

What's New October 2007

Cases

***Dorrigo Plateau Local Aboriginal Land Council v Minister Administering the Crown Lands Act* [\[2007\] NSWLEC 653](#)**

Dorrigo Plateau Local Aboriginal Land Council (the Land Council) claimed land under Div 2 of Pt 2 of the *Aboriginal Land Rights Act 1983* (the ALR Act). The Minister refused the claim on the grounds that the land was lawfully used and occupied by the Ebor Sports and Recreation Reserve Trust and was needed for the essential public purpose of "community purposes" when the claim was made. The Land Council appealed against this refusal under s 36(6) of the ALR Act. The Minister later changed the basis of his decision and said that the land was no longer "claimable Crown lands" being land likely to be needed for the essential public purpose of "community purposes" when the claim was made. Under s 36(7) of the ALR Act the Court must order the transfer of the land to the Land Council unless the Minister satisfies the Court that the land is not "claimable Crown lands" on the ground now identified. Justice Jagot noted that this is not a discretion and the requirement 'needs to be understood in the context of Parliament having expressly recorded the remedial purpose of the ALR Act'. His Honour said that the relevant time to determine whether the land was used for a community purpose would be when the claim was made not when it was determined and ordered the transfer of the land.

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.

Legislation

Indigenous Conservation Title Bill 2007 (WA)

The purpose of the Bill is to create a form of title that recognises Indigenous interests in the Rudall River National Park and the Gibson Desert Nature Reserve. The [explanatory memorandum](#) and the [text of the Bill](#) can be viewed online.

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

Corbellini, L 'Ethnographic evidence, rights and interests, and native title claim research' *Land, Rights, Laws: Issues of Native Title* vol. 3. no. 8, 2007.

Attorney General's Department, [Mediation Guidelines: Guidelines for the behaviour of parties and their representatives in mediation in the National Native Title Tribunal](#), Attorney General's Department Canberra, 2007.

Sosso, J, 'Good faith mediation', *National Native Title Tribunal ADR Bulletin*, vol. 9 no. 8, 2007, pp. 144-149.

This paper discusses the nature and extent of the obligation to act in good faith in relation to conduct at mediation within the context of the resolution of native title proceedings.

Willis, P, 'More native title in Victoria: Lovett on behalf of The Gunditjmarra People v State of Victoria [2007] FCA 474 (30 March 2007)', *Australian Resources and Energy Law Journal* Vol. 26 No. 2, 2007 pp. 137-143.

Lawrence, C, 'Aboriginal Heritage Act 2006 (Vic): a protection scheme for the native title era' *Australian Resources and Energy Law Journal*, Vol. 26 No. 2, 2007, pp. 143-146.

Lawrence, C and Scott, G 'Recent amendments to the Native Title Act 1993 (Cth): an overview *Australian Resources and Energy Law Journal*' Vol. 26 No. 2, 2007, pp. 219-222.

Wright, S, 'Appeals from the Daniel (Ngarluma Yindjbarndi) determination essentially maintain the status quo' *Native Title News*, Vol. 8 Iss. 4, 2007, pp. 69-70.

Daniel, A, 'Gunditjmarra native title determination: success for assisted dispute resolution in native title' *Native Title News*, Vol. 8 Iss. 4, 2007, pp. 67-68.

Bradfield, S, 'Separatism or status-quo?: Indigenous affairs from the birth of land rights to the death of ATSIC' *The Australian Journal of Politics and History*, Vol. 52 No. 1, 2007, pp. 80-97.

Reviews & Reforms

Revised PBC Guidelines

FaCSIA will be inviting NTRBs/NTSPs to consider the needs of PBCs in their region and where appropriate and necessary make a submission to FaCSIA for PBC funding.

FaCSIA has asked that NTRB/NTSP submissions to be provided by 27 October 2007, so that it can assess the submissions and take decisions on any PBC funding assistance before Christmas. PBCs wishing to submit a bid for funding support should contact their NTRB as soon as possible.

Those PBCs which have previously submitted bids for funding should revisit their submission in light of the attached approved Guidelines and if they still wish to submit a bid, they should resubmit a revised proposal to their NTRB that complies with the Guidelines.

The guidelines are available online [here](#).

Procedural directions

Amendments made in 2007 to the Native Title Act 1993 (Cth) has given the Tribunal more powers to perform its functions. To facilitate this, the Tribunal President issued a series of procedural directions, effective from 26 September 2007.

Some directions refer to other documents relevant to complying with one or more direction.

The directions may be amended from time-to-time in light of experience or as external circumstances change. Additional directions may be made on other topics as the need arises. More information on the direction can be found online:
http://www.nntt.gov.au/applications/procedural_directions.html

**Australia. Office of the Registrar of Aboriginal and Torres Strait Islander Corporations
Interaction between the Corporations (Aboriginal and Torres Strait Islander) Act 2006
and the Native Title Act 1993.**

How does the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act) interact with the Native Title Act 1993 and take into account the role and functions of prescribed bodies corporate?