

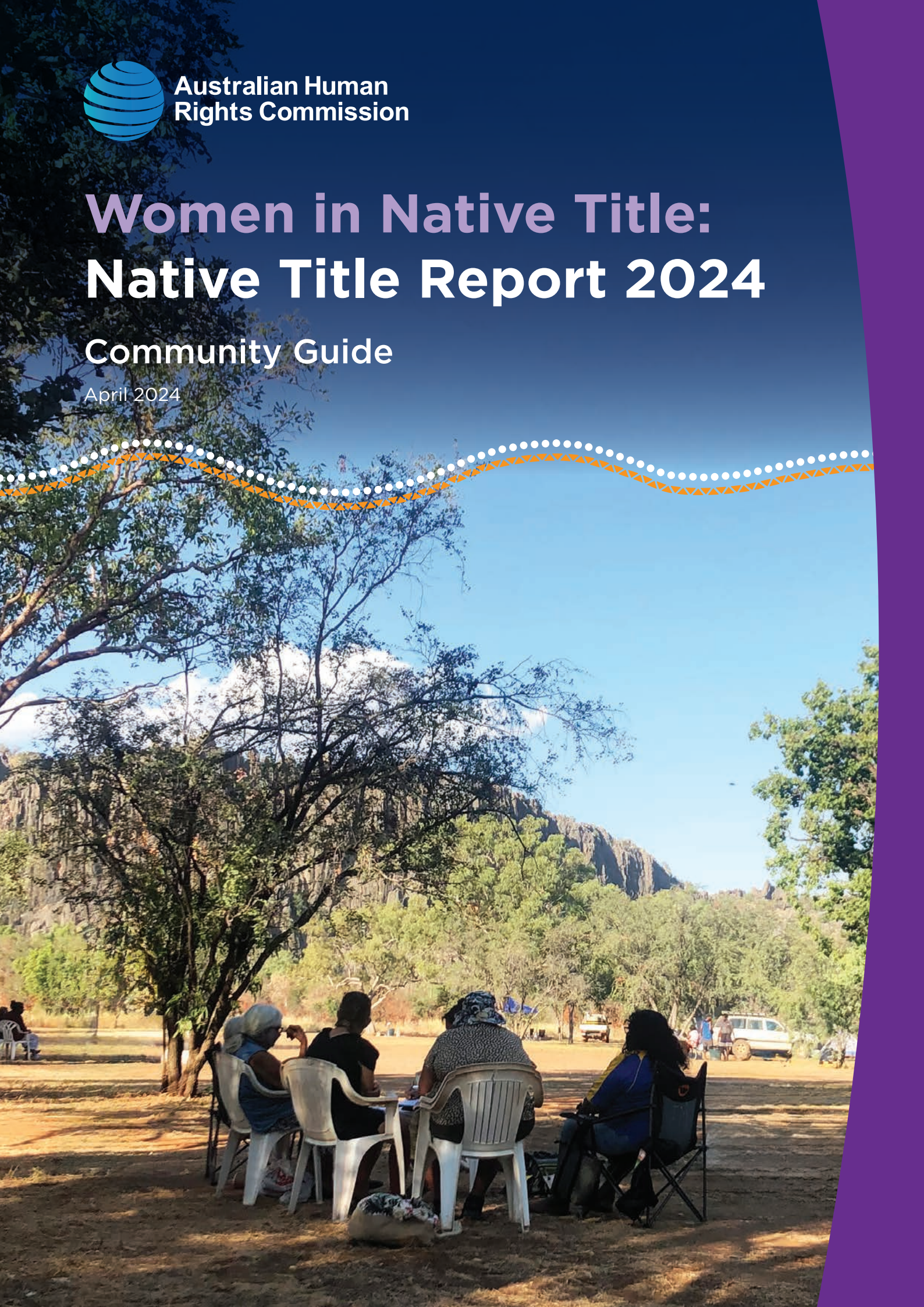


Australian Human
Rights Commission

Women in Native Title: Native Title Report 2024

Community Guide

April 2024



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Glossary to this Community Guide

Definitions are taken from the National Native Title Tribunal¹ unless otherwise specified.

Term	Definition
Access agreement	an agreement between native title holders and non-native title holders about access to areas of land and waters where native title may exist or has been recognised. Most often used in relation to non-exclusive pastoral leases (see also Part 2 Division 3 Subdivision Q Native Title Act).
Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)	Australia's only national institution focused exclusively on the diverse history, cultures and heritage of Aboriginal and Torres Strait Islander Australia. They create opportunities for people to engage, encounter and be transformed by the story of Aboriginal and Torres Strait Islander Australia. They support and facilitate Aboriginal and Torres Strait Islander cultural resurgence and reshape the national narrative. Their functions are established under the <i>Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989</i> (Cth).
Aboriginal Land Rights Act (ALRA)	<i>Aboriginal Land Rights Act 1976</i> (Cth) as amended by amendment Acts.
Alternative procedure agreement	a type of Indigenous land use agreement.
Amendment Act	an Act of the Australian Parliament that amended the Native Title Act.
Amendment	a change or alteration to a document, such as an application to a court. Amendment of a claimant application will usually trigger the application or re-application of the registration test, however there are exceptions (see ss 64(4) and 190A Native Title Act).
Apical ancestor	a common ancestor from whom a lineage or clan may trace its descent.
Applicant	the person or persons who make an application for a determination of native title or a future act determination.
CATSI Act	the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (CATSI Act) is the law that establishes the role of the Registrar of Indigenous Corporations and allows Aboriginal and Torres Strait Islander groups to form corporations. It began on 1 July 2007. Registration under the CATSI Act is mostly voluntary. However, some corporations – for example, 'prescribed bodies corporate' set up under the Native Title Act – are required to register under the CATSI Act.
Common Law Holders	the people the Federal Court proposes to include in a determination of native title as the native title holders (ss 253 and 56(2) NTA).

1 National Native Title Tribunal, 'Glossary', <http://www.nntt.gov.au/Pages/Glossary.aspx>

Term	Definition
Connection	the relationship that must be shown between Aboriginal people and Torres Strait Islanders with the land and/or waters over which they want native title recognised. To establish 'connection' the native title group must show they have continued to observe and acknowledge, in a substantially uninterrupted way, the traditional laws and customs that give rise to their connection with the claim area, from the time of the assertion of sovereignty by the British to the present day (s 223(1)(b) NTA).
Determination	a decision by an Australian court or other recognised body that native title does exist or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).
Directions	formal binding instructions to the parties from a court or tribunal made as part of the management of the case.
Extinguishment	<p>this term is used when Australian law does not recognise native title rights and interests because some things governments did, or allowed others to do in the past, have made recognition legally impossible. These things include the passing of laws or the grant of other interests inconsistent with the continued enjoyment of native title.</p> <p>Complete extinguishment is when the whole bundle of rights is extinguished. Partial extinguishment is when one or more specific rights are extinguished.</p> <p>As a general rule, once they are extinguished, native title rights can never be recognised again under Australian law. However, in certain circumstances, the Native Title Act allows the courts to ignore the effect of extinguishment.</p>
'Good faith' negotiations	all negotiation parties must negotiate 'in good faith' in relation to the doing of future acts to which the right to negotiate applies (s 31(1)(b) NTA). Each party and each person representing a party, must act in good faith in relation to the conduct of the mediation of a native title application (s 136B(4)).
Indigenous Land Use Agreements (ILUAs)	<p>a voluntary agreement between native title parties and other people or bodies about the use and management of areas of land and/or waters.</p> <p>An ILUA can be made over areas where native title has been determined to exist in at least part of the area; a native title claim has been made or; no native title claim has been made. While registered, ILUAs bind all native title holders to the terms of the agreement. ILUAs also operate as a contract between the parties.</p>
Land council*	land councils represent Aboriginal affairs at state or territory level with the aim to protect the interests of Aboriginal communities.
Law women and men*	men and women who might be bosses of the law; practitioners of following and/or living according to language, law and custom; maintain transferring knowledge and understanding to continue tradition and customary law. The abilities, roles and term used for this position will differ between Aboriginal nations.

Term	Definition
Mediation	the process of bringing together all people with an interest in an area covered by an application to help them reach agreement.
Mediation (claimant)	<p>the process of bringing together people with an interest in an area covered by a native title claimant application who are parties to the application, to help them to reach agreement about such things as:</p> <ul style="list-style-type: none"> ▪ whether or not native title exists ▪ who holds the native title ▪ what the native title rights and interests are ▪ what other interests exist in the area ▪ the relationship between native title and other rights and interests. <p>Mediation allows everyone involved to explore the potential for agreement, including agreement about a consent determination or an Indigenous land use agreement.</p>
Muwayi*	home, country in Bunuba language
National Native Title Register (NNTR)	the record of native title determinations.
National Native Title Tribunal (NNTT)	<p>an independent statutory body established under s 107 Part 6 of the Native Title Act to assist people to resolve native title issues. The Tribunal has a number of powers and functions under the Act including:</p> <ul style="list-style-type: none"> ▪ mediating between the parties to native title applications at the direction of the Federal Court (Part 6, Divs 4 to 4AA, Division 5, Subdiv AA) ▪ acting as an arbitrator in situations where the people cannot reach agreement about certain future acts, such as mining projects (In South Australia the Tribunal only performs this role in relation to the grant of petroleum tenements. The Supreme Court and the Environment, Resources and Development Court undertake this function in relation to the doing of certain other future acts under the alternate right to negotiate provisions that operate in South Australia) ▪ helping people to negotiate Indigenous land use agreements (ss 24BF, 24CF and 24DG) and determining any valid objection to the registration of an Alternative Procedure Agreement (a type of ILUA) (Part 6 Division 5 NTA).
Native title	the communal, group or individual rights and interests of Aboriginal peoples and Torres Strait Islanders in relation to land and waters, possessed under traditional law and custom, by which those people have a connection with an area which is recognised under Australian law (s 223 NTA).
Native title application	an application for a determination of native title, a revised determination of native title or a compensation application under s 61 of the Native Title Act.
Native title claimant application/claim	an application made for the legal recognition of native title rights and interests held by Indigenous Australians.
Native title determination	a decision by an Australian court or other recognised body that native title does or does not exist. A determination is made either when parties have reached an agreement after mediation (consent determination) or following a trial process (litigated determination).

Term	Definition
Native title determination application/claim	a claimant application or non-claimant application seeking a determination of native title.
Native Title Holder	a person who has native title rights and interests over a particular area of land or waters or, where there has been a determination of native title, and a prescribed body corporate (PBC) is registered on the National Native Title Register as holding native title rights and interests on trust (s 224 NTA).
Native title party	this term is often used to refer to the Indigenous parties to a variety of agreements or participants in legal actions or proceedings. However, under the Native Title Act it also has a specific definition in relation to 'right to negotiate' applications. In that context it means the registered native title claimants and registered native title bodies corporate, that meet certain statutory requirements (ss 253, 29(2) and 30 NTA).
Native Title Registrar	a statutory office holder who performs a range of native title related functions and also assists the President in the management of the administration of the Tribunal.
Native Title Representative Body (NTRB)	organisations recognised and funded by the Commonwealth government to perform a variety of functions under the Native Title Act. These functions include assisting native title holders to access and exercise their rights under the Native Title Act, certifying applications for determinations of native title and area agreements, resolving intra-Indigenous disputes, agreement making and ensuring that notices given under the Native Title Act are brought to the attention of the relevant people.
Native Title Act (NTA)	<i>Native Title Act 1993</i> (Cth) as amended by amendment Acts.
'On Country'	description applied to activities that take place on the relevant area of land, for example mediation conferences or Federal Court hearings can take place on or near the area covered by a native title application.
Office of the Registrar of Indigenous Corporations (ORIC)	an independent statutory office holder who administers the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> .
Peak body	organisations which represent people with common interests in relation to native title e.g. a farmers' federation, fishing industry councils, native title representative bodies and local government associations.
Prescribed Body Corporate (PBC)	prescribed body corporate, a body nominated by native title holders which will represent them and manage their native title rights and interests once a determination that native title exists has been made.
Traditional law	refers to the common features of acceptable and unacceptable behaviour in Aboriginal communities.
Traditional Owners	Australian law defines Traditional Owners as a group of Aboriginal people who have 'primary spiritual responsibility' for sacred sites on a piece of land, and who are entitled by Aboriginal tradition to hunt and gather on that land. Traditional Aboriginal owners are the key decision makers for their land.

*Our understanding of the term

2

Foreword

It is with great pleasure that I present this Community Guide to the *Women in Native Title: Native Title Report 2024* (the Report) as the Aboriginal and Torres Strait Islander Social Justice Commissioner. This Community Guide is designed as a way to more quickly and easily understand the Report and its purpose. I echo here the thanks that I expressed in the Report to the women who contributed so much time and knowledge to the Report. The Report is as much theirs as it is mine.

The Report starts with lived experience and looks outwards from there, presenting a holistic picture of the everyday impact of native title on the people whom native title is supposed to benefit.

The Report is, in many ways, an extension of my *Wiyi Yani U Thangani (Women's Voices) Project*, a multi-year systemic change project elevating First Nations women's voices. *Wiyi Yani U Thangani* has spanned the full length of my seven-year term. This Report is another act in my commitment to pursuing First Nations gender justice and equality in this statutory role.

Like the stories we heard from women and girls in *Wiyi Yani U Thangani*, the women's stories at the heart of this Report are further evidence of what we know to be true – we must listen to our women and girls. When we listen to women, we hear the needs of our whole communities.



I remember when *Mabo No. 2* was handed down and the subsequent passing of the *Native Title Act 1993* (Cth) (Native Title Act). At that time in the early 1990s, I was at the Kimberley Land Council and remember feeling energised as a collective. They were momentous occasions and represented a point in history full of promise and excitement.

However, the reality is that native title is not delivering justice effectively. Previous Social Justice Commissioners have told that same truth in previous Native Title Reports published across the last thirty years.

The individual harms described in each woman's native title story in the Report illustrate a systemic lack of capacity in the native title system: the system is unable to facilitate the fulfillment of First Nations peoples' rights to culture, property, procedural fairness, self-determination, and non-discrimination.

These women's stories depict a system that fosters division and creates disunity and distrust. It is a system which, despite (arguably) good intentions, is unable to understand and include our traditional laws and customs in a meaningful, accurate way.

The conflict and division created by native title has limited the capacity for truth-telling and has exhausted us. These stories are evidence of that. But our women and girls know the pathways for action to heal our spirit and mend the fabric of our society. Our women and girls embody the strength we have always held at the core of our people.

Native title in its current form is not what it could have been – what it should have been. But the stories I have heard through the Report process and that of *Wiyi Yani U Thangani* tell me that native title still matters.

The Report contains stories that show unparalleled resistance in the face of great heartache. So many women are stepping up and finding workarounds to make the most of the flawed system we have, in order to drive self-determining and inclusive futures for our communities.

I proudly present the Report and this Community Guide in my capacity as Aboriginal and Torres Strait Islander Social Justice Commissioner, and as a product of our peoples' commitment to connectedness and unity in the face of divisive systems. The voices of all the women who contributed to this Report form a united voice demanding genuine change and a call for connectedness between us all.



June Oscar AO
Aboriginal and Torres Strait Islander
Social Justice Commissioner

3

Visual report guide

PERSON-CENTRED, HUM



Desktop research

- previous reports
- previous AHRC and other organisations' submissions
- academic articles
- media articles
- other relevant reports.



Preliminary conversations

- ad hoc approaches by First Nations communities and organisations
- conversations with lawyers and anthropologists.

Surveys



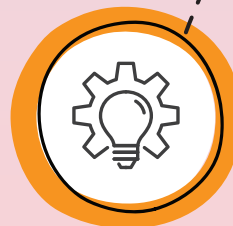
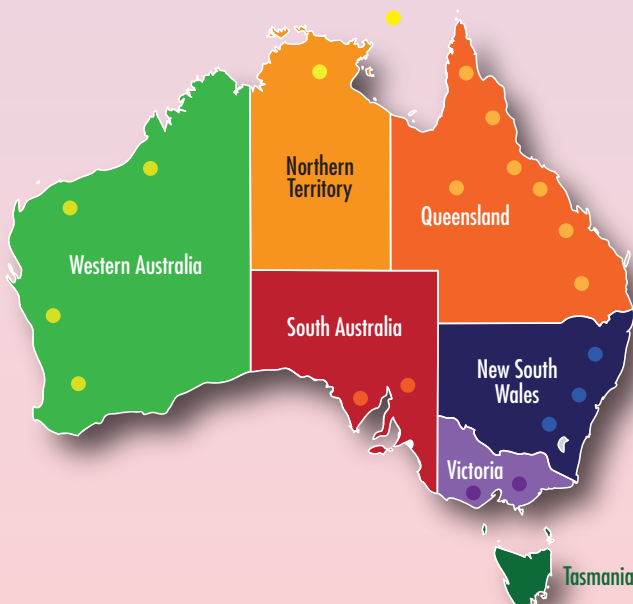
Submissions



Interviews



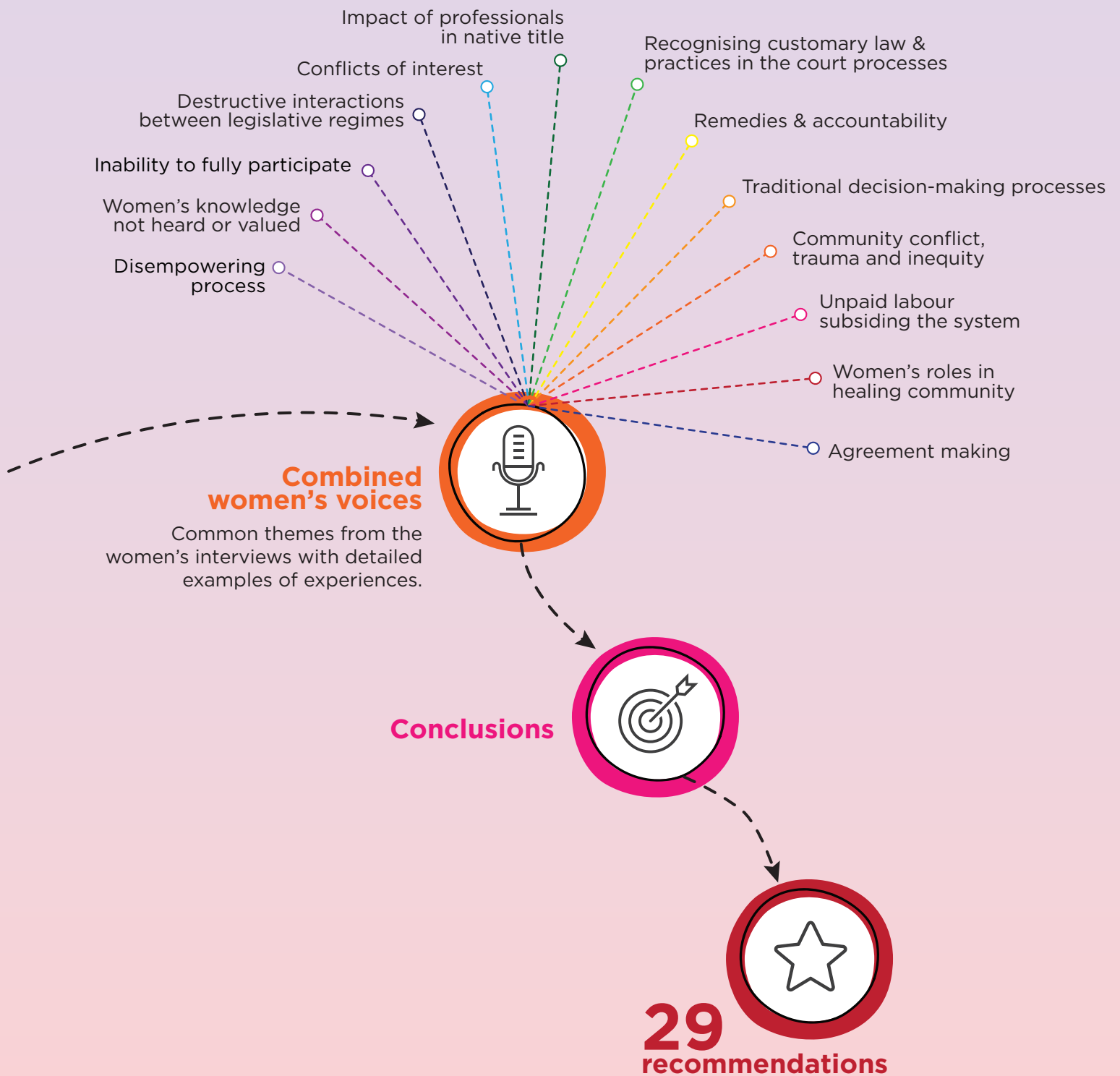
Summaries of individual women's stories



Overarching themes

- self-determination & self-governance
- gender discrimination
- structural racism
- lack of access to justice

AN RIGHTS APPROACH





Approach and methodology

4.1 A human rights-based approach

The *Women in Native Title: Native Title Report 2024* (the Report) takes a human rights-based approach, which centres the experiences of individuals and communities. This approach is detailed in Chapter 5 of the Report.

Taking a person-centred, human rights-based approach means that the content of the Report addresses the way the native title system is experienced *in practice*, the extent to which the system operates in compliance with or in breach of Australia's international human rights obligations.

The Report has been guided by the seven core treaties Australia has signed and the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration), which elaborates on how rights contained in the core human rights treaties apply specifically to Indigenous peoples. As in previous Social Justice and Native Title Reports, this Report identifies the following four underpinning principles of the Declaration.

Indigenous peoples have the right to:

- Self-determination: to shape their own lives, including their economic, social, cultural and political futures.
- Participation in decision-making: in matters that affect their rights and through representatives they choose.
- Respect for and protection of culture: to maintain, protect, and practise their cultural traditions and cultural heritage. This includes protecting their integrity as distinct cultural people, their cultural values, intellectual property and non-discrimination.
- Equality and non-discrimination: to enjoy their human rights without discrimination from individuals, governments and/or external stakeholders.

4.2 Methodology

The Report elevates the voices of First Nations women with experience in the native title system. It builds upon the work of previous Native Title Reports in identifying barriers to the enjoyment of First Nations peoples' human rights, the impact these barriers have on individuals and communities, and how women's strengths, hopes, knowledges and solutions will be central to any meaningful reform process.

To present a holistic picture of the native title system as it plays out in real life for First Nations people – that is, to view it from a person-centred perspective – we designed the project around narrative-based inquiry and storytelling. The report had similar methodological principles to *Wiyi Yani U Thangani* – valuing storytelling, prioritising a gendered lens, and a commitment to deep listening.

The data that informed this Report includes:

- existing publications, media reports, case law
- informal conversations with personal and professional contacts in native title
- a survey of First Nations women with extensive involvement in the native title system
- written submissions by women with extensive involvement in the native title system
- First Nations women's views expressed in a group format at the 2021 AIATSIS Summit Indigenous women-only workshop.
- in-depth 'interviews' with First Nations women who have had extensive involvement in the native title system.

Figure 1: Report data collection



The world of native title opened up an experience that I never ever want to endure.

I found this process extremely treacherous and littered with levels of lateral violence that I have never experienced before.

There are a lot of strong Aboriginal women involved in native title however their voices are not always heard because of the patriarchal nature of the broader legal system and the historical anthropological studies often failed to appreciate the role of Aboriginal women.

I have had to place my career on hold to coordinate my family groups, and community to succeed with native title applications from the registration process through to consent determination.

Native title is oppressive and it's not land rights.

Women have to fight for equal say when making decisions. History and conditioning by previous governments have been to approach men and ignore the women. The younger generation of men have this approach that they are the bosses therefore are decision makers. Much of our meeting in the early days was spent talking about how men and women have key roles and are equal.

The native title system is a complete failure for our Country, our Elders and our future generations.

Over the years I have been a witness to the destruction, dismantle, protocols and lore be broken by non-Indigenous professional lead as well as Indigenous people. My community has been divided and conquered. We are fighting amongst each other, native title has caused so much trauma to my community ... Native title has made it hard for myself and siblings as we sit on the fence with anxiety, fear, paranoid of which family is going to be hurt.

I have a good understanding of my culture, but I don't have an understanding of this system. If we get up and say that something is wrong or that what they're saying is wrong, then we're seen as angry black women. And people don't ever want to listen to angry black women, they just ignore us. Stop listening.... At the end of the day, they give us native title, but everything is prepared by white people, everything is decided in this book that only white people say is now the rules for who is from this country and what is important to us. Just white people that don't know anything about real culture. It doesn't recognise heritage, culture, our spiritual being. In the end, native title is just another label for us. It's a dog tag. Like we used to have.

Native title is not a culturally safe process, it is based on unequal power relationships.

Western perspectives have introduced a patriarchal system where men's business and initiation sites are seen as more important than women's business and birthing sites.

Western research has misinterpreted and misrepresented Aboriginal cultural traditions and values throughout colonial history in Australia. The layers of historical documents that are relied on by courts are known to be incomplete, inaccurate and in some instances, completed by administrators with little or limited literacy skills ... It does not deliver justice. It results in procedurally produced inequality and promotes further misconceptions about Aboriginal cultural processes of decision-making and custodial duties.

From a young age I have seen grown men fight physically due to 'native title,' their identity has been stripped slowly. Native title isn't healthy ... Native title yet again plays a big part it's killing my Elders. They all should be relaxing and passing on stories to the next generation yet they are fighting a fight set up by white man to kill them off quicker, native title is emotionally, mentally and physically killing my Elders.

I find the system discriminative against Aboriginal people and our Traditional Land.

This is a complete disgrace and abuse of the system that continues to deny our people land rights. Native title is a farce.

As women, as we get older, we learn more about our culture and have more understanding of all the things native title talks about, but that's the same time we become mothers and we have responsibility now for all the children and siblings and parents in our life. The men are all looked after by the women. They can go and talk about all this stuff then and then generation after generation are taught that men have all the knowledge.

Native title just a white man thing that thinks men's business is all we have. And now men act that way too because that's what native title tell them is true.



The voices of First Nations women

5.1 Survey

We invited First Nations women to tell us their experiences and opinions in relation to the native title system through a survey. The results provided insights into common challenges faced by First Nations women in the native title system, and women's views on what needs to change.

The findings from the survey's qualitative and quantitative data reflected themes which recur in the later chapters of the Report, including:

- gendered experiences
- trauma and internal division
- power imbalances
- extensive unpaid labour
- structural racism
- lack of access to justice
- the system as culturally unsafe.

Table 1: Top issues for women in native title (ranked)

#	Issue	Ranked overall	Ranked by first preference
A	Native title holders lack power under the <i>Native Title Act 1993</i> (Cth)	1	1*
B	It is too hard to prove connection to country	8	4
C	Native title processes force people to choose identities	6	7*
D	Unequal power dynamics with third parties (e.g. mining companies) funding negotiations	4	5
E	Native title rights to offshore areas are limited	12	8*
F	Native title holders cannot choose how to set up PBCs	11	7*
G	It is hard to benefit economically from native title land	7	6
H	Other laws like heritage laws do not protect native title	2	2
I	Insufficient resources for PBCs	5	3
J	No resources to heal from trauma which has surfaced in native title processes	3	1*
K	Onerous compliance requirements for PBCs	10	8*
L	Other, please specify	9	8*

*ranked equally with another issue

Figure 2: Where survey respondents were from

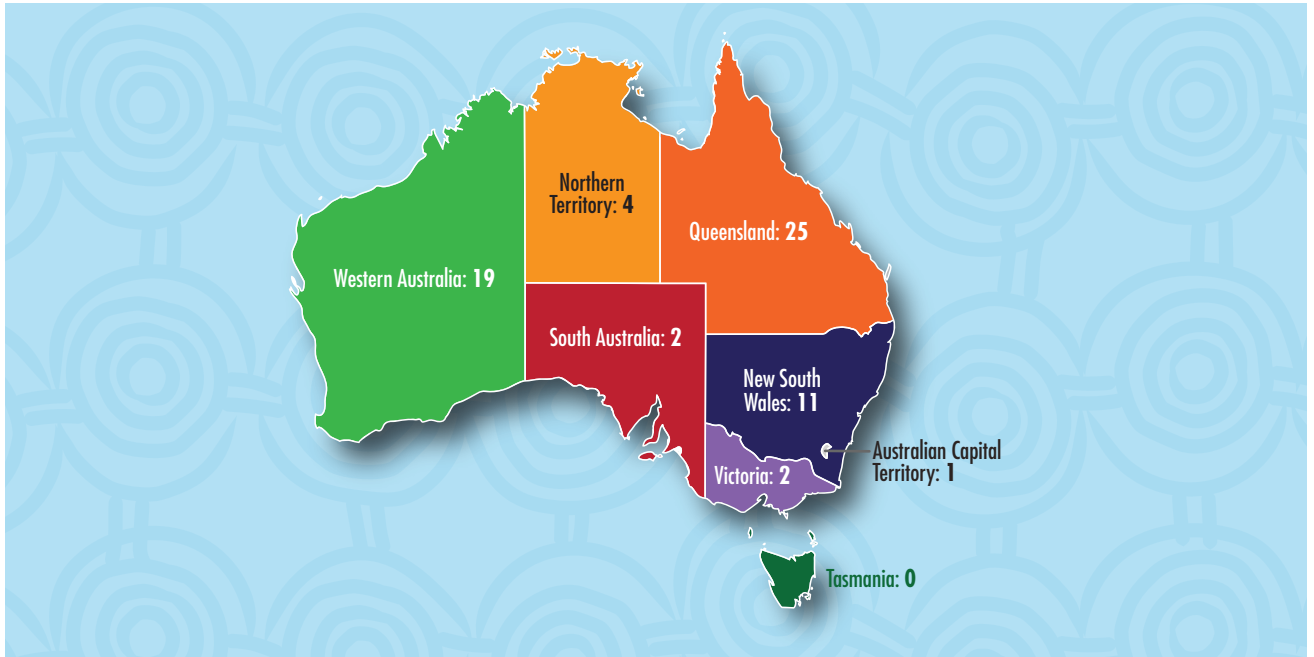
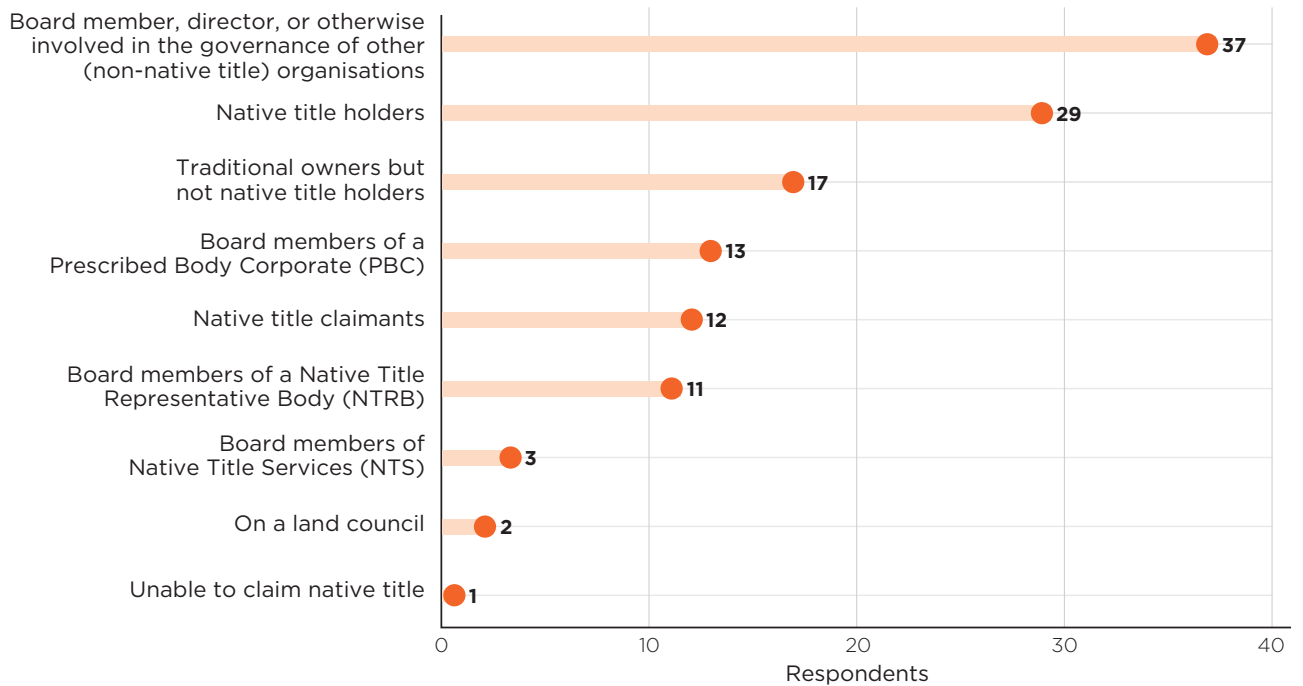


Figure 3: Characteristics of survey respondents



5.2 Submissions

Guided submissions were sought from Aboriginal and Torres Strait Islander women, as well as other individuals and organisations with experience and expertise in the native title system.

Two key themes emerged from 18 individual submissions. These were:

- women and barriers to participation
- culture and conflict.

Several women felt that the process of native title undermined their basic human right to culture, divided once harmonious First Nations communities, eroded the prospect of knowledge transfer and succession planning, and re-traumatised those already dispossessed.

Native title undoes thousands of years of culture that protected and managed country. **Maria**

Women could be offered training, mentoring support for them to be successful in a reformed NT system. Women could be paid to take on these roles as a measure of their value and importance in a reformed NT system. **Jennifer Darr**

Three key themes emerged from 6 submissions from organisations. These were:

- dominance of men and diversity of women's roles
- access to participation
- systemic reform.

Submissions noted women's lack of access to participation due to a range of factors, including: conflict and lateral violence; cumulative reliance on Western male professionals and frameworks for historical and anthropological evidence; the legislative power imbalance in the Native Title Act and negotiations in relation to Country; and family and community responsibilities and implications for lack of equity.

The inclusion of gender-restricted knowledge (men's knowledge) continues to be overemphasised ... these kinds of performed authenticity had the potential to entrench pre-existing biases towards the elevation of men's knowledge. **WiNTA**

'Consent' to ILUAs and other agreements under the NTA is a fiction in the context of a 'future acts' system where a mining company has a 98% chance that their tenement will be granted even if there is no agreement with the native title holders. **KLC**

5.3 Interviewee's stories

My team and I interviewed 24 women for this Report from across the continent. Their geographical distribution is depicted on the map below.

Figure 4: Interviewees' geographical location



The stories of the First Nations women interviewed have been summarised in Chapter 8 of the Report and are subsequently discussed in detail in Chapter 9 of the Report.

I reiterate here my thanks to all the First Nations women who generously gave their time and knowledge to my team through in-depth interviews and conversations. The topics discussed were hard and often raw, but these women were determined to contribute to having the truth of the native title system better understood, even when they did not stand to gain anything personally.

The organic nature of the way in which the interviewees were 'chosen' has resulted in a collection of really important stories and some clear illustrations of the way that the native title system fails to centre those whom it purports to benefit, impacting women and their families and communities in overwhelmingly negative ways.

I urge readers to focus on the ways that these stories reflect on the native title system and the themes that are discussed in Chapters 9 and 10 using the combined voices of the interviewees.

It is not intended that any individual, family, native title group or organisation be maligned using the accounts of the women here. I do not wish to scapegoat individuals for the systemic faults ultimately identified – faults which mean that the roles of individuals within the system are not sufficiently supported and held accountable.



Daisy Tjuparntarri Ward, WA

Daisy Tjuparntarri Ward is a Ngaanyatjarra woman and a Traditional Owner of the Pila Nature Reserve (formerly known as the Gibson Desert Nature Reserve) in WA. Daisy is a Director of Warnpurru (Aboriginal Corporation) RNTBC (Warnpurru) – the corporation which entered into the Gibson Desert Nature Reserve Compensation and Lurrtjurrululu Palakitjalu Settlement Agreement (CLPSA) with the WA Government. Daisy was a lead negotiator in the Settlement Agreement. Warnpurru has been the PBC since Daisy and her people finally received a determination of native title on 15 June 2022, the first case to use amended section 47C of the Native Title Act, which allows governments to disregard prior extinguishment of native title.

Daisy's story told of the pain and confusion caused by the investment of huge emotional and spiritual effort and the repeated denial of native title, and the very long, arduous process of finally securing their determination. Daisy spoke of the old people they had lost along the way, the heartbreak of so many setbacks, and the struggle to understand what native title even meant.



Kia Dowell, WA

Kia Dowell is a Gija woman from Warmun Community (Turkey Creek) in the East Kimberley, WA. Kia, who is the Chair of Gelganyem Limited, shared her story, experiences and observations relating to the closure of Rio Tinto's Argyle Diamond Mine. Gelganyem is not a PBC but has fulfilled a quasi-PBC role in the absence of a native title determination and continues to oversee and manage the funds established to benefit current and future generations of Traditional Owners under the ILUA.

Kia's story described difficulty overcoming the dominance of non-Indigenous professionals in the Indigenous governance space. It told of the work she did to empower the Traditional Owner board members of Gelganyem and to secure resources from Rio for Traditional Owners to participate in negotiations. Kia's story highlighted the critical impact individual women are having through using their education, skills, cultural knowledge and community connections to centre culture and community in land governance. It also illustrates the personal impact of native title work – most of it unpaid – on those women stepping up. Kia described the need to prioritise healing work in community, including additional anthropological work, before embarking on the native title process, and reflected on the unifying governance role that Gelganyem has fortuitously been able to play prior to their native title claim.

Bunuba women, WA

The interviews of the three Bunuba women took place at the second of three Cultural Mapping Camps. The Bunuba Cultural Mapping Camps were designed for people to come together and work through our connections with the help of anthropologists who, in some cases, had more information on our genealogical connections than our people did. The idea of the Camps was to help community heal from the trauma of the native title process.



Patsy Bedford

Patsy Bedford is a Nyanjili woman of the Bunuba tribe. Patsy talked about the healing processes that Bunuba women were leading, including the Cultural Mapping Camps, as well as her experience with the native title process. Patsy's story focuses on confusion in community about the native title process. She spoke about how demonstrating connection to Country in the native title system requires them to shift away from the ways that Bunuba define connection to Country and to each other. Patsy also reflected on the lack of appreciation within the native title processes of the importance of language in connection to Country.



Millie Bedford/Hills

Millie Bedford/Hills is connected to the Mongbung group through her Bunuba mother, Maudie Calwyn, who was stolen from her family as a child. Millie spoke about the Cultural Mapping Camp saying that she found the Camp a healing and empowering process as it reinforced the information which her mother passed down to her and clearly identified her Bunuba connections. It was important to Millie that the anthropological research presented at the Camp contained the recorded voices of the old people from the past, so held a lot of weight. Millie spoke about the conflict native title has caused in community and how fraught native title group meetings have been. She felt native title had been rushed and that a lot of conflict could have been mitigated if a cultural mapping process had come first. Millie was determined to reconnect with cultural ways of previous generations, emphasising the importance of language and skin names. She also felt strongly that money that comes out of agreements regarding Country, like royalties, should go back into the whole community.



Kaylene Marr

Kaylene Marr's muwayi is Galamunda and she is connected to Bunuba through her father, and his father. Kaylene was one of the main mentors at Yirimalay School, which was a Bunuba initiative, and teaches Bunuba at the school. She has played significant roles in community as a Traditional Owner, Senior Mentor and Cultural and Community Advisor. Kaylene spoke about the importance of truth-telling and healing, as well as explicitly including language and culture in schools. She lamented the lack of a similar cultural mapping process before the native title process was rushed through. More recently, Kaylene told us that PBCs, ILUAs and native title claims are what Bunuba people struggle with on the ground, particularly because the players involved in the native title system do not communicate with people in community.





Cissy Gore-Birch, WA

Cissy Gore-Birch is a Jaru/Kija woman and the current interim CEO of the Balangarra Aboriginal Corporation RNTBC (BAC). At the time of her interview, Cissy was the Chair of BAC and also employed by Bush Heritage Australia as a Senior Executive Manager, overseeing Aboriginal partnerships across Australia. Cissy is also the founder and Director of Kimberley Cultural Connections.

Cissy's story covered a tumultuous period in which she has had two tenures as chair. Cissy told us how she came back home after living away to help deal with the many challenges facing the community, including the closure of Oombulgurri community and related community conflict and the trauma of elders, women and children, and attempts by individuals involved in misconduct in Oombulgurri to retain control through the PBC. Cissy talked about a lack of timely and effective support from ORIC to uphold standards of governance, including compliance with the Rule Book. Cissy has found that trust, open communication, and transparency with community is key to addressing a lot of community conflict: it removes the knowledge gap which enables 'bullies' to step in.



Francine McCarthy, NT

Francine McCarthy is a Warumungu woman from the Northern Territory. She was born in Tennant Creek and grew up in Alice Springs and in the Nauiyu Nambiyu (Daly River) community. Francine has been employed with the Central Land Council (CLC) since 1994 and at the time of interview she was the Manager of Native Title for the CLC. Francine is also Deputy Chair of the National Native Title Council (NNTC), one of only two women on the nine-person board.

Francine's story describes the lack of community knowledge and understanding around what native title means and how it works. It also highlights difficulties associated with developing realistic expectations in community and educating community, for example on the differences between the Northern Territory land rights regime and native title. Francine discussed inadequate funding for PBCs and how the unpaid labour of First Nations people is subsidising the system. Her story highlighted the importance of people working within the system having both Western governance experience as well as cultural knowledge and understanding of community.



Geiza Stow, Badu Island, Torres Strait

Geiza Stow is a Torres Strait Islander woman from Badu Island, third largest island in the Torres Strait. Geiza was the first female board member on the PBC, Mura Badhulgal (Torres Strait Islanders) RNTBC. Geiza is also active in the community in many other ways, including as the Badu Island representative on the Queensland Community Justice Group.

Geiza's story describes the lack of transparency around the PBC's decision-making and the community's inability to participate fully. Geiza felt that women's expertise and experience was being left out of governance and decision-making, to the detriment of the community. She stressed the importance of those in leadership roles prioritising the benefit of the whole community, noting that, in her experience, women had this focus. Geiza also emphasised the need for the PBC to follow through with its stated values and grow its function to deliver critical services and new initiatives.



Thelma Parker, QLD

Thelma Parker is a Waluwarra, Wangkayujuru member of the group of native title holders under the 2014 'BWW determination'. Thelma is an Associate Professor, Associate Dean for the Faculty of Medicine at the University of Queensland.

Thelma's story described the native title system not listening to women's voices or respecting female Elders and knowledge-holders. She discussed the trauma created by the native title system due to the lack of cultural safety, the culturally inappropriate approach to handling women's evidence, the inability to participate in the system in language, and the colonial patriarchal influence on native title frameworks and, consequently, outcomes. She also discussed concerns around participation and accountability regarding PBC decision-making, one result of which has been women's sites being destroyed as part of Indigenous Land Use Agreements.



Leanne Edwards, QLD

Leanne Edwards is a Gkuthaarn woman from the Gulf of Carpentaria, and a member of the Gkuthaarn and Kukatj native title group. Their native title claim was lodged in 2012 and finally determined on 29 September 2020.

Leanne described the importance of good professionals to native title outcomes and experiences, the barriers to participation in the native title system presented by remoteness and other obligations like work, and the disempowering nature of 'proving' connection to Country in the Western legal system. Leanne also discussed her frustration with ORIC in relation to complaints of misconduct - Leanne and others had been waiting years for ORIC's help.



Coral King, QLD

Coral King is a Kungardutyi Punthamara woman from the south-west of Queensland. The boundaries that she knows as her Country overlap with multiple other native title claims.

Coral described how disempowered she felt by her experience in trying to correct the court record regarding the identities of her grandmother and great grandmother and have her family's native title recognised. Coral explained how the incorrect identities given to them by the court have resulted in a greater degree of dispossession of her Country than existed before native title. She also emphasised that she had not seen the connection report or what evidence was, or was not, included in it in relation to her family. Coral discussed the barriers to full participation in native title processes presented by the inequitable allocation of resources to native title groups, and the conflicts of interest she feels are inherent in a system which has representative bodies making funding and representation decisions in relation to opposing parties.



Sarah Addo, QLD

Sarah Addo is a Kungandji Gurrubuna woman and traditional owner of Yarrabah Country in the Cairns area (Kungandji Gurrubuna People of Kamoi – traditionally known as 'Geemooiburra People'). She is a Director (Cairns Ward) on the Board of the North Queensland Land Council and a Director and Treasurer of the Wuchopperen Medical Centre. Sarah had spent around seven years working on her native title case and, at the time of her interview, she had only just been able to take up paid employment again.

Sarah's story described inaccuracies and misinterpretations in native title evidence as a result of reliance on Western historical and anthropological documentation and processes, and the injustice of having to 'prove' oral histories from Elders. Sarah has found that the native title system is ill-equipped to deal with traditional laws and customs. Sarah described how she has experienced barriers to full participation in native title claims due to not being provided funding, while other groups contesting the same Country were provided funding. Sarah feels that there are conflicts of interest in funding and decision-making structures. Sarah told us that, as a result of those conflicts, she has had to do extensive unpaid work herself to try and have her people's native title recognised accurately.



Shawnee Gorrige, QLD

Shawnee Gorrige is a Mithaka woman and member of the Mithaka Aboriginal Corporation (QLD). At the time of her interview, Shawnee was also in a paid role at the Mithaka Aboriginal Corporation. The Mithaka native title determination was handed down in 2015.

Shawnee's story described the benefits of a solid PBC structure with even just a small number of paid staff. These strengths give the PBC capacity to undertake various initiatives, including service provision to pastoral stations, bringing at-risk youth out on Country, and partnering with universities for research on Country. Shawnee also spoke of the journey in getting to this point and how nothing has come easily. She told us about the lack of understanding around what native title would mean for third parties in the early days, explained how written evidence from non-Indigenous historical accounts was prioritised over oral histories from Elders, and emphasised the amount of work required to build trusting relationships between all parties. Shawnee also mentioned what she has found to be conflicts of interest associated with the native title service provision funding model.



Avelina Tarrago, QLD

Avelina Tarrago is a Wangkamahdla woman from central-west Queensland, and a barrister. At the time of her interview, Avelina held other roles additional to her paid job, including President of the Indigenous Lawyers Association of Queensland and Legal Member of the Mental Health Review Tribunal.

Avelina's story described the lack of control First Nations groups have over the native title process and the way the system can 'force' engagement, the extreme level of unpaid labour expected of First Nations peoples in native title, the importance of PBC Rule Books being carefully structured, and the impact that the quality of anthropologists has on claims. Avelina discussed the need for professionals to create safe spaces for women to participate in native title processes and emphasised the importance of First Nations professionals in native title reform.



Cassandra Lang, QLD

Cassandra (Cassie) Lang is a Bundjalung woman and Co-founder and Principal Solicitor at Parallax Legal, Brisbane (QLD). She is the Vice President of the Indigenous Lawyers Association of Queensland and has over fifteen years of specialist legal experience in the native title and cultural heritage areas of law.

Cassie told us how, in her experience, there is a lack of genuine informed consent involved in native title group decision-making in the native title system. In Cassie's experience, the legislation does not sufficiently accommodate traditional law and decision-making processes. She also discussed the long-term consequences of inaccurate determinations resulting from problematic anthropological and PBC processes, as well as concerns with decision-making within NTRBs and NTSPs more generally. Cassie described how, in her experience, there is a lack of accountability, transparency, and oversight in the native title system. She emphasised the need for professionals in native title to work together towards a shared goal.



Marilyn Pickalla Campbell, NSW

Marilyn Pickalla Campbell is a South Coast woman from NSW, who has traditional connections through her Pickalla family in the Aragunuu to the Mystery Bay area. Marilyn's father is a Djiringanj Yuin man from Wallaga Lake, and her mother's family is from the Lake Tyres area in Victoria.

Marilyn spoke in depth about the need to be on-Country in order to convey meaningful information about culture and connection to Country. Marilyn's story involved the interactions between the *Land Rights Act 1983* (NSW) and *Native Title Act 1993* (Cth): in addition to involvement in native title claims, Marilyn gave evidence in an application by a Local Aboriginal Land Council for a determination that no native title exists over a particular area. The questioning Marilyn faced in that case illustrates how the evidence process in court fails to properly navigate the gap between Western law and Aboriginal traditions, laws and customs.



Sarah, NSW

Sarah is a Dharug woman from Western Sydney. Sarah's native title group's claim was lodged in 1995 and withdrawn in 1999, with an agreement reached between the local council and the Dharug people, including for a co-management agreement which Sarah described as failing miserably due to the lack of respect and priority shown to the Dharug parties.

Sarah's story described interactions between the Native Title Act, the NSW Land Rights Act, and the NSW cultural heritage regime, which have resulted in the severely diminished availability of paid heritage work for the two Dharug organisations. Those Dharug organisations relied on that paid work to provide other services to the community and Sarah and others are now personally subsidising that work. Sarah spoke about her experiences of Dharug people being treated poorly by the land councils and other non-Traditional Owning Aboriginal people in Sydney, the way the systems do not include mechanisms to ensure the right people are speaking for Country, and the resulting lack of appropriate care for Country.



Leah, NSW

Leah is an Aboriginal woman from the west of NSW. She is a Custodian with two different native title claims, run by two different NTRBs, as her mother's Country crosses state borders. Leah is also an academic working in research across two universities.

Leah described concerns that many members of community feel unsafe to participate fully in the native title space because of the dominance of some people with entrenched positions of power. Leah discussed her experiences with professionals involved in the native title system and identified concerns around professionals' impacts on community relations and native title outcomes. She identified the need for professionals and communities to create safe, 'brave spaces' to enable community to work through conflict and tension. She also identified a need to ensure that everyone has sufficient knowledge of the group's native title decision-making history so that everyone can fully participate.



Maria Stewart, SA

Maria Stewart is from Oodnadatta, South Australia, with connections to Arrernte and Wangkangurru, as well as Yankunytjatjara and Walka Wani. Among other community roles, Maria is the Chairperson of Dunjiba Community Council, which was previously the Oodnadatta Aboriginal Housing Society, founded in 1973.

Maria's story described the lack of accountability for professionals in the native title system, issues with the evidentiary processes, issues with distribution of money by PBCs, and the cumulative effect of ongoing systemic legislative and policy-based discrimination. Maria spoke about the significant hurt caused by her family being excluded from claims to her Country due to limitations of the original anthropological approach. She also told us that in her experience, the native title system requires claimants to choose a narrow identity in order to claim native title, in a way which does not necessarily align with traditional ways of identifying and connecting.



Anna Strzelecki

Anna is a Kokatha woman and a member of two PBCs, the Kokatha Aboriginal Corporation and the Gawler Ranges Aboriginal Corporation, whose boundaries adjoin each other. Anna also works at a large university and is active at board level in other Aboriginal organisations.

Anna's story described the lack of consistency and transparency surrounding PBC governance structures, and community conflict caused by the lack of clarity surrounding eligibility requirements for Common Law Holders in the PBC Rule Books. She also spoke of the complex and confusing nature of the native title system which appears to have tried to accommodate traditional law and custom but has instead, in many instances, created uncertainty and conflict for native title groups.



Donna Wright, VIC

Donna Wright is a Gunditjmara woman and sitting member of the First People's Assembly of Victoria. She is also the Chairperson of her people's PBC, Gunditj Mirring Traditional Owners Aboriginal Corporation RNTBC.

Donna spoke about her experience of a lack of traditional decision-making processes in the native title space, particularly in the post-determination governance space. She spoke about how not everyone has the same degree of traditional knowledge, and the difficulties community is facing as a result. Donna spoke about concerns with how connection reports are prepared and the way the knowledge contributed to those reports is then owned and kept. She also discussed the unpaid labour expected of First Nations peoples in the native title and cultural heritage systems. Donna described how, in her experience, land justice and cultural heritage protection systems do not promote self-determination: even where those systems have made some efforts to do so, they are inadequate and incomplete.



Monica Morgan, VIC

Monica Morgan is a Yorta Yorta woman, past CEO of the Yorta Yorta Nation Aboriginal Corporation RNTBC (YYNAC), and activist of over 50 years. Monica has been a key player in the establishment of many Aboriginal organisations and successful negotiations and campaigns such as the creation of the Barmah-Millewa National Park and Murray Valley National Park.

Monica spoke about native title in the broader context of her people's land rights (and broader human rights) fight, and their long history of concerted political activism and engagement. She spoke about the devastating loss in *Yorta Yorta*, but also about how that galvanised the Yorta Yorta and Aboriginal and Torres Strait Islander peoples more generally across the country. Monica emphasised that native title is not the ultimate aim – the aim is self-determination, and many people misunderstand what native title actually means and how narrow it often is. Monica's story highlights the importance of quality legal representation and of the native title group retaining control over the process. Monica also talked about community disunity and conflict caused by native title, the lack of traditional decision-making processes in the post-determination stages, and the degree of unpaid work demanded of First Nations people.





Overarching themes from women's contributions

Chapter 9 of the Report details the key overarching themes drawn from the in-depth interviews. The common overarching themes highlight how interconnected our human rights are, and how the realisation of our rights to self-determination, Country and culture underpins and contextualises the enjoyment of our other rights. They also illustrate how the native title system cannot be reformed in pieces with a focus on delivering particular outcomes in isolation. Rather, they must be approached holistically and with a human rights lens.

6.1 Self-determination and self-governance

The area of land justice highlights the way that many fundamental human rights, including the right to self-determination, will look different for Indigenous compared with non-Indigenous Australians.

Women identified a number of factors limiting their ability to participate properly in native title, including in the claims stage and the post-determination governance stage. These include:

- lack of information and education
- lack of transparency contributing to community conflict
- the need to centre the individuals affected.

Women emphasised that the marginalisation of First Nations women within the native title governance sphere represents a significant missed opportunity. We also heard that many communities have benefited hugely from women stepping up and utilising their knowledge and skills to improve governance.

Like *Wiyi Yani U Thangani*, the contributions to this Report highlight that women's voices are voices for the whole community. Many contributions to this Report reflected women's concerns with fairness, community cohesion, dispute resolution, and how prioritising women's voices promotes inclusivity and healing, and how this approach is essential for a self-determining and sustainable future for our peoples.

6.2 Gender discrimination

The Report discusses how the role of women in native title claims has been impacted by assumptions made about First Nations women's roles. These assumptions have their foundations in observations by mostly non-Indigenous, male colonists, historians and anthropologists.

Some women spoke about explicit gender discrimination they have experienced and witnessed as First Nations women in the native title system. The underlying issue is that women often feel threatened by the environment and the individuals in power, and find

there is no prompt, meaningful assistance offered to them when they call on it. The result is that many First Nations women feel they cannot freely participate in decision-making for fear of their safety.

6.3 Structural racism

The stories of the women who contributed to the Report highlight the structural racism inherent in the native title system and its impacts on individuals and communities, and how land justice systems are not a discrete issue dealt with by a small number of First Nations people. These issues affect almost all First Nations individuals and communities in some way.



Structural racism is evident in:

- the history of the Native Title Act
- the legislated power imbalance in the Native Title Report and heritage protection laws
- the free labour required of Indigenous parties
- the exploitation of power imbalances by third parties
- power imbalances in mediation and negotiation processes
- compensation developments.

6.4 Lack of access to justice

Systemic discrimination can be seen in the native title system in the many ways in which First Nations peoples are denied access to justice. This includes the way that the native title system fails to produce outcomes which satisfy the rights to culture and self-determination, the persistent barriers to full participation in processes associated with native title, and the recurrent theme of a lack of accessible and/or effective remedies for errors made by the system or by players within the system. Lack of accountability is a key feature of the native title system in the experience of many of the women interviewed.



7 Combined voices

Chapter 10 combines the voices of First Nations women interviewed for the Report and centres the knowledge and perspectives of those who are supposed to benefit from the native title system. The common experiences within women's stories paint a rich picture of how the system is lived across the country.

7.1 A disempowering process

Women spoke about how disempowering the native title process is for them and their families and communities. They expressed frustration at being required to justify connection to Country on the terms of the coloniser within a system which does not understand nor accommodate cultural knowledge and law.

Many women felt a huge disconnect between the native title, heritage protection and land rights regimes on the one hand, and the reality of how culture and Country should be protected. Others looked back on the process and realised how much they had lost in the compromises required to have any native title recognised at all.

Because we gave so much, so much that no other place can get. It's only us bush people, my people, don't speak much English ... didn't understand. Anyway, they left us, the old people. They're going, one by one, without their native title ...

Daisy Ward

This is not what Eddie Mabo set out to do. These government structures that monitor corporations and have procedures and checks in place to get the decision-making, but it's the poor community doesn't have a proper say. I'm tired of being a slave to the native title system.

Donna Wright

But at same time I was thinking 'what does this mean?' Nyaapa ... what does it mean? In my mind it's still government's. 'Hand in hand working together', it's still not our land. We're still struggling because it's not our land. **Daisy Ward**

I have had to attend mediation where I have been verbally abused and felt physically threatened; I have had to put up with misinformation being spread by other Traditional Owners about my family; I have been forced to hand over my personal papers to the experts who work for people taking over my Country; the native title processes have made the conflict between my group and groups taking over our Country much worse ... **Coral King**

I could talk about that issue forever. Why we have to explain ourselves to non-Indigenous people – that we belong and we’ve got connection. ... You can play the game or you’re not in the game, you know ... you get nothing. It’s not on our terms at all.

Leanne Edwards

Another tricky thing that rep bodies and service providers do when they do a connection report ... They’re doing it under their rep body function, so they forever own the IP in that report, and it is never returned to the group. **Cassie Lang**

[It’s the] way that they handle the personal information. They get all the anthropological reports, and they say, ‘well this is the terms of reference, and it belongs to us even though you’re the client’. You can’t [check that they haven’t made a mistake]. I don’t know what the ultimate submissions were from the anthropologist because they don’t like to be questioned. It’s really bad because they hold it over you, and you can never get access to your information ... once a determination has taken place, that information, if it’s been requested by the client, should be provided. **Avelina Tarrago**

7.2 Women’s knowledge not heard or valued

Several of the women interviewed for this Report raised the issue of women’s knowledge being effectively wiped out by the many layers of colonial patriarchy that have built up in the development of the native title system and beyond. It has built up over the course of multiple generations within the professions and epistemologies that the native title system relies on for historical documentary evidence and contemporary evidence processes. The result has been misunderstandings around women’s decision-making about Country and, ultimately, destruction of women’s sites.

... my grandmother, my mother, they weren’t able to take these white males on Country and to express what Country means to them as a First Nations person speaking for Country and with Country, and they never ever got that. So, in terms of a native title right, it hasn’t provided the full picture or the full scope from a matriarchal Law woman.

Thelma Parker

... [Uncle] says, ‘well, tell me where’s the women’s business.’ And I said, ‘well who was Granny Queen? Did you go to those Songlines, were you a part of those Dreaming stories? What was her language name? Do you know where’s the women’s site in terms of the birthing rights?’ [He said] ‘No I don’t.’ The lawyers then, because they’re all male, go to him [to get information] thinking that he’s the Elder male here. But he doesn’t know that information, and then that splits the community and splits our family. **Thelma Parker**

The women are the driving force of putting that back together. We're bringing our connections back. We're bringing the trust in the language back which is the most important thing ... If I'm talking about Country, I can't find the English word to explain what I'm saying. I would rather explain it in my language to make it more understandable. **Patsy Bedford**

7.3 Inability to fully participate

A common message we heard from the women who contributed to this Report was how hard it is for Traditional Owners and other native title claimants and holders to fully participate in the native title system. The barriers to fully participating come in many forms and are not discrete but intersectional. The barriers described by the women include the complexity of the system, the lack of information and education provided in culturally appropriate and accessible ways, the lack of control over the professionals advising native title groups or First Nations respondents, conflicts of interest within the funding structures of the system, exclusionary court processes, and the colonial and patriarchal foundations of the system and its components. Further, women identified that community conflict created by native title contributes to women not feeling safe to participate freely.

People are still really confused today around the process of Native Title and the steps taken in collecting evidence and the apical family members ... and really understanding like, yes, okay, your grandfather was nominated to share their story to the courts on behalf of Balangarra people but ... So, we've got a family within this group saying, 'well my grandmother did that, so that means that's all our Country'. So, they just misunderstand the whole process. Like, 'no, your grandmother was nominated from Balangarra people because she spoke well, to share these stories to the court, to communicate in a way that was articulate'. **Cissy Gore-Birch**

In the Tennant Creek Township claim it was educating Aboriginal people ... That was really hard because they had the mindset already that 'oh you know we're going to get our land back'. And you try and say 'no, no your interests are just being recognised. Traditional laws and customs are being recognised'.

... And a lot of the existing structure has been funded since day 1, but a lot of PBCs they've only just recently been provided with the opportunity to have some funding, to actually be able to not just operate and fulfil their obligations under those key bits of legislation, but also get out and inform native title holders and members and enable them to understand how it all fits in. **Francine McCarthy**

I think when you're supposed to be providing your consent and authorising something, that's supposed to be on the basis you understand. But so often there is no focus, at a practical level, on ensuring the affected Traditional Owners and native title holders understand what they're agreeing to. **Cassie Lang**

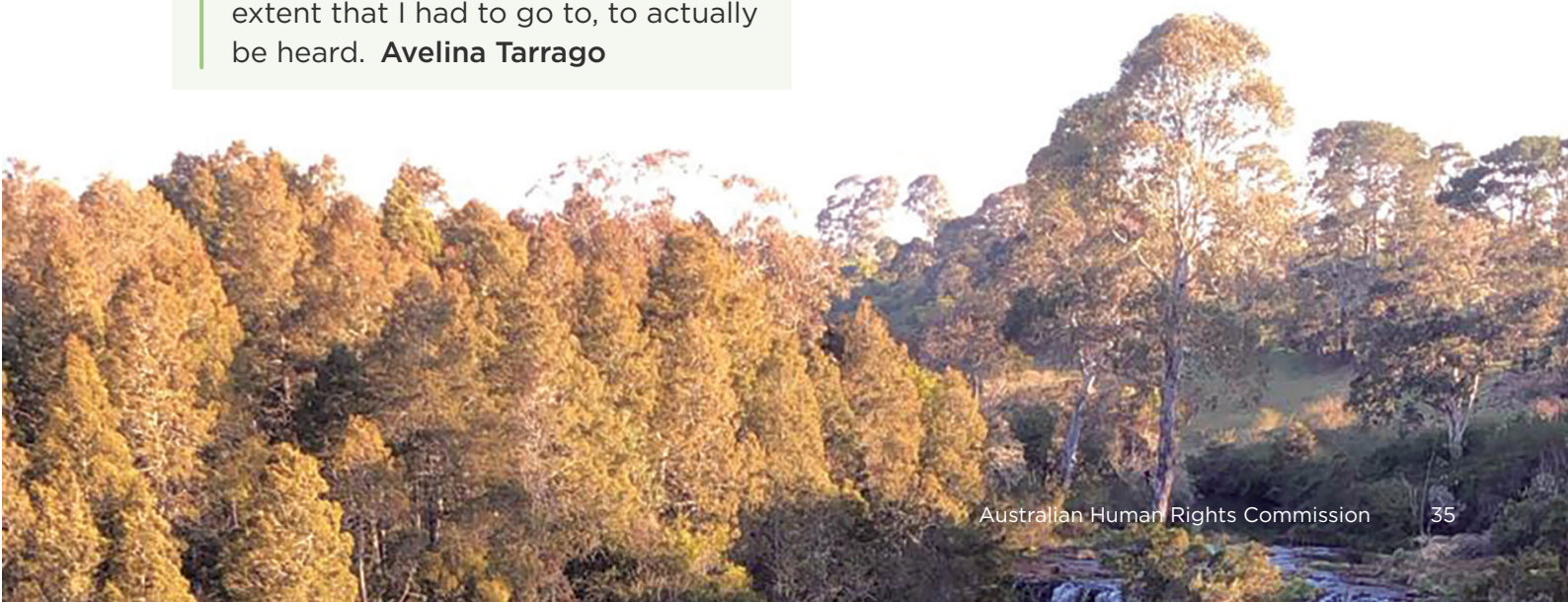
... as a young woman coming in, like the men and others were undermining me and saying, 'oh you don't know anything about this and about that'. And I was like, 'well, actually I do.' **Cissy Gore-Birch**

The free labour to enable the systems to get consent is just the biggest fraud. **Donna Wright**

So, ultimately, I joined as a respondent with my mother, we made a joint application, and then the rep body also filed a separate application for the family that I was disputing with. They initially said, 'well you all have to be represented together' and I put my foot down and I said 'no'. So, they did a separate application. That's the point when I had to get the solicitor, and thankfully we had a barrister who did it pro bono as well. But that's the extent that I had to go to, to actually be heard. **Avelina Tarrago**

There needs to be improvement in governance and communication of the circle work back to community on a regular basis. At each meeting, provide a 5-minute PowerPoint presentation that summarises where we started. These are the meetings we've had to date, and the decisions made. This is where we are today, and these are decisions now that we need to make.' So, as you're running those meetings, you're actually building capacity and understanding. You're not assuming that everyone knows what's going on. **Leah**

There was constant unnecessary interruption from these bullies and walk out of meetings to sabotage our meetings so that we wouldn't - couldn't - make a decision. There were constant threats behind the scenes. People were frightened to come along to these meetings ... it was disgusting that these people had so much control over them, and they felt they had nowhere to go ... **Cissy Gore-Birch**



7.4 Destructive interactions between legislative regimes

Many of the women interviewed for this Report spoke about the different legislative and regulatory regimes associated with native title, cultural heritage and land rights. Women spoke about how the lack of coherence between these regimes creates and exacerbates confusion, misunderstanding and division between and within communities, and results in the disempowerment and dispossession of Traditional Owners, who are then unable to carry out their responsibilities for Country.

There's no proper system where a recognised group is the one they have to use for heritage, like the people from that Country. It's whoever registered an interest. So, Registered Aboriginal Parties – RAPs – if any development's going through it goes through a process where they send out for people to register an interest. And people from all over just register an interest in Dharug land, because there's lots of development in Sydney, so lots of opportunities for this paid heritage work.

... But they're not caring for our Country, they're not caring for our sites, they're not sharing, they're not doing education, they're not doing anything. They're just pocketing money. Whereas there used to be four of our reps a day on site, that used to fund all our educational programs and all of the community work that we were doing.

... We don't have any access to sites. None of us have any Country that we can go and have ceremony or do anything on ... we walk around out here and there's all these people living on all these amazing Aboriginal sites, and we don't have access to any of it. Land council does but they won't let us in any of their Country. **Sarah**

In Victoria, the Cultural Heritage is very poorly. I think there's a lot of flaws in it. It's not based on First Nations. It's based on recognised parties that are recognised by the Minister but before they're recognised by the Minister, they're recognised by Victorian Heritage Council (that is nominated by the Minister), and it does not represent all the First Nations in Victoria. **Monica Morgan**



7.5 Conflicts of interest

Most of the women interviewed for this Report discussed feeling that the native title system involved inherent conflicts of interest that had not been thought through. The way that these conflicts of interest are experienced by First Nations people in the system is as a lack of access to independent legal advice and representation, and to independent anthropological services to ‘prove’ their connections or ‘disprove’ other groups’ claims.

You’ve got lawyers in the same office that are dealing with neighbouring claims. They’re supposed to represent your interests. Any other legal services, even Legal Aid, they have the referral policy that they’ll externally refer you if there’s an internal conflict from representing two clients. **Avelina Tarrago**

For some reason [the NTRB] pick up these people, I don’t know where they get them from, and they say, ‘you have to work with them’. And I say, ‘well no, can you give us a female because we want a yarn with them?’ ‘No, we can’t give you a female, you’ve got to take this person because we’ve actually engaged them.’ So, our cultural capital will not be understood nor will not be listened to ... **Thelma Parker**

We had to go with [the lawyer] from South Australia, because all the Queensland ones that we asked to help us pro bono refused because it was a conflict of interest – because they already worked with the NTRB on other claims. I don’t know why it was a conflict of interest to work on ours. **Coral King**

... this area in question will have some exploration permits in place at one point. So, there’s also that, which does benefit the Native Title Service if they can negotiate those permits and claims as well. **Shawnee Gorrige**

... I have been told that I need to appeal the first judgement made against my group. But I have no funds to do this, and the rep body has no interest at all in helping us. The rep body has been disrespectful to me and my group, they have threatened to sue some of us, and they have made me, and others feel that we are being dishonest in our claim, even though we had all the evidence to show that we are not ... My Traditional Owner group has never been properly resourced; I myself have never been resourced at all. And neither I nor the rest of my group can ever be healed for the loss of our country. **Coral King**

We’ve already got a claim on that area, but they want to get other Aboriginal people to go up against us, like they did with the Mandingalbay Yidinji claim – to come in and try and get joint native title. So that [the NTRB] could have a say in that area – It’s all about the money. They want to keep that RNTBC status if they want to move to a service. Because if Cairns get a determination here, they know we won’t want [the NTRB] ... **Sarah Addo**

7.6 Impact of professionals in native title

Many of the women's stories highlight that the role of professionals in the native title system should involve more than simply accepting an initial scope and working to it. We heard of the damaging impact of professionals whose clients did not understand the process, the players involved, their own role, or the outcomes. We also heard about the critical positive difference that culturally responsive professionals can have in ensuring native title systems are understood by First Nations participants.

[Regarding a failed mediation] That was not their country to be telling us that we could go onto their Country and do this, that or whatever ... We want access, we wanted our Country. We wanted to be recognised in court as the Traditional Owners of that country. But because it seemed like they had the belief that the Country was already their Country, it was never going to work from the get-go.

Coral King

I think about - well, it helps when you got ... a good lawyer that shows they care. And they understand Indigenous cultures and all that sort of stuff.

Leanne Edwards

There's one group that I know of based on that really wrong anthropological report that put a family that doesn't actually belong there - they then managed to have the stronghold, they run the PBC because they haven't changed the determination. So, let's say, the boards aren't representative of the apicals. It's whoever is elected, they've got the numbers, they just keep electing themselves, negotiate the money and nothing is getting done with the community.

Cassie Lang

When you're providing your consent and authorising something, that's supposed to be on the basis you understand. But so often there is no focus, at a practical level, on ensuring the affected Traditional Owners and native title holders understand what they're agreeing to.

Cassie Lang

[Some anthropologists] don't listen or they think just sitting down for one meeting is enough. You know, it takes a lot to recall things and also - you know some things we don't want to disclose or it's too shameful to disclose things, and you need to build rapport. I just find that they don't and that was actually ultimately an issue when I joined as a respondent ...

Avelina Tarrago

'Cause you have vested interests in multiple areas and the problem is that these are people on the areas neighbouring our area of determination. So, it's not like they're down here in Brisbane where it's got nothing to do with any decisions being made in our area, these are PBCs that are next door to our PBC ... So that I was really concerned about ... But I was very strict about what the criteria is for directorship.

Avelina Tarrago

There could be better organisation of these meetings. At times our native title meetings appear to be controlled by lawyers, when it should be community governed – community directing the Board ... So, I can see a big difference between the way the first claim and now the second claim is being managed. The process is complex. There is a combination of things that happen with the way SANTS have meetings. It is facilitated more inclusively and professionally, also it is the input of community members contributing to those meetings more respectfully. It's also about the lawyers communicating respectfully. **Leah**

The system doesn't fit, but also, you've got lawyers and people that working within these systems that are allowing these things to happen. There's no accountability. **Maria Stewart**

7.7 Recognising customary law and practices in the court processes

Several women we interviewed told us that the native title system has not managed to appropriately and accurately include customary law in its processes in a way which preserves and protects it. On the contrary, women felt it has often exacerbated misunderstanding of cultural laws and practice, fuelling disputes over decision-making regarding Country. Women described how the rushed processes and predetermined outcomes associated with connection reports and genealogical evidence for native title claims have resulted in evidence being put to and accepted by the courts which is not always accurate, nor able to reflect the complexity of the traditions being described by Traditional Owners. Several women specifically described how the courts and the native title system more broadly did not seem fully capable of meaningfully and accurately recognising traditional ways of identifying, of understanding responsibility to Country, and decision-making.

You've got to come back to law and custom. You've got to look at the traditional native structure. 'Cause you're trying to give all these land tenure to men, but you're forgetting about their sisters. You know you're forgetting about their mother, their grandmother. **Sarah Addo**

And trying to explain to a white person your connection, and you gotta try and prove it, you know, it's wrong in an Aboriginal person's eyes – we try and tell a white person our connection, our Dreaming, yet they don't have that same belief. How can you understand? **Leanne Edwards**

In my case, the first judge made a decision against us, relying on false evidence. Two subsequent judges have relied on that first judge's decision - even though we have tried to correct the false evidence. We are told we have to appeal the first decision, but we have no funds to do this. **Coral King**

I got up and I argued [before] Justice Charlesworth that that put Justice Dowsett's report in limbo because he tried to give them north of Cairns from the Saltwater Creek to the Barron. I said to Honourable Charlesworth, 'this document here, that proves that they don't come from here. There's fraud going on, and people are not telling the truth here ... He did not come from Cairns. He was sent from timber Country to sea Country. If you're going to give them native title on a historical basis, that opens the door for every other Aboriginal people to claim land. Now you've got to be sensible about this.' So, she evicted them out of the case. I was able to get them struck off. **Sarah Addo**

They just wanted to go by the Tindale map. There is no collecting evidence to prove it was someone else's Country. They thought it was a simple matter. And instead of really digging up, they just did the surface. But if they'd dug underneath, a bit more research, they would have really found out whose Country it was, because you know - whatever white people put there, they only went there a couple of times. Our family lived there for years and years, generation after generation after generation and we are still there today. And they're listening to a couple of explorers that went there, spoke in English. Of course, none of [our people] at the time knew how to speak English. So, who was the informer? Did they use interpreters to collect all this information to say this was this person's Country or that person, that language was Country, or that language ...? **Maria Stewart**



7.8 Remedies and accountability

One of the common ways in which a lack of access to justice is experienced by women and their communities in the native title system is the absence of effective remedies available when things go wrong. Many women felt a lack of natural justice involved in the way they had to participate in the processes. Women often felt that they had no real choice in whether they participated, that they had little to no agency once they were within the system, that the system did not treat them with due respect, and prevented them from expressing key cultural concepts central to any genuine consideration of their rights. Further, the hurt and disempowerment this creates has been compounded by the lack of effective mechanisms available to hear these grievances or provide remedies.

And yet you've got rep body lawyers who are engaging in questionable practices, who do not take instructions from their clients, who turn up and treat them poorly and say, 'this is what you're going to do and it's my way or the highway' and there is nobody who you can report them to, to have their behaviour pulled up ...

... I have tried to help my clients complain to the Legal Services Commission, but the rep bodies are considered a community legal centre or government officers or something, which means the only person under those circumstances who can complain about them is their CEO or their Principal Legal Officer. Now you tell me how many of them are going to put in a complaint to the LSC about their performance?

Cassie Lang

Getting [ORIC] to attend those meetings, and to see it for themselves, is really vital to understand because they're at the end of the phone, or at the end of the email ... **Cissy Gore-Birch**

I've done all this work to give them the information in writing and they've still not acted. And there's a couple of people made this same complaint. Not just me. But they don't hear anything back because they don't follow up, some of them. You know, they aren't literate with phones and emails and stuff. Sometimes, you should be able to ring up and say what your complaint is over the phone, and they write it down ... They need to hear it. Or come and see what's happening. They never come and visit. I've not seen ORIC out here for ages ...

Leanne Edwards

That's the problem ... the respondents weren't being funded. We had to basically represent ourselves and when we had gone to [the NTRB] and say, 'you've got to fund us as respondents', they're saying 'no, you don't have a claim'. I said, 'we don't have a claim because you won't help us to have a claim'. So, there were big disputes over funding. You know, we kept writing to the Honourable Senator Nigel Scullion at the time who was the Minister for Aboriginal and Torres Strait Islander Affairs and now all our attention has turned to the Honourable Minister Wyatt down in Canberra. **Sarah Addo**

7.9 Traditional decision-making processes

Women discussed the difficulties created by PBC governance arrangements allowing for a majority of members to determine that decisions can be made according to non-traditional decision-making processes.

Women described how disparities in cultural knowledge within native title groups arising from historical policies of dispossession have meant that some family groups do not appreciate that, according to cultural protocols, they do not speak for all of Country within a determination area, and that some men do not appreciate women's right to speak for sites of particular gendered significance.

Women told us that this dynamic can be exacerbated by the opportunistic motives of some PBC members, who are interested in decision-making responsibility only for their own gain, rather than for the long-term benefit of the community. All of these tensions can lead to poor governance of Country and fuel conflict and lateral violence stemming from a false and racist dichotomy around who is 'more Aboriginal'.

Women emphasised that it is important that our communities welcome anyone identifying their Indigenous heritage, whenever they discover or choose to embrace it, however, there is also an important responsibility on those newly identifying to learn about and observe the cultural protocols that have been passed down.

We have a decision-making process: it will follow that which is in accordance with the family groups, and you can see the way the family group structure is in the PBC – it's in there. How decisions are, well at least how family groups are represented. And that's because I wanted to ensure that there was proper representation across all of the families that had a right in our PBC. **Avelina Tarrago**

... because it comes back down to numbers. It's about voting rights and it's the person whose got the votes on the floor that will go totally against what is culturally safe practices ... and this is where we go back to the [NTRB] who has worked for many years with our ancestors and our Elders, but they can't provide a really clear strategy on how to deal with this, and I see that they struggle in this space. **Thelma Parker**

Our Elders and people would sit for hours at meetings, sometime 8-9 hours listening to Government agencies, academics, lawyers speak on Native Title matters ... They tell us what we're doing, there's no proper cultural governance decision-making process that respects our culture. **Donna Wright**

7.10 Community conflict, trauma and inequity

A key common theme expressed by women in their interviews was that native title had created community disputes. Many of the stories involving disputes had a common element of misunderstandings around native title processes, poorly managed expectations, and a lack of transparency at the governance level.

Another common source of contention was inaccurate or incomplete anthropological and genealogical evidence used in native title claims and negotiations.

Another key theme of many women's stories was leading and participating in community-driven approaches to resolving conflicts and healing trauma.

The problems that native title creates for our community is extraordinary. The lateral violence that it creates is extraordinary. The impact of native title on our people – I think it destroys more communities than it builds. **Avelina Tarrago**

Yep, rushing, rushing, rushing and just haven't got time to pull in and talk to family and yeah, look at us now. We've got to slow down now and start going backwards and say, 'well hang on a minute, why are we running at this white man's pace?' We need to slow down and start doing it at our pace. **Millie Bedford Hills**

Native title did not bring the cultural understanding in there. The language was gone out. The language is out. The language and the land should be together. So, we sort of lost the language and it didn't play a big part in native title. All they wanted to do was go to government and win this native title back. Forgetting about what the land really meant and what it held, and what it holds to this day, for us as Bunuba people. **Patsy Bedford**

There's a lot of healing that needs to happen in our communities ... There is a whole generation of the most amazing skilled-up young people that are really IT savvy. We need to bring together the Elders with their knowledge and encourage the younger people to bring theirs. The skills complement each other – that's a force to be reckoned with. Together, we create those brave spaces.

... So, you come to a community member meeting and it's almost like there's this expectation that everyone is going to understand where we're at and who did what and what decisions were made back in 1995 – no?! After everyone's had a chance to catch up, have a cuppa, the formal meeting commences with a timeline. This is a good idea because it keeps people up to date. Much happens between meetings, for example, intergenerational trauma and grief, families dealing with high incarceration of our people and a high rate of sorry business. **Leah**

We need to workshop together, collaborate as a whole community. By working and growing together, that's how we make sure we don't lose that flame. At the moment we don't have anything to give to our young generation and we cannot keep going like this otherwise we get nowhere. **Geiza Stow**

It can't take away our identity, our spirit, our culture, our language and our knowledge for the whole of Bunuba people and our Country and clan group. It's who we are. **Kaylene Marr**

... it's hard to heal when the disputes are ongoing. **Maria Stewart**

7.11 Unpaid labour subsidising the system

Women spoke about significant unpaid work by First Nations parties in the native title system in the claims and post-determination stages. It is clear from the contributions to this Report that First Nations labour subsidises the native title system at every point and that native title claimants and holders are often the only unpaid people sitting around the table.

Whilst women recognised substantial unpaid contributions by all members of their native title groups, they described a gendered division whereby women's contributions were considered critical during the claims stage, but then once decision-making in PBCs became the central focus, men often appeared to move in to predominate in negotiations.

Several women spoke about unpaid labour and the fight for resourcing of Traditional Owner groups when attempting to protect cultural heritage or negotiate with third parties over land use.

Women spoke about how important it is that initiatives to help communities in the context of native title are informed and driven by those who have the cultural knowledge and community respect to make the initiatives effective. Many of the stories emphasised that when paid to take on these roles, such individuals are often much better placed to make a significant and sustainable impact.



... this has been going on for so long now, my mum's been fighting. Mum, her brother, and her sisters, have been fighting government and land council for 60 years. It's no wonder she's not well, she's so tired.

... Half of what we've done already for most of them is voluntary, it's not going to be paid work. Like we're always the only consultant at the table who's not getting paid. It's just disgusting. **Sarah**

It's a full-time job because we've got native title decisions; we've got people wanting to access Country through the tourism; we've got negotiations happening with the marine parks; we've had negotiations happening with the conservation parks, and the national parks; we've got mining applications coming through; we've got conflict between family members ... so yeah, it's not a walk in the park ... **Cissy Gore-Birch**

None of our PBC directors are paid. They're doing all this work for free. You know, some directors are also employed by other organisations in Tennant Creek. So, they're willing for their staff members to come in and participate which is great, I'm really appreciative of that. **Francine McCarthy**

... So, we were able to get Rio to the table to fund TO's participation in a meaningful way for TOs. And that has evolved now. And we have set up new groups to ensure that the cultural governance is on par with the agreement governance expectations. And that TOs were not just doing it out of the goodness of their heart, even though they would.

Kia Dowell

There is a complete lack of resources. There is no support for someone like me to take on mentoring or leading roles in teaching the younger generation - I do this anyway, with no support at all, because it's my cultural responsibility and obligation to pass on knowledge to our younger generation. We older people all do this. **Coral King**

There's so much I do, so much pro bono stuff that goes with it, you know, because most of my work is paid by a third party so normally it's by the organisation, I'm doing negotiations for native title or cultural heritage with. So, they will only pay for so much [regarding the negotiations] and then every other support that goes along with it, you know, I just kind of - you just try to do it as best as you can with the funds that you've got. **Cassie Lang**



7.12 Women's roles in healing community

Many women spoke in their interviews of the way that First Nations women had a particular skill in bringing people together, and a particular focus on healing community after trauma. Women told us about a range of intentional approaches they take to empowering their communities and organisations. Through unifying and healing, and centring culture, women are positioning their communities to become more self-determining, more confident in their negotiations with third parties, and more hopeful about the future.

I just asked a question 'when was the last time all of these different committee, board, sub-committees, working groups, advisory groups were in the same room together?' and the answer was never. They had never brought all of these people responsible for making decisions or giving advice together. So, we did, and we called it the 'Getting Together' meeting.

... the way that we often talk about it, is to protect the money for kids and grandkids. The intention is to discharge our directors' duties, but more importantly, to make sure that however that money is being invested and the returns from that investment are put into community programs that help improve the lives of TOs. **Kia Dowell**

[Y]ou rise from the ashes. You don't ever let those things ... it's been instilled in us. Generations and generations and we've got the strength, and all our mob have got strong mob. All mobs are strong.

Monica Morgan

We have to heal before we move forward ... I haven't lost my identity, but we know in the Bunuba tribe there are people who have lost their identity. So, we got to start from the foundation for that. [The Cultural Mapping Camp] is one of the first steps of laying the foundation. Then they might come in and say ... 'I'd really like to talk Bunuba now' ... 'Okay let's have a look at how you really want to learn to speak your language.'

That's the next step we look at. It's a step, how you build a house. Not on ground, but cement is the hardest thing that the wind can't blow over. So, this is the cementing part of all this. Slowly you put the iron pipes in. Okay you want to do language, let's start with this kind of ways that we can work that you want to speak. Do you want to know more about the culture, here is another type ...

... That's the beauty of it all. We're the drivers of the car now. We were always the passengers. All that journey up. Always the passengers and we weren't allowed to tell the driver to turn left or right. Otherwise, we got told off. Now we've got our vehicle, brand new vehicle, with us driving it any way we want to go and how we want to do it. **Patsy Bedford**

It's more about just trying to be positive about this and trying to break through some of those thinkings. That negativity, the jealousy, the historical baggage we inherited. And how do we do that better? Coming up with mechanisms and tools for how we can deal with dispute resolution and those disputes usually come from misunderstanding, misinterpretation and the lack of transparency. So, it's more about how do we get this information out there? How do we get more people engaging with activities and positive stuff that's happening around the community. **Cissy Gore-Birch**

7.13 Agreement-making

Agreement-making has been present in the land justice space both before and after the passage of the Native Title Act. Since 1993, alternative agreements of various kinds have been used across the country in circumstances where the Native Title Act is not suitable or has not yielded results. These have ranged from very small, local agreements to co-manage parcels of land, all the way through to large regional agreements, such as the Noongar Settlement, which have come with a range of other elements including compensation.

Notably, women spoke about how alternative agreements made prior to native title claims, which have resulted in the establishment of Aboriginal Corporations, have given communities the opportunity to come to terms with themselves, and build governance capacity which has gone on to benefit these groups in the context of native title.

What if Gelganyem wasn't there, who would [ensure the NTRB was properly instructed according to traditional decision-making practices]? The answer is no one. **Kia Dowell**

We are still a part of the building of major road works and bridges and things. With the Department of Transport ... We're a partner with them through thick and thin. Whether we're on our knees or whether we're prosperous. And it has stood the test of time since our native title application. Now they've come to us and they're stating that they want to do a whole of Country plan with us. So, it's like a 'heads of agreement'. We are hoping that will pave the way for agreement 'cause going back to the very first agreement that went to cabinet, the second part was going to be an aspirations document. So, the aspirations of where Yorta Yorta want to be in the future, how we want to work with the government. So, we were doing that even though we didn't have native title. ... So, we've become very sophisticated, for the amount of money that we are working with. We've got over 20 full-time employees. We've got cultural burns program, Cultural Heritage team, water specialist and TLM officers, working in the Murray Darling Basin, working under the joint management. So, we're doing all things based on land like we said we would. **Monica Morgan**

I was really pleased yesterday all the nations that we sat down with, regardless of who they come under, every one of them yesterday said that if there's any public lands then it should be in the form of land rights and returned to Victorian First Nations. **Monica Morgan**





8 Conclusions

Mabo came at a moment in time when a fundamental reset in our relationship with Australian governments – a time of agreement-making – seemed imminent. At that point in history, native title was imagined not as an isolated set of rights regarding the use of our land and waters, but as a key pillar in a broader settlement package.

Regretfully, in the years that followed, Australia’s political leadership lacked the courage to acknowledge the truth about the structural inequalities perpetuated against us for generations. The structural implications of reconciliation demanded that governments do the hard work, not us. Fearful and unwilling to take genuine steps towards this end, they blocked the road ahead.

Instead, we were derailed and, once again, First Nations people were expected to find a way to fit, without protest, into imposed structures, as if our grievances were holding back progression.

Boxed in by the Western legal framework and the political forces that have influenced it, the native title system we have today is a much more limited and unsupported version than what otherwise might have been. The contributions in this Report show that, in practice, these structural constraints are drivers of ongoing injustice, inequality and intergenerational trauma.

Despite the limitations of the system, communities around the country have found ways to benefit from native title. In this Report, I have recounted stories of women and communities demonstrating extraordinary strength, resilience and persistence trying to protect culture and Country.

Increasingly, our people are taking pause to stop and reflect on the questions of what we want for the future, and how we are going to get there. Wherever we may be in the process, while we navigate this system as it is, it is critical that we maximise our agency and our opportunity to heal by centring ourselves, our culture and our *real* connection to Country and to one another, as defined by us.

It is my great hope that politicians, policy makers and Australians more broadly pick up this Community Guide or the Report and, through hearing women’s stories about how native title plays out in practice, gain insights that increase their knowledge, and change their perceptions. I hope that my Report can help those in positions of influence to understand that if we, as a nation, are committed to addressing First Nations inequality, land justice regimes must be comprehensively reformed to support our human rights.

The compelling outstanding need for a sustainable, just relationship between First Nations and non-Indigenous Australia through truth-telling and treaty, necessarily requires a just land settlement. It sounds radical to some but a new relationship between First Nations and non-Indigenous Australia, including a new power-sharing arrangement, is unavoidable. That much is clear. We are not going away. If land settlements are not just, they will not suffice to settle the outstanding business.

Despite decades, if not centuries, of intense political resistance driven by fear, history is still calling.



9 Recommendations

The 29 Recommendations of the Report go to the need for a new relationship between governments and First Nations people in Australia. The Recommendations are divided into five groups and are summarised below.

(a) Broader structural reforms to create enabling environments

(Recommendations 1–5), including:

- Government support to establish structures for local and regional voices, agreement-making and truth-telling.
- A National Human Rights Framework, including a national Human Rights Act.
- A National Action Plan to implement UNDRIP.

(b) Establishment of a First Nations Native Title Reform Council (FNNTRC)

to drive reform from a person-centred, human rights perspective, with a view to creating a system for land justice that is coherent, consistent, just, sustainable and gender-responsive (Recommendations 6(a)–(j)).

- The FNNTRC should be comprised of First Nations native title professionals, with gender balance.
- The FNNTRC should be focused on hearing First Nations individuals' and groups' lived experiences.
- All work by all First Nations people involved in the reform process should be fairly compensated, with the aim of a native title system which ensures all people working within it are paid for their labour.
- The reform process should be holistic, considering all aspects of law, policy and practice impacting on the way the native title system is experienced.
- The reform process should include recognition of the impact that native title has had on communities and recommend a mechanism for the Australian Government to resource and support bespoke community initiatives for healing and empowering communities.
- The reform process should include consideration of the absence of a Social Justice Package in negotiations around changes to the Native Title Act; this is likely to be considered in light of Treaty negotiations and compensation developments.

(c) Implementation of all recommendations in *Wiyi Yani U Thangani Report (2020)* (Recommendations 7(a)–(f)), including:

- Recognition that the native title system has itself been a source of harm and investment into culturally restorative and supportive community-led measures identified by local First Nations communities.
- Increased investments to build capacity of First Nations community-controlled service sectors, PBCs and other Aboriginal corporations with similar roles, and career pathways and leadership opportunities for women.
- Greater focus on supporting female professionals at all stages of the native title process.

(d) Recommendations derived from contributions to this Native Title Report (Recommendations 8–14), including:

- Government funded research into, and documentation of, First Nations women’s-specific knowledge and systems, in collaboration with AIATSIS, the ANU Wiyi Yani U Thangani First Nations Gender Justice Institute and First Nations women with lived experience.
- Urgent attention by governments to conflicts of interest within the native title system.
- Urgent attention by governments to the lack of access to remedies in the native title and cultural heritage systems, and partnerships with First Nations stakeholders to take immediate steps to alleviate impacts.
- Urgent additional resources for the relevant bodies in each native title community for the purposes of:
 - communicating with and educating their native title membership
 - cultural mapping processes
 - community healing initiatives.
- Government collaboration with Traditional Owner communities, and state-based representative land council systems, to ensure an independent, culturally safe way of recognising legitimate representative organisations for cultural heritage.
- Urgent steps by governments to alleviate the burden of unpaid labour absorbed by First Nations peoples in the land justice and cultural heritage systems.

(e) Previous native title reforms (Recommendations 15–29), including:

- Amendments to the Native Title Act to:
 - address the onerous connection requirements of section 223
 - clarify that native title rights may be exercised for any purposes, including commercial and non-commercial
 - extend the amendments allowing historical extinguishment of native title to be disregarded to marine parks and reserves
 - provide protection of the right of native title holders to give their consent to any proposed acquisition
 - include explicit criteria as to what constitutes ‘good faith’
 - provide procedural rights in relation to offshore areas.
- Australian Government funding for the National Native Title Tribunal to hold a public inquiry and report to Parliament on the compensation provisions of the Native Title Act.
- Holistic consideration of the authorisation processes in the Native Title Act to better acknowledge and protect traditional law and customs observed by minorities within native title groups.
- Adequate funding for Prescribed Bodies Corporate for *a//* their functions.

HISTORY IS CALLING ...





Australian
Human Rights
Commission