

Cases

***Minara Resources Ltd (Acn 060 370 783) v Ashwin & ORS* [\[2007\] WASCA 107](#)**

This case concerns the validity of a Statement of Claim in representative proceedings over a contract.

***Lansen & Ors v NT Minister for Mines and Energy & Ors* [\[007\] NTSC 36](#)**

This case concerns costs where it was noted that:

In the circumstances it seems to me just that the plaintiffs should have their costs of the proceedings including the trial save those costs incurred with respect to the causes and issues abandoned prior to trial and the defendants should have their costs wasted on the causes and issues abandoned by the plaintiffs prior to trial [12]

***Roy Kennedy v Director-General of the Department of Environment and Conservation and Another* [\[No. 2\] \[2007\] NSWLEC 271](#)**

This case concerns whether proceedings have been brought in public interest and whether additional or special circumstances are present. The court considered whether usual order as to costs should be made.

***Corowa v Geographe Point Pty Ltd & Anor* [\[No. 2\] \[2007\] NSWLEC 272](#)**

This case concerns whether proceedings have been brought in public interest and whether additional or special circumstances are present. The court considered whether usual order as to costs should be made. It was noted that:

Mr Corowa's affidavit established that he brought the proceedings in the public interest and not for any private gain. Mr Corowa is a leader of his people born and raised on the Tweed. Mr Corowa's mother and other community members had tried to prevent the bulldozers clearing the land. He acted solely to obtain the rehabilitation of the land, which contained an endangered ecological community. He did this for the benefit of the wider community and future generations, indigenous and non-indigenous.

***Native title determinations: Ngarla and Ngarla #2 (Determination Area A)* [\(unreported, FCA, 30 May 2007, Bennett J\)](#)**

***Moses v State of Western Australia* [\[2007\] FCAFC 78](#)**

This involved a determination of native title rights and interests under s 223(1) of the NTA. The court considered whether the description of native title holders was sufficient. A determination was also made in relation to the prescribed bodies corporate under ss 56(2) and 57(2).

***Dale v Moses* [\[2007\] FCAFC 82](#)**

This involved an appeal from native title determination of a single judge who dismissed the appellants' claim to native title in the determination area but found another native title claim group, the Ngarluma people and Yindjibarndi people, held non-exclusive native title. The claim was dismissed on basis that they were not a group with continuing connection and were not differentiated from Ngarluma people and Yindjibarndi people. The case also considered the transmission of native title rights and interests. It was found that the appellants' case at trial regarding an area known as "the Burrup" was based on alleged transmission of native title rights and interests from two Aboriginal persons said to be sole surviving members of group which originally inhabited the Burrup. The court also considered whether Members of the Yorta Yorta Aboriginal Community v Victoria (2003) 214 CLR 422 precluded inter-societal transfer of native title rights and interests.

Department of Land Affairs and Others v Goedgelegen Tropical Fruit (Pty) Limited. Constitutional Court of South Africa 6 June 2007

The Court gave judgment in a case concerning the rights of former labour tenants to restitution of land rights under the Restitution of Land Rights Act 22 of 1994. Section 2 of the Act provides for entitlement to restitution of rights in land where persons or communities were dispossessed of their rights as a result of past racially discriminatory laws or practices.

Wilma Freddie and Others on behalf of the Wiluna Native Title Claimants/Western Australia/Globe Uranium Ltd, [2007] NNTA 37

This case involves the proposed grant of exploration licence for uranium under the future acts regime. It concerns an expedited procedure objection application where the court considered whether the act is likely to interfere directly with the carrying on of community or social activities; whether act is likely to interfere with sites of particular significance; whether act is likely to cause major disturbance to land or waters; or whether the fact that the exploration is for uranium affects consideration of s 237.

Native title determinations: Deniliquin Local Aboriginal Land Council v Minister for Lands & NSW Native Title Services Limited (unreported, FCA, 14 June 2007, Jacobson J)

Guissepe v Registrar of Aboriginal Corporations [2007] FCAFC 91

This case concerns the validity of the appointment of an administrator to an Aboriginal corporation. The court noted that the period of one day to show cause against appointment of an administrator was not a reasonable period as expressly required by the statute and that the consequent appointment of the administrator was invalid. It was found that the primary Judge underestimated the difficulties faced by the corporation in responding to the notice and overestimated the urgency of the situation. However it noted that there was no denial of natural justice where the show cause notice was based only on the decision to cease funding to the corporation and not the causes for that decision and no opportunity given to respond to those causes. The court also looked at whether the minister had the requisite authority to approve the appointment of the administrator where the approval was minuted prior to authorisation of minister in question.

McIvor v The Registrar, Indian and Northern Affairs Canada 2007 BCSC 827

In considering the discriminatory effect of legislation, the Court found that that s. 6 of the 1985 Act violates s. 15(1) of the Charter in that it discriminates between matrilineal and patrilineal descendants born prior to April 17, 1985, in the conferring of Indian status, and discriminates between descendants born prior to April 17, 1985, of Indian women who married non-Indian men, and the descendants of Indian men who married non-Indian women.

Events

- [NTRU events calendar](#)

Indigenous Land Use Agreements

- See the [National Native Title Tribunal Website: Browse Registered ILUAs](#).
- Information about specific ILUAs is also available in the [Agreements, Treaties and Negotiated Settlements \(ATNS\) Database](#).
- The [Native Title Research Unit](#) also maintains an [ILUA summary](#) which provides hyperlinks to information on the NNTT and ATNS websites.

Indigenous land use agreement positions community to benefit from Aurukun bauxite project

AURUKUN: Deputy Premier, Treasurer and Minister for Infrastructure Anna Bligh, today announced an Indigenous Land Use Agreement had been entered into with the Wik and Wik

Way peoples, CHALCO (Aluminum Corporation of China) and the Aurukun Shire Council for the Aurukun bauxite project

Legislation

[Review of the Mineral Resources Act and the Fossicking Act \(Qld\)](#)

The Department of Mines and Energy (DME) is seeking feedback in its review of the Mineral Resources Act and the Fossicking Act. A discussion paper has been prepared to guide your feedback. The Review of Queensland mining legislation discussion paper (PDF, 372 kB)* includes details on how to reply. Closing date for submissions is 4.30pm 17 August 2007

[Victorian Heritage Services Overview: Aboriginal heritage legislation in Victoria](#)

The site has links to Information Sheets explaining the workings of the 2006 legislation which began on 28 May 2007.

Native Title Determinations

- See the [National Native Title Tribunal website: Browse Determinations](#)
- The [Agreements, Treaties and Negotiated Settlements \(ATNS\) Database](#) provides information about native title consent determinations and some litigated determinations.
- The [Native Title Research Unit](#) also maintains a [Determinations Summary](#) which provides hyperlinks to determination information on the Austlii, NNTT and ATNS websites.

Native Title in the News

- [NTRU Native title in the News](#)

Publications

Behrendt, Jason 'Changes to native title since Mabo' (2007) 6 (26) *Indigenous Law Bulletin* pp. 13-14.

Cairns, Alan C. 'Report of the Royal Commission on Aboriginal Peoples: Aboriginal nationalism, Canadian Federalism and Canadian democracy' (2007) 70 (1) *Saskatchewan Law Review* pp. 99-121

De Soyza, Anne 'Settling claims in Midas' land: the Goldfields after Harrington-Smith v Western Australia (No. 9)' (2007) 8 (2) *Native Title News* pp. 21-26

Howitt, Ritchie 'Scales of co-existence: tackling the tensions between legal and cultural landscapes in post-Mabo Australia' (2006) 6 *Macquarie Law Journal* pp. 49-64
McKenna, Marshall 'Wongatha - a question of framing?' A (2007) 26 (1) *Australian Resources and Energy Law Journal* pp. 43-50

Hughston, Vance 'Native title and the Bennell decision' (2007) 6(26) *Indigenous Law Bulletin* pp. 6-9.

Neate, Graeme 'New powers and functions of the National Native Title Tribunal' (2007) 6 (26) *Indigenous Law Bulletin* pp. 10-12.

O'Faircheallaigh, Ciaran 'Native title and mining negotiations: a seat at the table, but no guarantee of success' (2007) 6 (26) *Indigenous Law Bulletin* pp. 18-20

Sansom, Basil 'Yulara and future expert reports in native title cases' (2007) 17(1) *Anthropological Forum* pp. 71-92

Storey, Matthew 'Dealing in native title' (2007) 26(1) *Australian Resources and Energy Law Journal* pp. 56-68

Tonkinson, Robert 'Aboriginal 'difference' and 'autonomy' then and now: four decades of change in a Western Desert society' (2007) 17 (1) *Anthropological Forum* pp. 41-60

Reports

Native Title Research Unit. 2006. [Senior Professional Officers Workshop: Taxation, Trusts and the Distribution of Benefits, Native Title Research Report No. 1/2006](#), Native Title Research Unit, AIATSIS, Canberra

[Overcoming Indigenous Disadvantage: Key Indicators 2007](#). Productivity Commission.

[Guide to Sources of Assistance and Funding for Prescribed Bodies Corporate](#). Updated May 2007 NNTT.

[NNTT Guide to Australian Government Funding Sources](#).

The Guide to Australian Government Funding Sources provides information on nationally-available funding and assistance, for initiatives associated with native title, including indigenous land use agreements. Examples of initiatives include indigenous economic and social development, land management, conservation and cultural heritage protection

[What's new: Guidelines for providing assistance](#) for parties involved in native title matters.

[HREOC Native Title Report 2006](#)

Reviews & Reforms

'Hot Tubbing' anthropological evidence in native title mediations

This paper briefly examines the use of the 'hot tub' in native title trials and asks whether an approach developed for use in litigation can be used effectively in mediation.

The long road to statehood : Report of the inquiry into the federal implications of statehood for the Northern Territory

House of Representatives Standing Committee on Legal and Constitutional Affairs Chapter 5. Aboriginal interests and statehood

Federal Court Notice to practitioners - Conduct of Native Title Proceedings in the Federal Court of Australia

Reforms to Native Title Representative Bodies to benefit Indigenous Australians

Statement by Minister for Families, Community Services and Indigenous Affairs, Mal Brough Includes a list of NTRBs and their new recognition periods.

Native Customary Laws And Native Rights Over Land In Sarawak

Prepared by the State Attorney-General's Chambers, Sarawak for Human Rights Commission in 2004. Updated on 15 January, 2007

Cape York Institute. From Handout to Hand UP ; Cape York Welfare Reform Project
Aurukun, Coen, Hope Vale, Mossman Gorge Design Recommendations May 2007