favourable decision by the High Court has resolved this matter not only in the Bar Barrum case, but also for all other claimant groups throughout the country where claimed land was subject to those military hirings. It is worth noting that the NQLC achieved this result without contested litigation funds and therefore had to utilise its own operational resources. In such a significant matter, the NQLC should have received some additional support from PM&C.

This last point is worthy of further comment. The new programme funding (PFA) agreement requires NTRBs to provide for trials out of their normal funding allocation. This policy position, in our view, does not recognise the expense of conducting litigation and the impact trials may have on the conduct and the budgets allocated to other claims.

In last year's report I also noted that the State government was refusing to consent to a determination of native title over certain 'town lots' in the Juru #2 matter. Again I am pleased to report that the State has now backed down from their previous position of requiring a higher standard of anthropological proof of connection to town or urban lots than the balance of areas claimed in an application. Therefore the balance of the Juru #2 claim was determined in June 2015, which was the NQLC's only consent determination for the 2014/15 year.

I also reported last year the potential negative effects on native title of the State's *Land and Other Legislation Amendment Act 2014*. The provisions allowing pastoralists to apply to freehold their existing pastoral leases has now led to pastoral lease holders lodging non-claimant applications over their properties where the lease is not subject to a determination of native title or a registered native title claim. In order to circumvent the compensation provisions contained in the *Land and Other Legislation Amendment Act 2014*, the non-claimant application process allows for a determination that native title does not exist over a particular pastoral lease thereby clearing the way for an upgrade of tenure to freehold, without having to address compensation issues to traditional owners, or obtain their consent to a conversion of title. This is an insidious use of the non-claimant application process. I highly doubt that the designers of the NTA envisaged that the non-claimant application process be used in such a pernicious fashion to the detriment of Aboriginal people. The NQLC currently has over 10 of these applications which require a native title claim to be lodged within three months of the non-claimant application being made. It is perverse that Aboriginal people's claimant applications can take up to 18 years in our experience to be resolved, whereas a non-claimant application can get a ruling that native title does not exist in less than a year. In order to protect native title over pastoral leases where non-claimant applications are made, the NQLC needs to have a body of anthropological research at hand to lodge a native title claim over the area subject to a non-claimant application. The NQLC is therefore likely to lodge a new claim for the Wakaman people over a pastoral lease subject to a non-claimant application. It is not always possible to lodge a claim in response to these types of applications if the research is not in place and the area is not disputed by competing native title claimant groups. The NQLC may not, within the restrictive time frames, be able to lodge claims over all of the non-claimant applications received to date. There



is the potential for a large number of these sorts of applications to be lodged in the future which has the potential to hijack our forward claim agenda and force the NQLC to divert resources from existing operational plan items to defending traditional owners coexisting native title rights over pastoral leases as established by the Wik decision in 1996. Therefore in effect 'Wik' is dead in Queensland except where there are existing determinations of native title over pastoral lease hold land or currently registered native title claims. To gain a perspective of the potential impact these claims may exert in the future, it is worth noting that over 50% of Queensland's land mass is currently under pastoral lease tenure.

In the face of such derelict legislation the NQLC has to examine its position in relation to the possible conduct of a legal challenge to the validity of the legislation on the basis of possible inconsistency with the Constitution, as well as potentially breaching provisions of the *Racial Discrimination Act 1975*. The NQLC Chair and CEO have had recent discussions with the new responsible State Minister, but at the time of the writing of this report have not received a commitment to repeal the freeholding aspects of this legislation. If that commitment is not achieved the NQLC will be faced with providing for a legal challenge to the legislation from within our existing budget. This in our view should be

funded from contested litigation funds as the challenge is of State-wide significance.

The NQLC has now achieved 38 consent determinations of native title. It is my understanding that this is the highest number of native title determinations in any representative body area in Australia. With such a large number of native title claims successfully concluded the NQLC has been actively researching and lodging new claims in 2014/15. New claims

number of sub-regional sea claims over offshore islands and adjacent waters.

In our Future Acts and Mining section, a significant victory was achieved for NQLC when the National Native Title Tribunal (NNTT) found a small miner had failed to 'negotiate in good faith' with the Djungan people over a mining lease. The NNTT found the miners had failed to consider cultural heritage concerns of the native title holders which constituted to a lack of good

***... I highly doubt that the designers of the Native Title Act envisaged that the non-claimant application process be used in such a pernicious fashion to the detriment of Aboriginal people.....***

lodged during this year include:

- Nywaigi, in the Ingham area
- Djabugay-Bulway-Yirrgay-Ngakali-Guluy, in the Kuranda area

A number of other new claims are due for lodgement early in the new financial year. For example the Warrgamay claim has been authorised but not yet lodged, while Bindal, Wulgurukaba and Gia/Ngaro are at an advanced stage in the NQLC's claim construction process. Research was also commenced on a

faith. The NQLC has two other Future Act matters in arbitration. The NQLC has noted that there is an increasing tendency for small to medium miners to seek arbitrated decisions rather than negotiated settlements. The hearing of these disputes before the NNTT costs significant amounts and if there is a proliferation of this type of action in the future then it could negatively impact on the budget parameters of our Future Acts Mining and Exploration Unit (FAME).



(L-R) Raylene Oui, Lenora Aldridge, Angie Akee, Colleen Power, Iris Glenbar, Susan Phillips, Tanya Chatfield, Emily Nicol, Paula Power. (Image courtesy of Susan Phillips)

The NQLC has continued to develop our PBC Capacity Building and Support programme in 2014/15. Additional staff have been allocated to our PBC Unit with the NQLC attracting additional funding from PM&C for our business development project, which is seeking to develop business enterprises with identified corporate partners. Eighteen PBCs in our region received direct support from the PBC Basic Support Program. The NQLC is currently finalising the PBC Toolkit of ten modules developed in partnership with the Australian Institute of AIATSIS. While the \$20 million announced by Minister Scullion at the Port Douglas Native Title Conference is welcome, the NQLC is yet to see details of how those funds will be rolled out. The programme purportedly provides for direct funding for PBCs from PM&C which in the NQLC's view is not the

appropriate approach. The NQLC has developed relationships with all PBCs in our region and feel that in our case additional funding to PBCs should be directed via the Land Council.

The NQLC submitted a comprehensive submission to the IAS concerning a free business support service, particularly for PBCs and those groups with major development proposals on their Country. Unfortunately our submission was not successful nor was any other IAS submission from NTRBs/SPs nationally. The NQLC notes that the government is currently reviewing the IAS Programme guidelines and funding round processes which we hope will lead to more Indigenous organisations being funded in future IAS funding rounds.

There remains continued uncertainty

for funding levels in 2015/16. PM&C did not provide the NQLC with a final funding offer for that year during 2014/15 as has previously been the case. It appears that the NQLC will suffer a substantial cut in its funding for 2015/16 although final offers have yet to be made at the time of writing this report. The current situation could have easily been avoided if PM&C adopted a more consultative and communicative approach with the NQLC in its programme management task. The NQLC deplores the lack of adequate notice of impending reduction in funding which certainly creates a challenge for the NQLC during 2015/16. During the reporting period the NQLC received an additional one year of recognition as an NTRB, despite the NTA allowing for a maximum of six years recognition. The Minister has in effect flagged that he intends to



PBC Submission Writing Workshop (from top left) Patrick Wheeler, Juludu Neal, Allison Halliday, Brad Foster (NQLC), Luke Clubb, Darryl Murgha, Jai Joseph, Chris Richardson (NQLC), Chris Harriss (NQLC), Steve Ducksbury (NQLC), Lana Kyle, Doreen Duong, Tina Hart, Glenys Grogan, Marita Budden, Sharon Prior, Sandra Levers and Melissa Robertson



North Queensland Land Council staff, 2015 Staff Professional Development Workshop

make changes to the current system in 2016/17 by granting to the NQLC and other NTRB/SPs the minimum period of recognition. It becomes problematic to staff retention when such limited guarantees of continued employment are able to be given to hard working representative body staff. It further impacts on our ability to plan for the future conduct of current native title matters and those claims currently under construction. The Minister can resolve this issue by granting NTRB/SPs longer periods of recognition, say three years, in line with the forward estimates process conducted within government.

With the election of a new government in Queensland, the NQLC has definitely noticed a more consultative approach by the State government in its dealings with native title holders and NTRBs/SPs. The Minister responsible for native title in Queensland, Andrew Lynham has committed to quarterly meetings with Queensland NTRBs/SPs. The NQLC welcomes their improved consultation and engagement with the native title sector in Queensland. In turn this should lead to better native title outcomes on the ground as well as less contested and possibly litigated matters involving the State of Queensland.

The NQLC also conducted a highly successful land summit at Clump Mountain, Mission Beach, in October 2014. This was the first occasion in eight years where the NQLC sought

direction from its constituent groups on the conduct of native title matters in our region. The summit attracted high profile speakers such as several State Government Ministers, the Social Justice Commissioner Mick Gooda and Indigenous Business Australia CEO, Chris Fry and was facilitated by Murradoo Yanner. It is disappointing that despite numerous attempts the

2015. I wish to note that the current success of the NQLC in its operations can be attributed to a significant extent to appropriate corporate governance mechanisms being in place, such as adherence to the separation of powers principles by both staff and directors. That adherence needs to continue in the future if the NQLC is to maintain its place as one of the most successful

***...I would further like to acknowledge the hard work and support I have received from my staff over the past three years and would like to take this opportunity to wish both the Board of the NQLC and its staff every success in the future.***

Indigenous Land Corporation (ILC) does not engage with the NQLC or our constituents. The ILC declined an invitation to attend, as they did with invitations to attend the NQLC's PBC regional meetings. We hope to make this summit a biennial event as it allows the NQLC to fulfil its responsibility to consult with native title holders/claimants on a broad range of issues impacting on their native title rights and responsibilities.

On a personal note, this will be my last annual report as I am leaving the employ of the NQLC in early August of

NTRBs in the country. I would further like to acknowledge the hard work and support I have received from my staff over the past three years and would like to take this opportunity to wish both the Board of the NQLC and its staff every success in the future.

Ian Kuch, Chief Executive Officer

*Due to our exceptional record in the successful prosecution of native title claims, the NQLC is now entering a new phase of claim construction throughout the region*

# Report on Performance

## 5.1 REVIEW OF PERFORMANCE RELATING TO STRATEGIC AND OPERATIONAL PLAN AND BY FUNCTIONS

The performance of the NQLC for the year ending 30 June 2015 according to statutory functions is summarised in Table 3.

In 2014-15, NQLC achieved two consent determinations of native title, and two new claimant applications were filed. One of the new applications filed during the year were on behalf of a group who had not had a viable native title claim previously, Nywaigi. The Djabugay-Bulway-Yirrgay-Nyakali-Guluy claim pulls together the various component groups of the wider Djabugay society.

The NQLC has now achieved a total of 38 native title consent determinations within our region overall. During the reporting period 24 ILUAs were registered in the region and 2,730 Future Act Notifications were assessed and actioned.

In May 2015 the High Court handed down its decisions in the Bar Barrum claim as to whether Military Orders made during the War years allowing the Military to take over and use various areas of land had extinguished native title in those lands. This was an important decision as there were thousands of such orders made across Australia. The High Court split 3-3. All judges said the test was whether there was a clear and plain intent by parliament to extinguish native title. Three found such an intent. Three said there was no such intent. In a 3-3 split the Federal Court conclusion stands which was in favour of no extinguishment. The next major battle for Bar Barrum Native Title holders is dealing with squatters.

A PBC Support Unit was established within NQLC in the year 2013-2014 and continues to provide administrative, legal and capacity building support to 18 PBCs, as well as assistance to claim groups with PBC development.

In addition NQLC together with AIATSIS is developing a "tool kit" as a comprehensive guide for CATSI Act corporations as to how to carry out business and comply with the Act

The NQLC's ILUA Implementation Project has also led to improved outcomes for native title holders. Under the project, the NQLC is currently finalising a lease for the Manbarra People of Palm Island over the northwest bay

area of Great Palm Island for business, residential and cultural purposes. When finalised, this lease will provide the Manbarra People with significant opportunities to secure their long term future.

Due to our exceptional record in the successful prosecution of native title claims, the NQLC is now entering a new phase of claim construction throughout the region, particularly in areas where claims have been withdrawn in the past i.e. the former Central Queensland Land Council region. The Court has a stated expectation that new claims should be finalised within eighteen months of lodgment so it is crucial that comprehensive research is completed prior to lodgement.

Having said that we are experiencing an explosion in non-claimant applications which require, if native title is to be preserved, the lodgement of claims often out of sequence with the otherwise orderly and planned progression of claims and research.

## 5.2 ACTUAL PERFORMANCE IN RELATION TO TARGETS AND REASONS FOR DIFFERENCES

### BAR BARRUM CLUSTER

On 13 May 2015 the High Court handed down its decision on the military orders issue in favour of the Bar Barrum people. Therefore, the applications Bar Barrum People #2, #3, #4, #5 and #6 can progress in their current form. Generally, all parties have agreed to work towards a determination of native title. However, the same group of respondents who raised the military order issue in the Court have again raised issues which could delay the matters being progressed to determination.

These respondents assert non-native title interests in four parcels of land on the Walsh River in Bar Barrum People #5.

On 12 June 2015 the Applicant sought orders to split Bar Barrum #5 into Part A and B. Part B would have been made up of the discrete parcels of land. This would have allowed Part B to progress to a determination in May or June 2016 along with the other applications.

However, the Court wants to deal with the issues raised by the respondent parties which are still very unclear. Therefore the Court ordered that on 20 July 2015 the squatters must file a document explaining what interests

they hold in Bar Barrum #5 and exactly what arguments they are trying to make in relation to the effects of tenure and use of the land on extinguishment and continuity of connection.

In the new financial year, we anticipate a hearing on the interests being claimed by the respondents and whether those interests are sufficient to properly sustain them as respondent parties.

### **WIDI #1 (QUD372/2006)**

Orders have been made that this claim be suspended pending the outcome of the Widi #2 and Barada Barna proceeding (discussed below). There is a possibility that this claim will continue to be prosecuted towards a consent determination in the event that the parties agree that the Widi #2 claim can proceed to a consent determination.

### **WIDI #2 (QUD492/2013)**

The Widi #2 claim area is overlapped by the Barada Barna claim QUD 380/2008. The Barada Barna Applicant is privately represented. On 22 May 2014 Justice Dowsett made programming orders setting down the Barada Barna claim for trial and this proceeding is known as the “Barada Barna Proceeding”. The Court made Programming Orders despite submissions from the Widi #2 Applicant that the Widi #2 claim should not be set down for trial. The trial is due to commence on 16 November 2015 over a period of five weeks to hear connection evidence and a further three weeks in January 2016 to hear extinguishment evidence.

The Widi #2 Applicant and Barada Barna Applicant have made substantial efforts to resolve the Indigenous issues in dispute and to engage in negotiations with the State in an effort to have the proceeding resolved by consent. During these efforts the parties have been complying with the orders of the Court. Preparation of the material required for trial is essential should progress towards resolution of the matters by consent be possible. The material prepared for trial will form part of the material to be considered by the State in any negotiation that successfully resolves the proceeding. The material prepared for trial is also relevant to the proposed resolution of Widi #1 by consent.

There has been some significant developments from January to the end of the 2015 Financial Year including:

- a. March – the Widi#2 Applicant and the Barada Barna Applicant reached agreement in relation to the two disputed issues namely that they share a common apical ancestor and that the Widi#2 Applicant reduce the size of the claim area so that both Widi people and Barada Barna people hold native title in a reduced overlap area.
- b. March – Lay evidence filed namely; the Widi#2 Applicant filed 17 outlines of evidence prepared and filed. The Barada Barna Applicant filed 16 witness statements.
- c. May – The State filed its outline of objections to both the Widi#2 and Barada Barna lay evidence;

- d. June – Widi #2 Applicant filed its anthropological expert report.
- e. June – Widi #2 Applicant filed a Statement of Cultural Customary Concerns.
- f. June – Agreed Statement of Facts relating to tenure resolution in the overlap area filed. It should be noted that the Widi #2 have largely agreed to tenure resolution in the overlap area.
- g. August – the State filed its expert report.

Both Widi and Barada Barna have attended confidential and without prejudice settlement meetings with the State with a view to both claims being resolved by way of consent determination. It is important to note however, that the parties must continue to comply with the Orders of the Court. The State have advised on several occasions that they are not averse to entering into settlement negotiations.

The connection material prepared for trial will form part of the material to be considered by the State in any settlement negotiations that successfully resolves the proceedings. The material prepared for trial is also relevant, and will be relied on, for the proposed resolution of Widi #1 by consent.

### **WIDI #2 - JUDICIAL REVIEW (QUD176/2014)**

On 1 May 2014 the Barada Barna Applicant filed an application pursuant to the *Administrative Decisions (Judicial Review) Act 1977 (Cth)* (ADJR) seeking a review of a decision of the Native Title Registrar to accept Widi #2 for registration pursuant to s190A of the NTA. The Barada Barna claim and the Widi #2 claim each include the same apical ancestor as part of their description of the claim group description on whose behalf each claim is made. At the heart of the issues that caused the ADJR application to be made is s190C(3)(a) NTA preventing registration of a claim if it includes persons who are also members of another claim. The Barada Barna Applicant also filed a late amended application raising a fresh allegation which required the Widi #2 Applicant to seek further time to respond to that allegation. The Widi #2 were granted further time and awarded costs.

In accordance with the agreement reached between the Barada Barna Applicant and the Widi #2 Applicant, the Widi #2 Applicant amended their claim area to reduce the size of the overlap area and as a result the ADJR application was discontinued with the consent of the parties.

### **WIERDI PEOPLE OF THE WRIPBID NATION (QUD566/2014)**

The Wierdi People of the WRIPBID Nation matter (Wierdi claim) was filed in the Federal Court on 28 October 2014. The Applicant in this proceeding was not legally represented. This claim was, in essence, a competing claim which overlapped eight claims (listed below) including three claims for which NQLC provides legal and other assistance:

- Widi #1 QUD372/2006 (assisted by NQLC)

- Widi #2 QUD492/2013 (assisted by NQLC)
- Yuwibara QUD720/2013 (assisted by NQLC)
- Birriah QUD6244/1998
- Barada Barna QUD380/2008
- Bidajara#7 QUD644/2012
- Western Kangoulu QUD229/2013
- Barada Kabalbara Yetimarla QUD383/2013

On 2 February 2015, Queensland South Native Title Services filed an application seeking to strike out the Wierdi claim pursuant to s84C of the NTA for failure to comply with the requirements of s61 and s62. Many of the Wierdi apical ancestors were the same as the Widi #1 and Widi #2 apical ancestors and NQLC filed affidavits from each of the 10 Widi #1 and Widi #2 Applicants and submissions arguing that the claim was not duly authorised and that the Wierdi claim had a number of common ancestors with the Widi and Yuwibara claims.

On 26 March 2014, Justice Dowsett, after hearing submissions from NQLC and the other parties, made orders allowing the Applicant to be granted leave to discontinue the proceeding. On 31 March 2014, the claim was formally discontinued by the Applicant.

### **JURU PEOPLE (QUD554/10) AND JURU PEOPLE #2 (QUD7/2012)**

The Juru People (QUD554/10) claim was filed 15 December 2010 and was registered on 27 May 2011.

The Juru People #2 (QUD7/12) claim was filed 5 January 2012 and was registered on 11 April 2012.

On 1 November 2013, Juru People (QUD554/2010) and Juru People #2 (QUD7/2012) were combined and the combined Juru application continued to be conducted as one application under file QUD554/2010.

The State and the Juru People were in dispute over certain areas. The undisputed areas progressed to consent determination as a Part A determination on 11 July 2014 and the disputed areas (Part B) were set down for trial in January 2015.

The Part B areas were resolved and the proposed trial was vacated.

On 22 June 2015, the Federal Court made a consent determination recognising the Juru People's non-exclusive and exclusive native title rights over about 200 parcels of land around the townships of Bowen, Merinda and Home Hill and a number of parcels of rural land outside of the township areas.

As part of negotiations towards a consent determination, the Juru People agreed to suspend the exercise of their rights and interest for a period of 12 months from the date of the determination over a select few parcels of land which contain "squatters" (people without any

lawful authority or legal tenure) and a select few parcels of land that two rifle clubs wish to acquire. The select parcels of land are areas where the Juru People have been recognised to hold exclusive native title and non-exclusive native title. The Juru Peoples' PBC (Kyburra Munda Yalga Aboriginal Corporation), with the assistance of NQLC, will determine whether the squatters remain or whether they be removed and consider what to do about the other parcels of land when it enters into discussions with the State of Queensland in the next financial year.

The Part B determination was the third occasion on which the Federal Court made a consent determination of some of the Juru People's native title rights over land and waters.

The three Juru People determinations are contained within the external boundaries of the land and waters extending from the coast near Home Hill, along the Burdekin River in the north west, south to the head of the Don River, east towards Bowen, and approximately 20km seaward of the coastline in the Coral Sea.

### **GUDJALA PEOPLE (QUD80/2005) AND GUDJALA PEOPLE #2 (QUD147/2006)**

It is anticipated Part B of Gudjala QUD80/2005 and QUD 147/2006 will be reinvigorated now the High Court has handed down its decision in The State of Queensland and Congo. Consent determination for Part B of both claims is likely to take place in 2016. (Native title over part A of both Gudjala People native title claims was determined on the 18 March 2014.)

### **YUWIBARA PEOPLE (QUD720/2013)**

The Yuwibara native title determination claimant application (Yuwibara Claim) concerns an area of land and waters on the central coast of Queensland which takes in the town of Mackay, the coastal plains and valleys from near Ilbilbie in the South to Midge Point (Midgeton) in the north, and west across the Pioneer Valley to the foothills of the Connors and Clarke Ranges. It covers an area of 6772 square kilometres and incorporates three local government areas- Mackay regional Council, Whitsunday Regional Council and the Isaac regional Council.

On 27 June 2013, the Yuwibara Claim was authorised.

On 29 October 2013, the Yuwibara Claim Form 1 was filed with the Federal Court.

On 9 January 2014, the Yuwibara Claim was accepted for registration under s190A of the NTA.

On 29 August 2014 and 17 December 2014, connection material was provided to the State on a confidential basis. On January 2015, the State requested further connection material. NQLC subsequently engaged a consultant anthropologist to undertake further research, with such research to be finalised by August 2015. NQLC intends to provide the further connection materials to the State

in August 2015. We anticipate the further materials will satisfy the State on connection and this matter will proceed to substantive negotiations towards a consent determination in due course.

### **NYWAIGI PEOPLE (QUD148/2015)**

A Nywaigi core country native title determination application claim was filed with the Federal Court on the 10 April 2015 and registered by the NNTT on the 6 June 2015. It is anticipated the notification period will run until approximately November 2015.

### **GULNGAY PEOPLE (QUD308/2014)**

The Gulngay Peoples Claim was successfully registered on 26 September 2014, and the first Federal Court hearing was held in early 2015. At that hearing, the NQLC was ordered to provide the (revised) Connection Report (by Dr Sandra Pannell) to the State by the end of June 2015. That Report was provided in mid-June 2015 and the State has indicated that an initial response will be forthcoming by 9 October 2015.

The NQLC has been in touch with all of the respondents (one of whom did not respond to the NQLC's email, probably because it remains early days). The NQLC has discussed the concerns of a cane-farming family, and those of another family business, with the respective solicitors in Tully, and it is likely that these respondents will not remain as respondents for long. Native Title is extinguished in one (extremely small) area of concern. In the other area, non-exclusive Native Title may well be in play, subject to the continued use of an occupation license (the licensee was concerned that Native Title might extinguish the license, which it would not). The land in question is small in area, being a car park adjacent to a welding business.

The principal issue as 2014-2015 ends is the Claim lodged over (part of) the Gulngay Claim area by the Jirrbal People (represented by a solicitor in private practice). It may be necessary to engage in Federal Court-mandated mediation to resolve the issue, and this will take some time.

### **GIRRAMAY PEOPLE #2 (PROPOSED CLAIM)**

NQLC engaged a Consultant Anthropologist to conduct further research relating to all of Girramay country, building off the anthropologist's previous research from the Girramay People's 2009 Consent Determination.

The Consultant Anthropologist completed a connection report in early 2015 and it is hoped that the claim will be lodged early next financial year.

### **PROPOSED WARRGAMAY PEOPLE'S LAND APPLICATION**

On 27-28 May 2015, the Warrgamay community authorised an application for a determination of native title to be

made in the Court. This followed extensive research which has been carried out by Dr Sandra Pannell and Ray Wood. We anticipate filing the application early in the next financial year. The area subject to the proposed application lies in the Herbert River Valley and represents the Warrgamay People's core country.

For the time being, an area to the south of the application, in and around Ingham, is not covered by a proposed application. Before an application could proceed over this area the agreement of the neighbouring Nywaigi People would be required. Early in the new financial year, it is anticipated the two groups would meet to discuss the area with a view to documenting an agreement. If agreement cannot be reached, the area would be the subject of future focussed expert analysis.

### **DJABUGAY-BULWAY-YIRRGAY-NYAKALI-GULUY PEOPLE (QUD 398/2015)**

Following extensive research, on 7 May 2015 the application was authorised. The application, named Djabugay-Bulway-Yirrgay-Ngakali-Guluy (DBYNG), covers most of the country associated with the Djabugay language but excludes a previous Djabugay determination area, the Mona Mona DOGIT and the area covered by the Yirrganydji People's application.

On 12 May 2015, the Yirrganydji People filed a second application, which overlaps the area authorised for the DBYNG application. On 27 May, the NQLC filed the DBYNG application and the registration test is currently being applied to both applications.

The Court Registry has convened confidential intensive case management of the overlap area, which will continue into the new financial year.

### **GIA/NGARO (PROPOSED CLAIM)**

In late 2013 a Consultant Anthropologist was approached to gauge his availability to undertake research in the Whitsunday area and was subsequently introduced to the group at a community meeting in Proserpine in December 2013.

In March 2014 the same Consultant Anthropologist was contracted to undertake anthropological research in order to progress an application for the recognition of native title over areas of the land and sea in the vicinity of the Whitsunday Island and adjacent mainland.

In June 2014 a preliminary report was produced providing advice on the feasibility of lodging a native title claim or claims over the area.

In November 2014 meetings were held with individual Gia and Ngaro families to further explain the research process, field questions from the community and gauge and address main issues.

In February 2015 a community meeting was held at which the Consultant Anthropologist presented their preliminary findings to the group.

Research is ongoing with an anticipated date of completion by late 2015.

### **BINDAL (PROPOSED CLAIM)**

Bindal people are awaiting the production of a connection report, it is anticipated it will be provided in September 2015. A community meeting was held on the 8 April 2015 to present preliminary research findings and inform the community that further research was required.

### **BIRRIAH (QUD6244/1998)**

This Birriah Applicant is privately represented and NQLC keeps a watching brief on this claim. The Birriah claim is proceeding to a consent determination in November 2015. NQLC previously represented the Birriah Applicant. Part of that assistance included the preparation of a connection report which was provided to the State for connection negotiations. That report, together with other connection material, has been filed by the Applicant in support of the Court making a determination.

### **TOWNSVILLE/AYR REGION RESEARCH**

In 2003, a consultant anthropologist was engaged to carry out research in the Townsville/Ayr region. The initial research was completed in March 2014. The consultant anthropologist has been engaged to undertake further research in the next financial year.

### **SEA COUNTRY (PROPOSED CLAIM)**

With the success of various offshore native title claims in the northern waters of Australia, NQLC has considered the prospects of a sea claim or sea claims in its region.

In 2014, a consultant anthropologist was engaged to produce a Sea Country Scoping Report to assess existing evidence of connection to sea country in the NQLC region. On production of that report a meeting was held at Dolphin Heads on 18-19 February 2015 and the consultant anthropologist provided her opinion on the strengths and weaknesses of known evidence, and of the possibility of gathering further evidence for all claims with connection to sea country in the NQLC region.

At the February meeting, NQLC facilitated discussion among the Traditional Owner representatives on the prospects of running sea claims. As a result it was agreed that the most efficient way to run sea claims is on a regional basis being as follows:

- Northern Coastal area stretching from the north of Cairns to Innisfail;
- Central Coastal area stretching from Mission Beach

to Magnetic Island; and

- Southern Coastal area stretching from Townsville to Sarina.

After further discussion it was agreed that the Central Coastal area regional claim has the best prospects of success. A consultant anthropologist has been engaged to undertake initial research and fieldwork for the Central Coastal area.

### **TAGALAKA PEOPLE'S ILUA IMPLEMENTATION**

We continue to assist the Tagalaka People with implementation of numerous ILUAs and related issues. The ILUAs deal with freehold land transfers and reserve dedications, in exchange for extinguishment of native title, and were registered between 2005-2010. Implementation is almost complete.

In the new financial year, we anticipate the Tagalaka Aboriginal Corporation RNTBC, as trustee, will finalise trustee leases over parts of reserves and implementation will be completed.

### **WESTERN YALANJI PEOPLE #6 (PROPOSED CLAIM)**

Western Yalanji People #4, #5 & #7 were determined on 24 September 2013. However, Western Yalanji #6 was the subject of assertions made by a neighbouring group.

After a series of meetings the two groups could not agree on how their rights and interests could be recognised in a native title application. Therefore, on 2 December 2014, on application of the applicant, the Court ordered the matter be discontinued.

### **MANBARRA PEOPLE (IMPLEMENTATION OF PALM ISLAND IMPROVED FUTURE LAND PRACTICES INDIGENOUS LAND USE AGREEMENT)**

The Palm Island Improved Future Land Practices ILUA was executed in 2010 and was registered on 7 July 2011.

In exchange for consents provided by the Manbarra People for community infrastructure, a Trustee Aboriginal Lease (the Lease) over the North East Bay Area to a Manbarra entity was agreed to be granted by the Palm Island Aboriginal Shire Council (PIASC).

Despite the ILUA being made in 2010, PIASC had not progressed the Lease until NQLC intervened in 2013.

Since 2013, NQLC has provided assistance to Manbarra people to resolve the Lease. The dispute resolution clause had to be invoked due to constant delays by PIASC.

It is anticipated that the lease will be finalised in the first half of the next financial year.

Table 3: Performance according to Functions and Outputs

FACILITATION AND ASSISTANCE		
The Claims Experience		
<b>CLAIMANT APPLICATIONS</b>		
Active claims represented at 30 June 2014		13
	Plus Claims filed this year by the NQLC	2
	Less Claims Determined 2014.15	2
	Less Claims Dismissed 2014.15	0
	Less Claims Withdrawn 2014-15	2
	Less non native title outcome 2014-15	0
Active Claims represented at 30 June 2015		13
	Number of these registered by National Native Title Tribunal (NNTT)[see note 1]	12
Claims in Development		6
Non-Claimant Applications (as relevant)		11
Compensation Claims (as relevant)		0
The Agreements Experience		
Future Act Notices (FANs) received		1,991
Response to Future Acts		3,155 <i>(see note 1)</i>
Agreements:	Concluded	2
	In development	Numerous
Indigenous Land Use Agreements (ILUA):	Concluded and registered	21
	In development	Numerous
<b>COMPLAINTS AND DISPUTES</b>		
	Received	1
Complaints	Resolved	1
	Pending	0
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:	Recieved	2
	Completed	0

Note 1 – The 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, represent native title groups in their negotiations and drafting of future act agreements.

The increase in the number of PBCs receiving the notices on behalf of the native title party rather than the individual applicants has seen a reduction in the required number of responses to FANs in the last three reporting periods.

## IMPLEMENTATION OF ILUAS - GENERAL

ILUAs often provide for ongoing activities that occur post determination, these matters can range from land exchange agreements to cultural heritage clearance matters, other areas of ongoing cooperation between Indigenous groups, developers, 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.

## NOTIFICATIONS, FUTURE ACTS AND MINING AGREEMENTS IMPLEMENTATION AND DISPUTE RESOLUTION

Future act notifications fall into two primary categories (i) s24 notices where the 'right to comment' is the most common procedural right; and (ii) section 29 notices where the 'right to negotiate' applies.

Processing future act notifications is the core work of the FAME Unit which includes receiving future act notices; examining them for compliance with the NTA; assessing the procedural rights available to the affected native title party; notifying the affected native title party/s and assisting the affected groups respond to notices.

With the increase of native title determinations the FAME Unit recognised that the PBCs required specific services to educate the directors about future acts, the impact certain future acts may have on native title and the procedural rights that the PBC may exercise on behalf of the native title holding group. In the 2013-14 period the FAME Unit introduced a 'Future Act Notices Education Forum' which continued in the 2014-15 period, particularly targeting those groups whose native title claims had been determined. Conduct of the Forum has led to an increased number of requests for assistance in dealing with those kinds of matters.

One particular 'right to comment' matter, which involved proposed infrastructure as a 'facility for services to the public' affecting a determined area, has resulted in extensive consultation and negotiation between the native title group and the State to ensure the upholding of the Native Title Right to protect places of significance. In this matter an important site that would have otherwise been damaged by the construction of the infrastructure was, through negotiation saved from harm. The FAME Unit is also actively scoping the issue of compensation where the future act matter involves determined lands.

Where the future act notifications relate to exploration under the expedited procedure regime, the FAME Unit works closely with the native title parties to ensure that they are aware of and monitor compliance with the Native Title Protection Conditions (NTPCs). The NTPCs primarily provide for the protection of cultural heritage and an annual administration fee payable to the native title party.

Other exploration and mining notifications may trigger the 'right to negotiate' provisions of the NTA and the FAME Unit actively represents thirteen native title groups in their future act dealings. In addition to representing the native title groups in their negotiations, the FAME Unit has been progressively working with our client groups to assist them implement the terms of the agreements that have been reached.

The benefits provided in an agreement between a native title group and a proponent are compensation to the native title party for their consent for a future act proceeding and the impact that the future act will have on the group's native title rights and interests. Implementation of agreements is critical to ensuring that the full benefit of the compensation terms flow to the native title group and it is an area of concern for both native title parties and the NQLC. The NQLC will continue to work with our clients to ensure implementation and compliance with the terms of agreements.

## NATIONAL NATIVE TITLE TRIBUNAL ARBITRATION OF FUTURE ACT DETERMINATION APPLICATION

The NTA does not provide for native title parties to say 'no' to future acts affecting their native title rights and interests. The NTA says the native title party, proponent and State must negotiate in good faith to reach an agreement for the future act to go ahead. If the parties do not reach an agreement six (6) months after the notification date, any party can file a 'Future Act Determination Application' (FADA) for an arbitrated decision by the National Native Title Tribunal (NNTT).

In December 2014, a proponent filed a FADA in accordance with s35 of the NTA. In that case, there was a considerable history of negotiation and NNTT assisted mediation which did not result in an agreed outcome. A further, unsuccessful, attempt at resolution was made following the filing of the FADA by way of a Conference under s150 of the NTA.

In this matter, the native title party argued that the proponent had not negotiated in good faith as required under the NTA and as such the NNTT did not have jurisdiction to hear the substantive matter of whether the tenements should be granted. On 25 March 2015, the NNTT handed down its decision that the proponent did not act in good faith. The name of the decision is: *Michael Dowse Collins and Another v Nguddaboolgan Native Title Aboriginal Corporation RNTBC* [2015] NNTTA 13 (25 March 2015)

There is also the provision to apply to the NNTT to object to a future act being treated under the expedited procedure regime. NQLC has not had cause to file any objection applications.

### **ATTENDING TO STATUTORY OBLIGATION TO HANDLE FUTURE ACTS NOTIFICATION WHERE THERE IS NO REGISTERED CLAIM**

When a 'right to comment' notice does not affect a registered claim, the NQLC will make all reasonable efforts to determine which native title group/s may have an interest in the area and issue a copy of the notice to them. Although there is no procedural 'right to comment' if a group have concerns about the future act affecting an area of significance, NQLC encourages the group to contact the State and request an inspection of the area to protect cultural heritage.

Of the total mining and exploration notices received (161) in the period, forty (40) affected lands that were not subject to a native title claim or determination. In circumstances where a s29 notice is issued affecting lands not subject to a claim or determination, the NQLC writes to proponents advising them of their obligations under the *Aboriginal Cultural Heritage Act 2003 (Qld)* (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 the 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.

### **SMALL SCALE AND OTHER MINING AGREEMENTS**

With the exception of mining activity in the Bowen and Galilee Basins, the type and size of mining within the NQLC boundary are mainly 'small scale' operations. In the 2014-2015 period NQLC received a total of 161 s29 notices, of those 131 were subject to the expedited procedure regime and 30 were subject to the right to negotiate provisions.

There are a number of tenements currently subject to the right to negotiate, and at various stages in the process. We have previously reported on two particular matters for negotiation and provide a further update below.

#### **DJUNGAN PEOPLE - SMALL SCALE MINING ILUA**

In the early to mid-2000's a number of native title groups in the northern area of the NQLC boundary authorised a Small Scale Mining (SSM) ILUA that provided certain eligible proponents with small scale operations to 'opt in' to the ILUA rather than negotiate terms of agreement on every occasion. As previously reported, three groups whose ILUA had expired in the late 2000's agreed to negotiate jointly with the North Queensland Miners Association (NQMA) and the State with the view of developing a new ILUA. The Small Scale Mining ILUA of the Ewamian and Western

Yalanji Peoples were both registered in April 2014.

The Djungan People, whose SSM ILUA expired in 2009 was the third native title party in those negotiations. A Community Meeting held on 10 April 2015 to examine and discuss the negotiated terms and two weeks later, authorised the making of the ILUA on 24 April 2015. Having secured the signatures of the native title parties and the NQMA, the State was provided with the executed document in May 2015. It is expected that notification of the Djungan People SSM ILUA will occur in the 2015-16 period.

### **GALILEE BASIN GAS EXPLORATION PROJECT**

Arrow Energy proposed to conduct a program of exploration for coal seam gas in the Galilee Basin. The proposed area of the tenement impacted 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. The NQLC assisted the Gudjala People in their negotiations with Arrow Energy which were conducted under the right to negotiate provisions of the NTA throughout 2012 and 2013 culminating in the execution of a section 31 NTA Deed and Ancillary Agreement by the parties. Following the Gudjala People #1 and Gudjala People #2 consent determination in March 2014, NQLC assisted the Gudjala Peoples' RNTBC with the variation and assignment of the Ancillary Agreement. During the reporting period, Arrow Energy surrendered its application for grant of the tenement. NQLC worked closely with Arrow Energy and the RNTBC to ensure the finalisation of the implementation of the agreement. The implementation of the agreement was finalised during the current reporting period.

### **IMPLEMENTATION OF ILUAS – MINING AND EXPLORATION**

In relation to the ILUAs and other agreements related to mining and exploration, as noted above, a prevailing issue for native title groups is successful and ongoing implementation of the agreement to ensure that all negotiated terms are implemented to their fullest extent.

In the course of our ongoing work with native title groups to implement their agreements, a number of issues were identified as affecting most groups. These included: administrative tools and resources required; better engagement with the State and industry to maximise the value of the benefits being implemented; directing the benefits to meeting the needs and aspirations of the native title group; and how/what were other groups doing to get the best out of their agreements.

To address these concerns the FAME Unit designed a number of 'Project' based activities in the 2012-13 period which have variously been offered to clients in the last two reporting periods. The Projects are: Community Planning; Financial Advisory Workshops and Capacity Building Workshops.

The Community Planning Project is designed to assist native title parties improve their strategic management of assets to meet community aspirations and needs. The Project was undertaken with three groups affected by mining and infrastructure and two of these Community Plans were substantively completed in the 2014-15 period. The Financial Advisory Workshops are two (2) day information workshops that covered such topics as regulatory responsibilities of a corporation; a 'health check' on current reporting and governance frameworks and designing a roadmap for the corporations to identify options and alternatives to ensure compliance with financial and reporting requirements. This activity was not offered in the 2014-15 period but is expected to be offered in the next reporting period.

Recognising the importance of the groups to share experiences in dealing with the issues impacting on their ILUA/agreement implementation and to facilitate access to external opportunities to maximise the value of the compensation negotiated, the FAME Unit designed a series of Capacity Development Workshops. The FAME Unit has previously reported on two 2013-14 period activities: Workshop One - *Identifying and Managing Community Development Opportunities and Assets* and Workshop Two - *Engagement with (mining and infrastructure) Industries*.

A further Workshop was conducted in the 2014-15 period: Workshop Three - *Implementing Agreements and Maximising Benefits* was held in Cairns 22 to 24 June 2015.

One initiative that arose from the Workshops was the development of a '*NQLC Template Negotiation Process Document*'. The *Document* is intended to set out the standards/ principles for the negotiation process – it does not address the actual content or terms to be negotiated. The initiative was proposed by the participants at Workshop One and the concept was endorsed at Workshop Two, at which six persons were nominated to comprise the Reference Group to guide the development of the *Document*.

A comprehensive consultation process was undertaken to broaden the opportunities to participate in developing the *Document*. That process included notifying the individuals (approximately 2,200 people) on the NQLC records who are a member of one or more of the 13 native title groups affected by mining and related infrastructure of the *Document* and inviting them to attend two (2) rounds of Regional Meetings held in Mareeba, Townsville and Mackay (December 2014 and May 2015) and completing a Questionnaire.

The *Document* was presented at Workshop Three and was unanimously endorsed by the participants. The FAME Unit will now be meeting with those groups affected by mining and exploration to consider adopting the *Document* as their process for negotiations. The *Document* will also be made available to other client groups if they wish to take it up.

## 5.3 NARRATIVE DISCUSSION AND ANALYSIS OF PERFORMANCE

### 5.3.1 TREND INFORMATION

#### COMMUNITY AND PERSONAL HISTORY

The State's Communities and Personal Histories Agency continues to take up to 12 months in providing community and personal histories. This continues to negatively impact on the time it takes to construct new native title claims as well as potentially delaying our response to the Federal Court in matters where there are Indigenous parties claiming connection to a particular claim group.

NQLC acknowledges that this is a result of severe underfunding by the State and does not in any way reflect on the very dedicated and hardworking personnel at Communities and Personal Histories.

### 5.3.2 FACTORS, EVENTS OR TRENDS

#### NTA EXTERNAL REVIEW PROCESS

We reported in our 2013/14 annual report, a factor continuing to influence NQLC's performance is the processes of external review by PM&C, contained in s203FE of the NTA, which raises the following issues:

- The review process is a high cost both for the NQLC and PM&C as external legal advice is often sought as part of these processes, it makes the processes quite slow and expensive.
- As the NTA does provide discretion for PM&C to internally review a decision of a NTRB/SP not to assist, our belief is that as many of the matters dealt with under s203FE are not meritorious, PM&C should use this capacity for internal assessment of the merit of a request for external review before a decision is made to formally review a decision.
- Current case law provides that the review is a review de novo which means that material that was not before the decision maker, but supplied subsequent to the application for external review, can be taken into account. We believe that if the review proceeds, it should be a review based solely on the materials that were before the decision maker. The application of the de novo principle often means that the process is often circuitous delaying the timely resolution of these reviews, often at significant cost to the NTRB.

Given that NTRBs are required to set priorities and have strategic plans in place about the order in which they intend to prosecute claims within their region, there should be a prima facie presumption against the granting of assistance to a proposed matter, and a prima facie presumption against overturning a decision on funding where that decision would require changes to the prioritisation and strategic planning for lodgement of claims.

Whilst it might perhaps be understandable that in the early days of NTRBs there may have been some [not necessarily warranted] concern as to whether the NTRBs were going to perform their jobs correctly those days have gone and

the system needs to be changed.

Firstly, the ease with which an application for review can be made- a simple request with no cost or need to plead a case properly - lends itself to abuse; and secondly the ability to keep filing extra material needs to be removed – which unfortunately may require statutory reform – in which case we would suggest that the provisions for external review be removed from the NTA altogether. The ADJR Act could still apply but the rigours associated with that would deter those who simply seek to abuse the system. The process is quite costly to the affected NTRB and PM&C, and every dollar expended in this process is a dollar not available to conduct the core business of securing Native Title for Traditional Owners

### **AREAS OF CONCERN- DELOITTE REVIEW / RESPONDENT PARTY AND OTHER MATTERS**

We note that the report by Deloitte Access Economics into the review of NTRBs/NTSPs was completed in late 2013 and presented to the Minister in March 2014. The Cth has not provided any indication of its responses to the serious matters raised in the report. Some of these matters are the proposed regulation of external agents in the native title system and recommendations made about greater support for RNTBCs. The uncertainty surrounding the outcomes of the Deloitte Review affects the NQLC's ability to properly plan future activities.

One major aspect of the NTA that NQLC considers should be changed is the provisions concerning respondent parties. An enormous amount of public money is consumed in dealing with individual respondent parties. Not only is a lot of the funding provided to NTRBs/NTSPs consumed, but also monies through the Attorney General's respondent funding scheme.

In each of the recent determinations in the NQLC region during the reporting period, the Court when handing down the consent determination has been at pains to make it clear that they are not "granting" anything to the native title holders but simply recognising what is and has always been. Currently, respondent parties are admitted as parties to claims on the basis that they have an interest that will be affected by the determination of native title. That is a fallacy. If native title has always existed then any interest held by a respondent is in fact already affected as native title does not come into effect upon the determination, but already exists.

Unfortunately the current wording of the NTA talks in terms of a person's interest being affected, and there is a long line of case law giving an extremely wide interpretation to the nature of the interest which would qualify. NQLC would like to see PM&C support amendments to the NTA which would remove these party status provisions - the effect of which would be to save a considerable amount of public monies.

### **5.3.3. SIGNIFICANT CHANGES IN NATURE OF PRINCIPAL FUNCTIONS/SERVICES**

PM&C has begun implementing a raft of changes to the way the Native Title Programme is administered. Changes to the PFA were developed during the reporting period and implemented in 2015/16. These changes include reducing NTRB reporting and compliance obligations in line with the government stated aim of reducing the bureaucratic load on Indigenous organisations, and changes to the way Programme funding is managed. These changes will go some way to reducing the NQLC's reporting and compliance obligations to PM&C and easing our administrative workload.

To date native title funding has been managed separately to the Cth's Indigenous Advancement Strategy (IAS), however PM&C has confirmed that this is not likely to remain the case for much longer and a move to outcomes based funding under the IAS appears imminent. The NQLC has serious concerns about outcomes based funding and how this might align with the nature of native title activities. Despite the NQLC's outstanding record, outcomes in the way of native title determinations are very difficult to achieve, consume considerable resources and can take many years of hard work. How the Cth intends to tie this to an annual outcomes based funding arrangement is unclear but will hopefully involve extensive negotiations with NTRB's before final arrangements are settled.

### **5.3.4 PERFORMANCE AGAINST SERVICE CHARTER/ STANDARDS, COMPLAINTS DATA AND THE NQLC'S RESPONSE TO COMPLAINTS**

There were four formal complaints received during the reporting period. One complaint was lodged with the Australian Human Rights Commission (AHRC) to the effect that NQLC had failed to acknowledge a person's Aboriginality. The Federal Court had already ruled on this matter, finding that the complainant was not Aboriginal. NQLC supplied a copy of this judgement and copies of two anthropologists reports which came to the same conclusion. The complainant did not take the matter further. The other three complaints were handled internally and have been finalised.

## **5.4 DISCUSSION AND ANALYSIS OF THE NQLC'S FINANCIAL PERFORMANCE AGAINST BUDGET**

During the 2014-2015 financial year, the NQLC received approval from the PM&C to use its carry over surplus from the previous financial year.

Some of the planned 2013-2014 activities were delayed due to unforeseen mitigating circumstances which contributed to the year-end surplus.

The NQLC has received approval from PM&C to utilise some of its surplus funds for two contested litigation matters. Unbudgeted Annual Generated Income (AGI) from meeting contributions and sale of assets contributed to

the 2014-2015 surplus.

#### 5.4.1 DISCUSSION OF ANY SIGNIFICANT CHANGES FROM THE PRIOR YEAR OR FROM BUDGET

The NQLC was principally funded by PM&C during 2014-2015. A comparison of funding received with the previous financial year is summarised below:

- Revenue from PM&C increased by approximately 1.055%, and overall (excluding carry over surplus) increased by approximately 1.06% due to a higher AGI in 2014-2015.
- The NQLC has achieved an 'unqualified audit opinion' from our auditors, Grant Thornton Audit Pty Ltd.

#### 5.4.2 SUMMARY OF RESOURCES BY OUTPUTS, BUDGET/ACTUAL BY MAIN HEADS OF EXPENDITURE AND REVENUE

Refer to Table 4.

### 5.5 DEVELOPMENTS SINCE THE END OF THE FINANCIAL YEAR THAT HAVE AFFECTED OR MAY SIGNIFICANTLY AFFECT THE NQLC'S OPERATIONS IN FUTURE

NQLC's grant funding from PM&C is guaranteed until 30 June 2016, and our NTRB recognition is for the same period. As noted elsewhere in this Report the future of both will depend on how the Commonwealth adopts the findings outlined in the Report into the Review of Native Title Organisations, completed by Deloitte Access Economics in 2013 but still under consideration by the Minister for Indigenous Affairs. The Cth has indicated an intention to change native title funding arrangements from 2016, possibly under the Cth's Indigenous Advancement Strategy. It is understood that this will see a continued reduction in red tape and a simplification of reporting processes, however there are other impacts such as a move to outcomes based funding about which the NQLC is yet to receive sufficient detail.

Table 4: Budgets/Actual by main heads of Expenditure and Revenue

NTRB FUNCTIONS (FUNDS UTILISED UNDER NATIVE TITLE FUNDING AGREEMENT)	(1) ACTUAL 2013-14 \$'000	(2) BUDGET 2014-15 (BUDGET) \$'000	(3) ACTUAL 2014-15 \$'000	(4) VARIATION (COLUMN 3 MINUS COLUMN 2)
<b>EXPENDITURE</b>				
Capital	88,295	100,000	100,174	174
Activities	6,109,720	6,913,928	6,082,715	-831,213
Corporate	2,495,930	2,667,072	2,386,119	-280,953
<b>Total</b>	<b>8,693,945</b>	<b>9,681,000</b>	<b>8,569,008</b>	<b>-1,111,992</b>
<b>INCOME</b>				
PMC Funding	9,027,000	9,521,000	9,521,000	0
Activity Generated Income	0	0	0	0
- Administration Fees	780	20,000	27,524	7,524
- Bank Interest	39,917	40,000	30,104	-9,896
- Meeting Contributions	24,454	0		
- Project Proponent Income	33,936	100,000	86,825	-13,175
- Provision of Services			17,463	17,463
- Sale of Assets	23,539	w	14,918	14,918
Other Income	902,053	0	536,923	536,923
<b>Total</b>	<b>10,051,679</b>	<b>9,681,000</b>	<b>10,234,757</b>	<b>553,757</b>





# Corporate Governance

## 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 Chief Executive Officer (CEO, or known also as the Executive Officer) 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 (1) (i) 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 (1) (ii) of the NQLC Rules also provides that the function of the CEO 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 and the role of the CEO is further defined in section 4.1 of the Manual as follows:

The CEO 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 PM&C 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;
- 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.

In addition, NQLC policy dictates that the mode of communication between members of staff and the Board shall at all times be through the CEO.

## 6.2 NAME OF THE SENIOR EXECUTIVE AND THEIR RESPONSIBILITIES

NQLC's Chief Executive Officer as at 30 June 2015 was Mr Ian Kuch. The responsibilities of the CEO are as described in section 6.1.

## 6.3 SENIOR MANAGEMENT COMMITTEES AND THEIR ROLES - SEPARATION OF POWERS

NQLC's Separation of Powers principles are described in section 6.1.

The NQLC is controlled by a Board of Directors 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 the NQLC. Members elected have a term for two years (holding office from the end of one Annual General Meeting (AGM) until the AGM following in two years). Ward elections last took place in October 2013, with the next elections due on 11 September 2015. The number of representatives elected to the Board from each Ward is shown in Table 5.

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:

### 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 (2) members of the Executive Committee
- (b) 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.
- (c) 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 (1) 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 (2) 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 five Board meetings and four (4) meeting of the Office Bearers. 24 additional meetings were attended by the Chair and/or other Directors

(see Table 6).

### 6.3.2 TRAINING ARRANGEMENTS FOR BOARD OF DIRECTOR MEMBERS

The Board members attendance of training is shown in Table 7.

### 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 CEO;
- the Principal Legal Officer (including claims report); and
- Chief Financial Officer (Financial Statements);

In accordance with PM&C requirements, the NQLC prepares, on a yearly basis an Operational Plan for approval by PM&C and attends to changes of that Operational Plan during the financial year as required. In accordance with PM&C requirements, the NQLC reports on its operational and financial performance twice a year.

### 6.5 APPROACH ADOPTED TO IDENTIFYING AREAS OF SIGNIFICANT FINANCIAL OR OPERATIONAL RISK AND ARRANGEMENTS IN PLACE TO MANAGE RISKS

The NQLC, as per PM&C's Terms and Conditions Native Title Agreement, for agreements commencing on or after 1 July 2013, employs an in-house Certified Practising Accountant. The NQLC has external auditors who undertake its annual audit.

In so far as operational risk management is concerned, the 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;
- The PLO and other lawyers maintaining a professional relationship with the Registrars of the Federal Court and when appropriate, discussing prioritisation needs; and
- Twelve monthly overview and forward strategic planning meetings.

The NQLC has a fraud Prevention Policy in place which is designed to protect public funds and other assets, protect the integrity, security and reputation of NQLC and its

employees and assist in maintaining high level of services to the community. NQLC is committed to protecting its revenue, expenditure, assets and property from any attempt by anyone, to gain by deceit, financial or other benefits.

The NQLC requires its Board members and staff to maintain a high standard of ethical conduct in all activities, in particular with respect to resources, information and authority. Board members and staff are required to declare any conflicts of interest upon appointment and annually, and also advise of any changes as they arise.

Internal financial management reports and budget variance analysis reports are produced and analysed on a regular monthly basis. The NQLC maintains a secure record of all its financial transactions, and regular account reconciliations are performed.

## 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;
- Staff disciplinary matters; and
- Staff code of conduct.

Ward	No. of Representatives
Cairns	2
Hughenden/Charters Towers	1
Innisfail	1
Mount Garnet Ward	1
Proserpine/Mackay	1
Tableland	2
Townsville/Ayr	1
Tully/Palm Island	1
Yarrabah	2

Table 5: Number of Representatives on Board of Directors per Ward to be elected in September 2015

## 6.7 NATURE AND AMOUNT OF REMUNERATION FOR SENIOR MANAGEMENT AND HOW IT IS DETERMINED

Subject to adequate funding from PM&C, the Board of Directors determines the salary of the CEO. Remuneration for senior management is based on the salary scales contained in NQLC's Enterprise Agreement 2011-14.

Current salary rates are based on previously negotiated Enterprise Agreement conditions, together with market and industry analysis.

NQLC consults PM&C on all senior management appointments and remuneration as per the Terms and Conditions of the Program Funding Agreement.

Table 6: Meetings attended by the NQLC Board of Directors during the 2014-2015 reporting period (continues over page)

Board of Director Meetings				
No.	Type of Meeting	Dates	No. Attending	Location
1	Face to Face	12 Sep 2014	9	Cairns
2	Face to Face	12 Dec 2014	10	Cairns
3	Face to Face	6 Feb 2015	10	Cairns
4	Face to Face	9 May 2015	9	Mackay
5	Face to Face	15 Jun 2015	9	Cairns

## Office Bearer Meetings

1	Face to Face	11 Oct 2014	6	Cairns
2	Face to Face	11 Dec 2014	6	Cairns
3	Face to Face	7 Mar 2015	6	Townsville
4	Face to Face + 1 x telelink	26 May 2015	4	Cairns

## Other Meetings attended by Directors

1	Garma Festival	1-4 August 2014	Chair	Gove NT
2	CEO/Chair Forum	7-Aug 2014	Chair	Cairns
3	Land Lease Corp Meeting/PBC	22-Aug 2014	Chair	Cairns
4	Unknown Business	10-Sep 2014	Chair	Melbourne
5	NNTC Board Meeting	11-Sep 2014	Chair	Melbourne
6	Warren Mundine/PM&C Dept Meeting	19-Sep 2014	Chair	Cairns
7	NQLC Land Summit Working Group Meeting	23-Sep 2014	Chair + 5 Directors	Cairns

## Other Meetings attended by Directors

8	CLCAC 30 Yr Anniversary	26 -28 Sep 2014	Chair	Burketown
9	PBC Meeting	8-Oct 2014	Chair	Townsville
10	NQLC Land Summit	24-26 October 2014	Chair + 8 Directors	Mission Beach Qld
11	AGM - NQLC Members	25-Oct 2014	Chair + 8 Directors	Mission Beach Qld
12	World Parks Congress	15-Nov 2014	Chair + 1 Director	Sydney
13	Premier Campbell Newman MP FNQ Visit	30-Nov 2014	Chair	Mareeba Qld
14	PBC Economic Development Forum	4-5 December 2014	Chair	Cairns
15	AIATSI /CYLC Meeting	23-Mar 2015	Chair & Deputy Chair	ACT
16	NNTC Board Meeting	25-Mar 2015	Chair	ACT
17	CEO/Chair Forum	25-26 Mar 2015	Chair	ACT
18	AIATSI Office Launch	14-May 2015	Chair	ACT
19	COAG Meeting	27-May 2015	Secretary + Treasurer	Cairns

Other Meetings attended by Directors				
20	QRBA Meeting	28-May 2015	Secretary + Treasurer	Cairns
21	CEO/Chair Forum	3-Jun 2015	Chair	Broome
22	NNTC Board Meeting	4-Jun	Chair	Broome
23	NT Conference	16-18 Jun	Chair + 9 Directors	Pt Douglas Qld
24	Meeting with Hon N.Scullion	29-Jun	Chair	Brisbane

Table 7: Training attended by the NQLC Board of Directors during the 2014-2015 reporting period

Board of Director Training				
No.	Type of Meeting	Dates	No. Attending	Location
1	Shane Carroll - Governance Training	5 Feb 2015	9	Cairns
2	Policy & Procedure Workshop	8 May 2015	10	Cairns
3	Financial Reporting Workshop/ Executive Board	25 May 2015	10	Cairns



# External Scrutiny

## 7.1 SIGNIFICANT DEVELOPMENTS IN EXTERNAL SCRUTINY

There have been no developments in external scrutiny from previous years. The NQLC continues to have its finances audited in accordance with the requirements of the Terms and Conditions Native Title Agreement, and in accordance with Australian accounting standards

NQLC is registered as a charity with the Australian Charities and Not-for-profits Commission however our corporate regulator remains The Office of the Registrar of Indigenous Corporations [ORIC].

## 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 the NQLC's finances was unqualified.

## 7.4 OTHER EXTERNAL REVIEWS

Nil





# Management of Human Resources

## 8.1 WORKFORCE PLANNING, STAFF TURNOVER AND RETENTION

As at 30 June 2015 NQLC had forty five (45) staff, of which 47% were Indigenous.

The Organisational Chart (see Figure 2) provides a detailed list of all positions.

During this reporting period there was a turnover of seven (7) staff. Five (5) staff resigned and two (2) staff had their employment terminated. Two (2) current staff members were promoted into two (2) of the positions and two (2) positions have not been filled. In this reporting period three (3) positions were advertised and they were:

- Temp Legal Administration Officer
- Staff Anthropologist
- Logistics Officer

## 8.2 TRAINING AND DEVELOPMENT UNDERTAKEN AND ITS IMPACT

NQLC held its annual staff training and professional development workshop in April this year. Lawyers were able to obtain their compulsory professional development points by attending the workshop. Staff were trained in excel, minute taking and workplace health & safety. Staff also attended sessions on Cultural Competency in the Native Title Space and an Introduction to the *Anti-Discrimination Act 1991*.

Throughout the year staff have attended Aurora training. The courses included community engagement practices and Foundations of Native Title (FoNT). Staff also attended legal wise training and a short course on essential skills and practice for legal support staff. Legal administration staff also attended a session on lodging documents in the e-lodge system held by the Federal Court in Brisbane.

Other training throughout the year were first aid, fire warden and excel training.

## 8.3 IMPACT AND FEATURES OF ENTERPRISE AGREEMENTS

The remuneration scale prescribed in NQLC's Enterprise Agreement 2011-14 has enabled the NQLC to attract and retain experienced staff and provides security for these staff in relation to their rates of pay. The agreement also provides a number of protections for staff in relation to conditions of employment.

## 8.4 WORKPLACE HEALTH AND SAFETY PERFORMANCE

The NQLC maintains a Workplace Health and Safety (WH&S) Committee and abides by the *Queensland Workplace Health and Safety Act 2011*. The elected WH&S Representatives partake in annual refresher training and hold regular meetings to ensure currency of and commitment to WH&S obligations within the workplace.

Table 8: Comparison on staffing numbers for the 2014-2015 and 2013-2014 reporting period.

Position	No. of Staff 2014-15 (as at 30 June 2015)	No. of Staff 2013/14 (as at 30 June 2014)
Chief Executive Officer	1	1
Principal Legal Officer	1	1
Chief Financial Officer	1	1
Lawyers	9	10
Anthropologists	4	4
Project Officers	10	8
Administration & other Officers	19	22
<b>TOTAL NUMBER OF STAFF</b>	<b>45</b>	<b>47</b>

NQLC held a staff training workshop in April 2015 which was attended by all NQLC staff and covered Workplace Health and Safety, among other topics.

NQLC maintains appropriate Workers' Compensation Insurance with WorkCover Queensland. There were no WorkCover claims made in this financial year.

## 8.5 STATISTICS ON STAFFING

Refer to Table 9 for a comparison on staffing numbers for the 2014-2015 and 2013-2014 reporting period. See also Figure 2 for the

current staff structure as at 30 June 2015 and section 8.1, Workforce Planning, Staff Turnover and Retention.

## 8.6 INDEMNITIES AND INSURANCE PREMIUMS FOR OFFICERS

The NQLC holds Professional Indemnity Insurance cover up to ten million dollars, at a premium of \$37,770 per annum. This insurance covers Directors and Officers. During this period there have been no claims made under this policy.







Image courtesy of Christine Howes, taken at the 2012 Djungen Native Title Determination.

# Consultants and Competitive Tendering

## 9.1 COMPETITIVE TENDERING AND CONTRACTING PRACTICES

In addition to the services provided by NQLC professional staff, external consultants are engaged to provide further expert services and advice on a range of matters relating to NQLC's functions as a NTRB. These include legal opinion, anthropological research and other corporate matters.

The engagement of these consultants is undertaken within the procurement guidelines as set out in PM&C's Terms and Conditions Native Title Agreement, for agreements commencing on or after 01 July 2013.

Where appropriate, the 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 have provided previous reports, as for the sake of consistency, they are the person in the best position to provide further services.

## 9.2 NUMBER OF CONSULTANCY SERVICES CONTRACTS AND TOTAL EXPENDITURE ON CONSULTANCY SERVICES

External consultants providing anthropological services to the NQLC are provided with formal written contracts detailing terms and conditions of services, including reporting time frames, number of contract days, fee scales and fixed figure contracts.

Contracts for legal consultants tend to be written for two (2) 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.

Contracts for corporate/general services include areas involving Human Resources, Industrial Relations, audit and accounting.

During the reporting period, the NQLC's expenditure from PM&C funds for these contract categories are listed in Table 9:

Table 9: Consultancy information 2014-2015 Financial Year.

Contract Type	No. of Contract Let 2014/15	Total Expenditure
Corporate and General	22	115,000
Anthropological	15	322,710
Legal	22	850,203
<b>TOTAL</b>	<b>59</b>	<b>\$1,287,913</b>



# 10 Native Title Consent Determinations

## 10.1 SUMMARY OF NATIVE TITLE DETERMINATIONS REPRESENTED BY NQLC IN 2014-2015

During the 2014-2015 reporting period, NQLC had two (2) Native Title Consent Determinations, Juru People (Part A) and Juru People (Part B).

<b>JURU PEOPLE (PART A)</b>	
Federal Court file no(s)	QUD554/2010
Short name	Juru People (Part A)
Case name	Lampton on behalf of the Juru People v State of Queensland
Determination type	Claimant
State or Territory	Queensland
Legal process	Consent
Determination outcome	Native title exists in parts of the determination area
Representative A/TSI body area(s)	Northern Queensland Region
Local government area(s)	Burdekin Shire Council, Whitsunday Regional Council
Determination date	11 July 2014
Date/s of effect	11 July 2014
Registered Native Title Body Corporate	Kyburra Munda Yalga Aboriginal Corporation RNTBC

<b>JURU PEOPLE (PART B)</b>	
Federal Court file no(s)	QUD554/2010
Short name	Juru People (Part B)
Case name	Lampton on behalf of the Juru People v State of Queensland
Determination type	Claimant
State or Territory	Queensland

<b>JURU PEOPLE (PART B)</b>	
Legal process	Consent
Determination outcome	Native title exists in the entire determination area
Representative A/TSI body area(s)	Northern Queensland Region
Local government area(s)	Burdekin Shire Council, Whitsunday Regional Council
Determination date	22/06/2015
Date/s of effect	22/06/2015
Registered Native Title Body Corporate	Kyburra Munda Yalga Aboriginal Corporation RNTBC

## 10.2 SUMMARY OF NATIVE TITLE DETERMINATIONS REPRESENTED BY NQLC

As at June 30 2015, NQLC have had 38 Native Title Consent Determinations.

<b>DATE OF DETERMINATION</b>	<b>FEDERAL COURT NUMBER</b>	<b>NAME</b>	<b>NAME OF REGISTERED NATIVE TITE BODY CORPORATE</b>
22 June 2015	QUD 554/2010	Juru People (Part B)	Kyburra Munda Yalga Aboriginal Corporation
11 July 2014	QUD 554/210	Juru People (Part A)	Kyburra Munda Yalga Aboriginal Corporation
18 March 2014	QUD80/2005	Gudjala People	Ngrragoonda Aboriginal Corporation RNTBC
18 March 2014	QUD147/2006	Gudjala People #2	Ngrragoonda Aboriginal Corporation RNTBC
26 November 2013	QUD6009/1999	Ewamian People #2	Tatampi Puranga Aboriginal Corporation RNTBC
26 November 2013	QUD6018/2001	Ewamian People #3	Tatampi Puranga Aboriginal Corporation RNTBC
1 November 2013	QUD6014/2001	Mamu People	Mamu Aboriginal Corporation RNTBC
24 September 2013	QUD6008/1999	Western Yalanji #4	Western Yalanji Aboriginal Corporation RNTBC
24 September 2013	QUD6003/2001	Western Yalanji Combined #5 and #7	Western Yalanji Aboriginal Corporation RNTBC
23 September 2013	QUD111/2004	Warrungu People #2	Goondaloo Aboriginal Corporation RNTBC
26 March 2013	QUD208/2004	Tableland Yidinji People #3	Wadjanbarra Tableland Yidinji Aboriginal Corporation

DATE OF DETERMINATION	FEDERAL COURT NUMBER	NAME	NAME OF REGISTERED NATIVE TITE BODY CORPORATE
14 December 2012	QUD6030/1999	Tableland Yidinji People	Wadjanbarra Tableland Yidinji Aboriginal Corporation
10 December 2012	QUD6109/1998	Tagalaka People	Tagalaka Aboriginal Corporation RNTBC
10 December 2012	QUD6020/2001	Tagalaka People #2	Tagalaka Aboriginal Corporation RNTBC
9 October 2012	QUD6230/1998	Jangga People	Bulganunna Aboriginal Corporation RNTBC
21 September 2012	QUD6016/2001	Combined Mandingalbay Yidinji - Gunggangdji	Gunggangdji-Mandingalbay Yidinji Peoples PBC Aboriginal Corporation RNTBC
2 August 2012	QUD208/1997	Djungan People #1	Nguddaboolgan Native Title Aboriginal Corporation RNTBC
2 August 2012	QUD6022/1998	Djungan People #2	Nguddaboolgan Native Title Aboriginal Corporation RNTBC
2 August 2012	QUD6116/1998	Djungan People #3	Nguddaboolgan Native Title Aboriginal Corporation RNTBC
2 August 2012	QUD6036/2001	Djungan People #4	Nguddaboolgan Native Title Aboriginal Corporation RNTBC
1 August 2012	QUD85/2005	Gugu Badhun People #2	Gugu Badhun Aboriginal Corporation RNTBC
19 December 2011	QUD6013/2001	Combined Gunggangdji	Gunggangdji PBC Aboriginal Corporation RNTBC
14 December 2011	QUD6035/2001	Muluridji People #2	Muluridji Tribal Aboriginal Corporation RNTBC
14 November 2011	QUD6208/1998	Muluridji People	Muluridji Tribal Aboriginal Corporation RNTBC
1 September 2011	QUD6003/2003	Djiru People #2	Djiru Warrangburra Aboriginal Corporation RNTBC
1 September 2011	QUD6006/2003	Djiru People #3	Djiru Warrangburra Aboriginal Corporation RNTBC
31 August 2011	QUD296/2008	Wanyurr Majay People	Wanyurr-Majay Aboriginal Corporation RNTBC
26 July 2011	QUD6249/1998	Juru (Cape Upstart) People	Kyburra Munda Yalga Aboriginal Corporation RNTBC

DATE OF DETERMINATION	FEDERAL COURT NUMBER	NAME	NAME OF REGISTERED NATIVE TITE BODY CORPORATE
8 October 2010	QUD6001/2003	Jirrbal People #1	Wabubadda Aboriginal Corporation RNTBC
8 October 2010	QUD41/2004	Jirrbal People #2	Wabubadda Aboriginal Corporation RNTBC
8 October 2010	QUD42/2004	Jirrbal People #3	Wabubadda Aboriginal Corporation RNTBC
17 December 2009	QUD6012/2001	Combined Dulabed and Malanbarra Yidinji	Dulabed Malanbarra and Yidinji Aboriginal Corporation RNTBC
10 December 2009	QUD6240/1998	Girramay People	Girramay People Aboriginal Corporation RNTBC
12 December 2007	QUD6027/1999	Ngadjon-Jii People	Choorechillum (Ngadjon Jii PBC) Aboriginal Corporation RNTBC
24 April 2006	QUD6015/1998	Mandingalbay Yidinji People	Mandingalbay Yidinji Aboriginal Corporation RNTBC
17 February 2006	QUD6089/1998	Western Yalanji People	Western Yalanji Aboriginal Corporation RNTBC
17 December 2004	QUD6002/1998	Djabugay People	Djabugay Native Title Aboriginal Corporation RNTBC
28 June 2001	QUD6222/1998	Bar-Barrum People	Bar-Barrum Aboriginal Corporation RNTBC



Image courtesy of Christine Howes, taken at the 2012 Djirngan Native Title Consent Determination.

# 11

## Financial Statements



**North Queensland Land Council  
Native Title Representative Body  
Aboriginal Corporation**

**Annual financial report  
For the year ended 30 June 2015**

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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### Abbreviations

ATSIC	Aboriginal and Torres Strait Islander Commission
PM & C	The Department of Prime Minister and Cabinet

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## Directors' report

The directors present their report together with the financial statements of North Queensland Land Council Native Title Representative Body Aboriginal Corporation (the "Corporation") for the financial year ended 30 June 2015 and the auditor's report thereon.

### General Information

Information on directors

The names of each person who has been a director during the year and to the date of this report are as follows. Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

<b>Errol Neal</b>	<b>Chairperson and Director</b>
Qualifications	-Certificate IV in Business Governance -Indigenous Cultural Educator and Performer
Experience	-Current Mayor of Yarrabah Aboriginal Shire Council Qld -30 Years Activist on the issues of Social Justice and Land Rights -Second term served on NQLC Board
Ward	Yarrabah
Traditional Owner	Gunggandji/Djungun
<b>Phil Rist</b>	<b>Deputy Chairperson and Director</b>
Qualifications	-Certificate IV in Business Governance
Experience	-First Indigenous Marine Park Inspector for QLD Parks & Wildlife Service -Founding Member and current CEO of Giringun Aboriginal Corporation
Ward	Tully/Palm Island
Traditional Owner	Nywaigi
<b>Patricia Dallachy</b>	<b>Treasurer and Director</b>
Qualifications	-TAFE Certificate IV in Business Governance -Completed a short course in Archaeology and Anthropology
Ward	Hughenden/Charters Towers
Traditional Owner	Gudjal
<b>Kaylene Malthouse</b>	<b>Director</b>
Qualifications	-Certificate IV in Business Governance
Experience	-Past Representative for the Standing Independent Selection Panel -Employed by the Department of Communities
Ward	Tablelands
Traditional Owner	Upper Malamburra/Yidinji

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<b>Gary Mooney</b>	<b>Director</b>
Qualifications	-Certificate IV in Business Governance
Experience	-19 years of involvement with Murri Watch -3.5years as a Police Liaison Officer as well as experience in the Housing Co-operative
Ward	Proserpine/Mackay
Traditional Owner	Yuibera
<b>Prunella Harris</b>	<b>Director</b>
Experience	Has lived in both Yarrabah and Charters Towers Qld
Ward	Yarrabah
Traditional Owner	Gurubana Gunggandji/Gudjala
<b>Annette Hooligan</b>	<b>Director</b>
Qualifications	Social Worker for Home & Community Care (HACC) for Aged, Frail and Disabled Persons
Experience	-Community Justice Representative for the Magistrates' Court in Mt Garnet and Atherton Areas -Chairperson - Mt Garnet/Gunbil-Badan Aboriginal Land Trust -Community involvement in Mt Garnet region
Ward	Mt Garnet
Traditional Owner	Tableland Yidinji/Warrungu
<b>Tracey Heenan</b>	<b>Director</b>
Experience	-Previous Director of NQLC 2008-2010 -Secretary of Bidji Bidji Community Advancement Co-operative Society Ltd
Ward	Tablelands
Traditional Owner	Tableland Yidinji
<b>Colin Enoch</b>	<b>Director</b>
Experience	-Founding Member of NQLC -Served as a Director, Treasurer and Deputy Chairperson from 1994-2002 -Past Director of Njilki Jowan Legal Service 25 years of involvement -Current Chairperson of Wangetti Trust
Ward	Cairns
Traditional Owner	Yirrigandji
<b>Henry Epong</b>	<b>Director</b>
Experience	-President of Mandubarra Land & Sea Corporation -Monitor & Maintenance of Mandubarra Turtle Rehab -Member of Local Marine Advisory Committee
Ward	Innisfail
Traditional Owner	Mamu

<b>Angelina Akee</b>	<b>Director</b>
Experience	-Chairperson – ATSI Cultural Centre Trust -Chairperson - Townsville ATSI Corporation for Women -Chairperson - Kyburra Numda Yalga Prescribed Body Corporate -Director - Townsville ATSI Women's Legal Service NQ
Ward	Townsville/Ayr
Traditional Owner	Bindal/Birri Gubba/Gurambilbarra

<b>Hilton Noble</b>	<b>Director – Ceased 19 September 2014</b>
Experience	-Past Director of NQLC 2004 -Past Project Officer for NQLC
Ward	Caïms
Traditional Owner	Gunggandji

**Controlled entity**

On 21 December 2009 the Corporation established a new company, North Queensland Aboriginal Development Corporation Limited. On 3 May 2015 North Queensland Aboriginal Development Corporation Limited was deregistered, it had not commenced trading.

**Corporation secretary**

Mr Martin Dore was appointed to the position of Corporation Secretary on 3 November 2005. He holds the qualifications of Bachelor of Laws (LLB) and Graduate Diploma Legal Practice. He has more than 30 years of experience as a Practising Solicitor and has been Principal Legal Officer for the North Queensland Land Council since 2000.

**Principal activities**

The principal activity of the Corporation during the course of the financial year was to provide high quality Native Title services to traditional owner groupings throughout the North Queensland region.

There were no significant changes in the nature of the activities of the Corporation during the financial year.

**Operating results**

The net deficit from ordinary activities after income tax amounted to \$167,827 (2014: Deficit \$910,205).

**State of affairs**

There were no significant changes in the Corporation's state of affairs during the year.

**Distributions**

The Corporation's constitution precludes it from distributing any surpluses to members. Accordingly, no distributions were paid, recommended or declared by the Corporation during the year.

**Events subsequent to reporting date**

There has not arisen in the interval between the end of the financial year and the date of this report any matter or circumstance that has 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.

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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### Likely developments

The directors envisage that the Corporation will continue its existing operations, subject to the receipt of future funding from government and other sources.

### Environmental regulation

The Corporation's operations are not subject to any particular and significant environmental regulations under either Commonwealth or State legislation. However, the board believes that the Corporation has adequate systems in place for the management of its environmental requirements and is not aware of any breach of those environmental requirements as they apply to the Corporation.

### Directors' meetings

During the financial year, 5 board meetings and 4 executive meeting of directors were held. The number of meetings attended by each of the directors of the Corporation during the financial year is:

Director	No of board meetings attended	No of board meetings eligible to attend	No of executive meetings attended	No of executive meetings eligible to attend
Errol Neal	2	5	4	4
Phil Rist	5	5	4	4
Patricia Dallachy	5	5	4	4
Kaylene Malthouse	5	5	3	4
Gary Mooney	5	5	4	4
Colin Enoch	3	5	3	4
Prunella Harris	5	5	-	-
Annette Hooligan	5	5	-	-
Tracey Heenan	2	5	-	-
Henry Epong	5	5	-	-
Angie Akee	5	5	-	-

**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.

During or since the end of the financial year, the Corporation has paid insurance premiums to insure each of the directors and officers against liabilities for costs and expenses incurred by them in defending legal proceedings arising from their conduct while acting in the capacity of the directors and/or officers of the Corporation, other than conduct involving a wilful breach of duty in relation to the Corporation. The directors have not detailed the nature of the liabilities covered or the amount of the premium paid in respect of the directors and officers liability insurance, as such disclosure is prohibited under the contract.

**Proceedings on behalf of the corporation**

During the year, no person has made application for leave in respect of the Corporation under section 169-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (the "Act").

During the year, no person has brought or intervened in proceedings on behalf of the Corporation with leave under section 169-5 of the Act.

**Auditor's independence declaration**

At no time during the financial year ended 30 June 2015 was an officer of the Corporation the auditor, a partner in the audit firm, or a director of the audit company that undertook the audit of the Corporation for that financial year.

The lead auditor's independence declaration in accordance with section 339.5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* is set out on the following page and forms part of the directors' report for the financial year ended 30 June 2015.

This report is made out in accordance with a resolution of the directors:

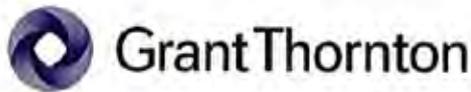


Director



Director

Dated at Cairns this 16<sup>th</sup> day of October 2015



## Lead auditor's independence declaration

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Cairns QLD 4870  
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W [www.grantthornton.com.au](http://www.grantthornton.com.au)

### Lead auditor's independence declaration to the directors of North Queensland Land Council Native Title Representative Body Aboriginal Corporation

In accordance with the requirements of section 339-50 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, as lead auditor for the audit of North Queensland Land Council Native Title Representative Body Aboriginal Corporation for the year ended 30 June 2015, I declare that, to the best of my knowledge and belief, there have been:

- 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
- No contraventions of any applicable code of professional conduct in relation to the audit.

GRANT THORNTON AUDIT PTY LTD  
Chartered Accountants

Gerry Mier  
Partner – Audit & Assurance

Cairns, 16 October 2015

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North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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## Statement of profit or loss and other comprehensive income

**For the year ended 30 June 2015**

	Note	2015 \$	2014 \$
<b>Income</b>			
Revenue	5	8,554,090	8,589,165
Gain on sale of property, plant and equipment		14,918	23,539
<b>Total income</b>		<b>8,569,008</b>	<b>8,612,704</b>
<b>Expenses</b>			
Administration expenses		667,371	763,204
Catering expenses		222,147	263,820
Computer & software expenses		48,690	82,182
Consulting and professional fees		1,243,085	1,571,945
Employee expenses		4,156,387	4,042,349
Depreciation and amortisation expenses		224,430	194,104
Insurance		88,433	85,824
Internet and email costs		254,406	252,694
Meeting expenses		30,919	59,582
Motor vehicle expenses		43,158	47,950
Native title expenses		873,398	1,051,581
Rent expenses		334,823	325,281
Travel expenses		292,940	345,564
Training expenses		29,468	27,725
Other expenses		227,180	409,104
<b>Total expenses</b>		<b>8,736,835</b>	<b>9,522,909</b>
<b>Net surplus (deficit) before tax</b>		<b>(167,827)</b>	<b>(910,205)</b>
Income tax expense	4e		
<b>Surplus (deficit) for the year</b>		<b>(167,827)</b>	<b>(910,205)</b>
Other comprehensive income		-	-
<b>Total comprehensive income</b>		<b>(167,827)</b>	<b>(910,205)</b>

*This statement should be read in conjunction with the notes to the financial statements.*

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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## Statement of financial position

### As at 30 June 2015

	Note	2015 \$	2014 \$
<b>Assets</b>			
Cash and cash equivalents	6	2,588,287	3,563,394
Investments	41	53,419	-
Trade and other receivables	7	95,897	79,416
Prepayments		<u>40,680</u>	<u>48,455</u>
<b>Total current assets</b>		<u>2,778,283</u>	<u>3,691,265</u>
Property, plant and equipment	8	<u>903,699</u>	<u>1,027,956</u>
<b>Total non-current assets</b>		<u>903,699</u>	<u>1,027,956</u>
<b>Total assets</b>		<u>3,681,982</u>	<u>4,719,221</u>
<b>Liabilities</b>			
Trade and other payables	9	867,992	1,298,995
Employee benefits	10	380,832	259,186
Grants unexpended, repayable or received in advance		<u>1,665,749</u>	<u>2,147,639</u>
<b>Total current liabilities</b>		<u>2,914,573</u>	<u>3,705,820</u>
Employee benefits	10	<u>113,690</u>	<u>191,855</u>
<b>Total non-current liabilities</b>		<u>113,690</u>	<u>191,855</u>
<b>Total liabilities</b>		<u>3,028,263</u>	<u>3,897,675</u>
<b>Net assets</b>		<u>653,719</u>	<u>821,546</u>
<b>Retained Surplus</b>			
Retained surplus		<u>653,719</u>	<u>821,546</u>
<b>Total retained surplus</b>		<u>653,719</u>	<u>821,546</u>

*This statement should be read in conjunction with the notes to the financial statements.*

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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## Statement of changes in equity

### For the year ended 30 June 2015

	2015 \$	2014 \$
<b>Retained surplus</b>		
Balance at 1 July	821,546	1,731,751
Surplus (deficit) for the year	(167,827)	(910,205)
Total other comprehensive income for the year	<u>-</u>	<u>-</u>
Balance at 30 June	<u>653,719</u>	<u>821,546</u>

*This statement should be read in conjunction with the notes to the financial statements.*

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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## Statement of cash flows

### For the year ended 30 June 2015

	Note	2015 \$	2014 \$
<b>Cash flows from operating activities</b>			
Receipts from government grants		8,006,663	11,348,140
Payments to suppliers and employees		<u>(9,005,012)</u>	<u>(9,859,032)</u>
Cash generated from operating activities		(998,349)	1,489,108
Interest received		30,104	39,917
Other receipts		<u>131,812</u>	<u>150,555</u>
<b>Net cash from/(used in) operating activities</b>	13	<u>(836,433)</u>	<u>1,679,580</u>
<b>Cash flows from investing activities</b>			
Proceeds from sale of property, plant and equipment		14,918	24,087
Acquisition of property, plant and equipment		(100,173)	(93,758)
Acquisition of term deposit		<u>(53,419)</u>	<u>-</u>
<b>Net cash from/(used in) investing activities</b>		<u>(138,674)</u>	<u>(69,671)</u>
<b>Cash flows from financing activities</b>			
Proceeds from borrowings		-	-
Repayment of borrowings		-	-
Payment of finance lease liabilities		<u>-</u>	<u>-</u>
<b>Net cash from/(used in) financing activities</b>		<u>-</u>	<u>-</u>
Net increase (decrease) in cash and cash equivalents		(975,107)	1,609,909
Cash and cash equivalents at 1 July	6	<u>3,563,394</u>	<u>1,953,485</u>
<b>Cash and cash equivalents at 30 June</b>	6	<u>2,588,287</u>	<u>3,563,394</u>

*This statement should be read in conjunction with the notes to the financial statements.*

## Notes to the financial statements

### For the year ended 30 June 2015

#### 1 Reporting entity

North Queensland Land Council Native Title Representative Body Aboriginal Corporation (the "Corporation") is an Aboriginal Corporation domiciled in Australia. The address of the Corporation's registered office is 61 Anderson Street, Cairns QLD 4870. The Corporation is a not-for-profit entity and primarily is involved in Native Title Services.

#### 2 Basis of preparation

##### a Statement of compliance

The financial statements are general purpose financial statements which have been prepared in accordance with Australian Accounting Standards – Reduced Disclosure Requirements ("AASBs") adopted by the Australian Accounting Standards Board ("AASB"); the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*; *Native Title Act 1993* and the *Australian Charities and Not-for-profits Commission Act 2012*. The financial statements of the Corporation do not comply with International Financial Reporting Standards ("IFRSs") adopted by the International Accounting Standards Board. They were authorised for issue by the Board of Directors on the date shown on the directors' declaration.

##### b Basis of measurement

The financial statements have been prepared on historical costs.

##### c Functional and presentation currency

These financial statements are presented in Australian dollars, which is the Corporation's functional currency.

##### d Use of judgements and estimates

In preparing these financial statements, management has made judgements, estimates and assumptions that affect the application of the Corporation's accounting policies and the reported amounts of assets, liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and other various factors that are believed to be reasonable under the circumstances, the results of which form the basis of making the judgments. Actual results may differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to estimates are recognised prospectively.

##### Judgements

The Corporation has entered into leases of premises as disclosed in Note 12. Management has determined that all of the risks and rewards of ownership of these premises and equipment remain with the lessor and has therefore classified the leases as operating leases.

##### Assumptions and estimation uncertainties

Management is not aware of any assumptions and estimation uncertainties that have a significant risk of resulting in a material adjustment within the next financial year.

#### **e Changes in accounting policies**

The Corporation has consistently applied the accounting policies set out in Note 4 to all periods presented in these financial statements.

##### **Changes in accounting estimates**

During the current reporting period, the Corporation adopted the calculation taking into account inflation, discounting and probability for measurement of its other long term employee benefits (long service leave)

The Corporation reduced the carrying amounts of other long term employee benefits by \$48,717 during the current reporting period as a result of this change in accounting estimate.

#### **f Economic dependency and going concern**

The financial statements have been prepared on a going concern basis, which contemplates continuity of normal business activities and the realisation of assets and settlement of liabilities in the ordinary course of business.

As at 30 June 2015, current liabilities amounted to \$2,914,573 (2014: \$3,705,820) and current assets amounted to \$2,778,283 (2014: \$3,691,265) leaving a shortfall in working capital of \$136,290 (2014: \$14,555). This shortfall in working capital is a consequence of employee leave provisions raised. Increases in employee leave provisions are unable to be offset against current year grant funding. The Corporation expects that the payment of employee leave entitlements will be discharged in the normal course of business from future funding in the year leave is taken.

The Corporation is a not-for-profit entity and is reliant on government funding in order to continue its operations. Management has no reason to believe that the required funding will not be forthcoming for the foreseeable future. However, should future government funding be significantly reduced or curtailed, the Corporation would be unlikely to be able to continue its operations at current levels.

### **3 New and amended accounting standards**

#### **a New and amended standards adopted**

The Corporation has adopted all the amendments to Australian Accounting Standards issued by the AASB which are relevant to, and effective for, the Corporation's financial statements for the annual period beginning 1 July 2014. None of the amendments have had a significant impact on the Corporation.

#### **b New standards and interpretations not yet adopted**

A number of new standards, amendments to standards and interpretations are effective for annual periods beginning after 1 July 2014, and have not been applied in preparing these financial statements. None of these is expected to have a significant effect on the Corporation's financial statements except AASB 9 *Financial Instruments* which becomes mandatory for annual periods beginning on or after 1 January 2018 (with early adoption permitted) and introduces new requirements for the classification and measurement of financial assets and additional changes relating to financial liabilities.

The Corporation does not plan to adopt these standards early.

### **4 Significant accounting policies**

The accounting policies set out below have been applied consistently to all periods presented in these financial statements, except for the changes in accounting policies as explained in Note 2e.

**a Revenue****Rendering of services**

Revenue from rendering of services is recognised in proportion to the stage of completion of the transaction at the reporting date. If the stage of completion cannot be reliably measured then revenue is recognised to the extent of expenses recognised that are recoverable.

**b Government grants and other contributions of assets**

Government grants and other contributions of assets are accounted for in accordance with AASB 1004 *Contributions* based on whether they are reciprocal or non-reciprocal in nature and are measured at the fair value of the contributions received or receivable.

Reciprocal transfers are those where approximately equal value is exchanged in the transfer between the transferor (grantor) and the transferee (grantee). Non-reciprocal transfers are those where equal value is not exchanged.

**i Reciprocal transfers**

Where grants and other contributions are received that are reciprocal in nature, revenue is recognised over the term of the funding arrangements. The Corporation currently does not have any reciprocal grants.

**ii Non-reciprocal transfers**

Revenue from a non-reciprocal grant that is not subject to conditions is recognised when the Corporation obtains control of the funds, economic benefits are probable and the amount can be measured reliably. Where a grant may be required to be repaid if certain conditions are not satisfied, a liability is recognised at year end to the extent that conditions remain unsatisfied.

Where the Corporation receives a non-reciprocal contribution of an asset from a government or other party for no or nominal consideration, the asset is recognised at fair value and a corresponding amount of revenue is recognised.

**c Finance income and finance costs**

Finance income and finance costs include interest income and interest expense. Interest income or expense is recognised using the effective interest method.

**d Employee benefits****i Short-term benefits**

Short-term employee benefits are expensed as the related service is provided. A liability is recognised for the amount expected to be paid if the Corporation has a present legal or constructive obligation to pay this amount as a result of past service provided by the employee and the obligation can be estimated reliably.

**ii Superannuation contributions**

Obligations for contributions to superannuation are expensed as the related service is provided. The contributions made by the Corporation for the year ended 30 June 2015 were \$535,516 (2014: \$521,309).

**iii Other long-term employee benefits**

The Corporation's net obligation in respect of long-term employee benefits is the amount of future benefit that employees have earned in return for their service in the current and prior periods. In determining the liability, consideration is given to employee wage increases and the probability that the employee may satisfy vesting requirements. That benefit is discounted using market yields on national government bonds with terms to maturity that match the expected timing of cash flows. The Corporation's obligation for long-term

#### **d Employee benefits continued**

employee benefits is presented as non-current provisions in the statement of financial position. Re-measurements are recognised in expenses in the period in which they arise.

##### **iv Termination benefits**

Termination benefits are expensed at the earlier of when the Corporation can no longer withdraw the offer of those benefits and when the Corporation recognises costs of restructuring. If the benefits are not expected to be settled wholly within 12 months at the end of the reporting period, then they are discounted.

#### **e Income tax**

The Corporation has been granted exemption from income tax under Division 50 of the *Income Tax Assessment Act 1997*.

#### **f Property, plant and equipment**

##### **i Recognition and measurement**

Items of property, plant and equipment are measured at cost less accumulated depreciation and any accumulated impairment losses.

If significant parts of an item of property, plant and equipment have different useful lives, then they are accounted for as separate items (major components) of property, plant and equipment.

Any gain or loss on disposal of an item of property, plant and equipment is recognised in income or expenses.

##### **ii Subsequent expenditure**

Subsequent expenditure is capitalised only when it is probable that the future economic benefits associated with the expenditure will flow to the Corporation.

##### **iii Depreciation**

Depreciation is calculated to write off the cost of property, plant and equipment less their estimated residual values using the straight line basis over their estimated useful lives and is generally recognised in expenses. Leased assets are depreciated over the shorter of the lease term and their useful lives unless it is reasonably certain that the Corporation will obtain ownership by the end of the lease term. Land is not depreciated.

The depreciation rates used for each class of depreciable asset are as follows:

• Buildings	2.5% - 5%
• Furniture, fixtures and fittings	10% - 33.33%
• Motor vehicles	10% - 25%
• Office equipment	10% - 33.33%
• Leasehold improvements	20%

Depreciation methods, useful lives and residual values are reviewed at each reporting date and adjusted if appropriate.

#### **g Trade and other payables**

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

**h Goods and services tax (GST)**

Revenue, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Receivables and payables are stated inclusive of the amount of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with other receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows included in receipts from customers or payments to suppliers.

**i Comparative figures**

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

**j 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 90 days or less, and bank overdrafts. Term deposits maturing beyond 90 days are classified as investments.

**k Trade and other receivables**

Trade and other receivables include amounts due from customers for goods sold and services performed in the ordinary course of business. Receivable expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets.

Trade and other receivables are initially recognised at fair value and subsequently measured at amortised cost using the effective interest method, less any provision for impairment.

**l Rental Bond**

The Corporation has guaranteed, as part to their operating lease, the payment of rentals in accordance with the signed agreement for the specified lease term. The terms of the lease agreement required the Corporation to secure a bank guarantee of \$53,419 as minimum compensation payments to the lessor in the event of default. The lease term is due to expire by 1 May 2018. The directors considered no liability is required to be recognised in respect of this guarantee as the Corporation is in compliance with the lease agreement. A term deposit to secure the bank guarantee has been established.

**m Financial instruments****i Non-derivative financial assets and financial liabilities – Recognition and de-recognition**

The Corporation initially recognises loans and receivables on the date that they are originated. All other financial assets and financial liabilities are initially recognised on the trade date.

The Corporation derecognises a financial asset when the contractual rights to the cash flows from the asset expire, or it transfers the rights to receive the contractual cash flows in a transaction in which substantially all of the risks and rewards of ownership of the financial asset are transferred, or it neither transfers nor retains substantially all of the risks and rewards of ownership and does not retain control over the transferred asset. Any interest in transferred financial assets that is created or retained by the Corporation is recognised as a separate asset or liability.

### **m Financial instruments continued**

The Corporation derecognises a financial liability when its contractual obligations are discharged or cancelled, or expire.

Financial assets and financial liabilities are offset and the net amount presented in the statement of financial position when, and only when, the Corporation has a legal right to offset the amounts and intends either to settle on a net basis or to realise the asset and settle the liability simultaneously.

#### **ii Non-derivative financial assets – Measurement**

##### *Loans and receivables*

Loans and receivables are initially recognised at fair value plus any directly attributable transaction costs. Subsequent to initial recognition, they are measured at amortised cost using the effective interest method.

#### **iii Non-derivative financial liabilities – Measurement**

Non-derivative financial liabilities are initially recognised at fair value plus any directly attributable transaction costs. Subsequent to initial recognition, these financial liabilities are measured at amortised cost using the effective interest method.

### **n Impairment**

#### **i Non-derivative financial assets**

Financial assets are assessed at each reporting date to determine whether there is any objective evidence of impairment.

Objective evidence that financial assets are impaired can include default or delinquency by a debtor, restructuring of an amount due to the Corporation on terms that the Corporation would not consider otherwise, or indications that a debtor or issuer will enter bankruptcy.

The Corporation considers evidence of impairment for financial assets measured at amortised cost (loans and receivables) at a specific asset level.

An impairment loss in respect of a financial asset measured at amortised cost is calculated as the difference between its carrying amount and the present value of the estimated future cash flows discounted at the asset's original effective interest rate. Losses are recognised in expenses and reflected in an allowance account. When the Corporation considers that there are no realistic prospects of recovery of the asset, the relevant amounts are written off. If the amount of impairment loss subsequently decreases, and the decrease can be related objectively to an event occurring after the impairment was recognised, the previously recognised impairment loss is reversed through other income.

#### **ii Non-financial assets**

At each reporting date, the Corporation reviews the carrying amounts of its non-financial assets to determine whether there is any indication of impairment. If any such indication exists then the asset's recoverable amount is estimated.

The recoverable amount of an asset is the greater of its value in use and its fair value less costs to sell. As the Corporation is a not-for-profit entity, value in use is the depreciated replacement cost of an asset as the future economic benefits of the asset are not primarily dependent on the asset's ability to generate net cash inflows and as the entity would, if deprived of the asset, replace its remaining future economic benefits.

**n Impairment continued**

An impairment loss is recognised if the carrying amount of an asset exceeds its recoverable amount.

Impairment losses are recognised in expenses.

An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortisation, if no impairment loss had been recognised.

**o 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 using the best estimate of the amounts required to settle the obligation at the end of the reporting period.

**p Leases****i Determining whether an arrangement contains a lease**

At inception of an arrangement, the Corporation determines whether the arrangement is or contains a lease.

At inception or on reassessment of an arrangement that contains a lease, the Corporation separates payments and other consideration required by the arrangement into those for the lease and those for other elements on the basis of their relative fair values. If the Corporation concludes for a finance lease that it is impracticable to separate the payments reliably, an asset and a liability are recognised at an amount equal to the fair value of the underlying asset. Subsequently the liability is reduced as payments are made and an imputed finance cost on the liability is recognised using the Corporation's incremental borrowing rate.

**ii Leased assets**

Assets held by the Corporation under leases which transfer to the Corporation substantially all of the risks and rewards of ownership are classified as finance leases. The leased assets are measured at an amount equal to the lower of their fair value and the present value of the minimum lease payments. Subsequent to initial recognition, the assets are accounted for in accordance with the accounting policy applicable to that asset.

Assets held under other leases are classified as operating leases and are not recognised in the Corporation's statement of financial position.

**iii Lease payments**

Payments made under operating leases are recognised in expenses on a straight-line basis over the term of the lease. Lease incentives received are recognised as an integral part of the total lease expense, over the term of the lease.

Minimum lease payments made under finance leases are apportioned between the finance costs and the reduction of the outstanding liability. The finance costs are allocated to each period during the lease term so as to produce a constant periodic rate of interest on the remaining balance of the liability.

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

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	2015 \$	2014 \$
<b>5 Revenue</b>		
Grant received – PM & C	<u>7,910,284</u>	<u>10,637,716</u>
	7,910,284	10,637,716
Grant balances at 1 July	2,147,639	–
Grant balances at 30 June	<u>(1,665,749)</u>	<u>(2,147,639)</u>
Fee income	8,392,174	8,490,077
Interest income	131,812	59,171
	<u>30,104</u>	<u>39,917</u>
	<u>8,554,090</u>	<u>8,589,165</u>
<b>6 Cash and cash equivalents</b>		
Cash on hand	6,551	6,926
Cash at bank	<u>2,581,736</u>	<u>3,556,468</u>
Cash and cash equivalents	<u>2,588,287</u>	<u>3,563,394</u>
<b>7 Trade and other receivables</b>		
Current		
Trade receivables	9,751	3,540
Deposits	20,000	51,185
Other	14,700	–
GST receivable	<u>51,446</u>	<u>24,691</u>
	<u>95,897</u>	<u>79,416</u>

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
Annual financial report for the year ended 30 June 2015

### 8 Property, plant and equipment

#### a Reconciliation of carrying amount

	Land		Buildings		Furniture, Fixtures and Fittings		Motor Vehicles		Office Equipment		Leaschold Improvements		Total	
	\$		\$		\$		\$		\$		\$		\$	
<b>Cost</b>														
Balance at 1 July 2013	290,000		448,373		143,404		695,998		788,998		222,133		2,588,906	
Additions	-		-		7,178		60,574		26,007		-		93,759	
Disposals (Adjustments)	-		-		(22,726)		(260,808)		(115,084)		-		(398,618)	
Balance at 30 June 2014	290,000		448,373		127,856		495,764		699,921		222,133		2,284,047	
Balance at 1 July 2014	290,000		448,373		127,856		495,764		699,921		222,133		2,284,047	
Additions	-		-		-		40,181		59,992		-		100,173	
Disposals	-		-		-		(46,492)		-		-		(46,492)	
Balance at 30 June 2015	290,000		448,373		127,856		489,453		759,914		222,133		2,337,729	
<b>Depreciation and impairment</b>														
Balance at 1 July 2013	-		(175,232)		(117,476)		(535,458)		(560,867)		(71,023)		(1,460,056)	
Depreciation for the year	-		(13,348)		(9,464)		(69,237)		(95,726)		(44,426)		(232,201)	
Disposals (Adjustments)	-		38,096		22,726		260,260		115,084		-		436,166	
Balance at 30 June 2014	-		(150,484)		(104,214)		(344,435)		(541,509)		(115,449)		(1,256,091)	
Balance at 1 July 2014	-		(150,484)		(104,214)		(344,435)		(541,509)		(115,449)		(1,256,091)	
Depreciation for the year	-		(14,377)		(9,425)		(52,723)		(103,479)		(44,426)		(224,430)	
Disposals	-		-		-		46,491		-		-		46,491	
Balance at 30 June 2015	-		(164,861)		(113,639)		(350,667)		(644,988)		(159,875)		(1,434,030)	
<b>Carrying amounts</b>														
A: 1 July 2013	290,000		273,141		25,928		160,540		228,131		151,110		1,128,850	
A: 30 June 2014	290,000		297,889		23,642		151,329		158,412		106,684		1,027,956	
A: 30 June 2015	290,000		283,512		14,217		138,786		114,926		62,258		903,699	

**8 Property, plant and equipment (continued)**

## Caveats

The title of the land and building situated at 61 Anderson Street, Cairns which is owned by the Corporation and which has a carrying value of \$573,513 (2014: \$587,889) is subject to a caveat in favour of the Commonwealth Government (via ATSIC, a former statutory body of the Commonwealth Government):

	2015 \$	2014 \$
<b>9 Trade and other payables</b>		
Trade payables	290,977	715,249
Annual leave entitlements	276,315	266,995
Payroll liabilities	278,018	262,438
Revenue received in advance	22,682	54,313
	<hr/>	<hr/>
Total trade and other payables	<u>867,992</u>	<u>1,298,995</u>

**10 Employee benefits**

	2015 \$	2014 \$
<b>Current</b>		
Long service leave	<u>380,832</u>	<u>259,186</u>
<b>Non-current</b>		
Long service leave	<u>113,690</u>	<u>191,855</u>
Balance at 1 July	451,041	461,309
Provisions made during the year	69,192	80,573
Provisions used during the year	<u>(25,711)</u>	<u>(90,841)</u>
Balance at 30 June	<u>494,522</u>	<u>451,041</u>

**Long service leave**

The provision for long service leave represents the Corporation's best estimate of the future benefit that employees have earned. The amount and timing of the associated outflows is uncertain and dependant on employees attaining the required years of services. Where the Corporation no longer has the ability to defer settlement of the obligation beyond 12 months from the reporting date, liabilities are presented as current. This would usually occur when employees are expected to reach the required years of service in the 12 months from reporting date. The discount rate used to determine the present value of future benefits at 30 June 2015 was 2.79% (2014: nil).

**11 Capital management**

The Corporation's policy is to maintain a strong capital base so as to maintain creditor and funding body confidence and to sustain future development of the business. Capital consists of retained surpluses. Management monitors the Corporation's operating surplus.

The Corporation's net debt to equity ratio at the reporting date was as follows:

Total liabilities	3,028,263	3,897,675
Less: Cash and cash equivalents	<u>2,588,287</u>	<u>3,563,394</u>
Net debt	<u>439,976</u>	<u>334,281</u>
Total equity	<u>653,719</u>	<u>821,546</u>
Net debt to equity ratio at 30 June	<u>0.67</u>	<u>0.40</u>

There were no changes in the Corporation's approach to capital management during the year. The Corporation is not subject to externally imposed capital requirements.

**12 Operating leases****Leases as lessee**

The Corporation leases three buildings under operating leases. The leases range from a period of three to five years, two with an option to renew the lease and one with no further option to renew. Lease payments are increased each year. Two of the leases are based on CPI and one is subject to review of market rent. None of the leases include contingent rentals.

During the year ended 30 June 2015, \$320,738 was recognised as an expense in respect of operating leases (2014: \$313,706).

At reporting date, the future minimum lease payments under non-cancellable leases were payable as follows:

	2015 \$	2014 \$
Less than one year	297,727	300,156
Between one and five years	326,997	365,289
More than five years	<u>-</u>	<u>-</u>
	<u>624,724</u>	<u>665,445</u>

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### 13 Reconciliation of cash flows from operating activities

Net surplus (deficit)	(167,827)	(910,205)
<i>Adjustments for:</i>		
Depreciation	224,430	194,104
Gain on sale of property, plant and equipment	(14,918)	(23,539)
	<u>41,685</u>	<u>(739,640)</u>
<i>Changes in:</i>		
Trade and other receivables	(16,481)	5,270
Trade and other payables	(431,003)	260,753
Prepayments	7,775	15,826
Provisions and employee benefits	43,481	(10,268)
Income/revenue in advance, including government grant	<u>(481,890)</u>	<u>2,147,639</u>
Net cash from operating activities	<u>(836,433)</u>	<u>1,679,580</u>

### 14 Related parties

The Corporation's main related parties are the key management personnel and their 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.

#### a Transactions with key management personnel

##### i Loans to directors

Beginning of the year	-	753
Debt waived – former director	-	<u>(753)</u>
End of the year	<u>-</u>	<u>-</u>

##### ii Key management personnel compensation

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

**a Transactions with key management personnel continued**

The key management personnel compensation comprised the following:

	<b>2015</b>	<b>2014</b>
	\$	\$
Short-term employee benefits	514,643	513,340
Post-employment benefits	74,232	83,562
Long term benefits	4,496	6,481
	<u>593,371</u>	<u>603,383</u>

Compensation of the Corporation's key management personnel includes salaries, non-cash benefits and contributions to a post-employment defined contribution plan.

**15 Subsequent events**

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.

## Directors' declaration

In the opinion of the directors of North Queensland Land Council Native Title Representative Body Aboriginal Corporation (the "Corporation"):

- a the financial statements and notes are in accordance with the *Corporations (Aboriginal and Torres Strait Islander) Regulations 2007*, including:
  - i giving a true and fair view of the Corporation's financial position as at 30 June 2015 and of its performance for the financial year ended on that date; and
  - ii complying with Australian Accounting Standards – Reduced Disclosure Requirements 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 *Corporations (Aboriginal and Torres Strait Islander) Act 2006*; and
- b there are reasonable grounds to believe that the Corporation will be able to pay its debts as and when they become due and payable.

Signed in accordance with a resolution of the directors:

  
 Director  
 {Name} Patricia Dallachy

Dated the 16 day of October 2015



## Independent auditor's report

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### **Independent auditor's report to the members of North Queensland Land Council Native Title Representative Body Aboriginal Corporation**

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 2015, and the statement of profit or loss and other 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**

The directors of the Corporation are responsible for the preparation of the financial report that gives a true and fair view 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* and for such internal control as the directors determine is necessary to enable the preparation of the financial report that gives a true and fair view and 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 about 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 judgement, 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 of the financial report that gives a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an

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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.

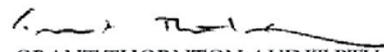
#### **Independence**

In conducting our audit, we have complied with the independence requirements of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and the *Native Title Act 1993*.

#### **Auditor's 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* and the *Native Title Act 1993*, including:

- a giving a true and fair view of the Corporation's financial position as at 30 June 2015 and of its performance for the year ended on that date; and
- b complying with Australian Accounting Standards – Reduced Disclosure Requirements 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.

  
GRANT THORNTON AUDIT PTY LTD  
Chartered Accountants

  
Gerry Mier  
Partner – Audit & Assurance

Cairns, 16 October 2015

# Glossary and Acronyms

ACHA	Aboriginal Cultural Heritage Act 2003 (Qld)
ADJR Act	Administrative Decisions (Judicial Review) Act 1977
AgForce	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	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
FADA	Future Act Determination Application
FAME	Future Act, Mining and Exploration (FAME) Unit
FANs	Future Act Notices
FCA	Federal Court of Australia
Hon.	Honourable
IAS	Department of the Prime Minister and Cabinet's Indigenous Advancement Strategy
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 (Cwth)
NTPC	Native Title Protection Conditions
NTRB	Native Title Representative Body
NTSP	Native Title Service Providers
NTSU	Native Title Services Unit (of NQLC)
PFA	Programme Funding Agreement
PBC	Prescribed Body Corporate
PM&C	Department of the Prime Minister and Cabinet
RNTBC	Registered Native Title Body Corporate
RNTRB	Registered Native Title Representative Body
s.	section of an Act
SP	Service Provider
SSM	Small Scale Mining
the State	The State Government of Queensland
USL	Unallocated State land





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