

What's New November 2008

Cases

Australia

Bennell v State of Western Australia [\[2008\] FCA 1633](#)

A new body was recognised as the representative body for an area. The issue was whether the former representative body for the area, the Noongar Land Council, retained a sufficient interest to remain a party to the proceeding in respect of that area. Siopis J held that the Noongar Land Council did not retain enough interest to remain a party.

Vaughan William Corps & Darryl John Corps -V- Donald Kimberley North [2008 WAMW 15](#)

Whether an application for a miscellaneous license was lawfully granted. The grounds for the objection involved: compliance with regulation 37(3) of the Mining Regulations 1981; whether the applicant was required to obtain a permit before marking out; whether the purpose for which the license was sought was directly connected with the mining operations; whether the granting of the licence would injuriously affect or revoke an existing mining operation and; whether the granting of the license would be against the public interest. No grounds for objection were satisfied and the application was dismissed.

JED (Deceased) v State of Western Australia [\[2008\] FCA 1684](#)

Leave was granted for an application to replace the applicant due to death and to amend Form 1 of the application of a native title determination application.

Gia People v State of Queensland [\[2008\] FCA 1696](#)

Orders made as a result of repeated defaults by the applicants to comply with previous orders.

Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council - (2008) 249 ALR 602; [2008] HCA 48

Appeal from the Supreme Court of New South Wales. The court considered whether land was "claimable Crown land" under s 36(1) of Aboriginal Land Rights Act (NSW); whether land "lawfully used or occupied" under s 36(1)(b) of Act and; whether steps taken preparatory to intended sale of land constituted lawful use and occupation of land. The Court considered the meaning of "lawfully used or occupied" and whether "lawfully used or occupied" was a compound expression with a single meaning. In addition the court considered whether "used" and "occupied" should be considered separately, and the meaning of "use" and "occupied". Appeal was dismissed with costs.

Indigenous Land Use Agreements

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

Native Title Determinations

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

Native Title in the News

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

Publications

Reviews & Reforms

Graeme Neate, '[Native title claims: overcoming obstacles to achieve real outcomes](#)' (paper presented at Native Title Development Conference, Brisbane, 27 October 2008).

James Anaya, [Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people](#), 9th sess, Agenda Item 3, A/HRC/9/9 (2008).

Training and Professional Development Opportunities

- See the [Aurora Project: Program Calendar](#) for information about [Learning and Development Opportunities](#) for staff of native title representative bodies and native title service providers.

Events

- [NTRU events calendar](#)

(Sourced from NNTT Judgements and Information email alert service, the UN Human Rights Council website, and the Federal Court's Native Title Bulletin)