

What's New September 2009

(Sources include NNTT Judgements and Information email alert service and the Federal Court's Native Title Bulletin)

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Cases

Combined Gunggandji People v State of Queensland [\[2009\] FCA 979](#)

In this case a non-claimant party claimed entitlements over a part of the claim area in the Combined Gunggandji People native title application. The claim area lies to the south of Cairns, borders Mission Bay and includes the Yarrabah township. It is vested in the Council under a deed of grant in trust. The non-claimant party (Mr Ludwick) argued that he was entitled to a lease under section 361A or a licence to occupy under section 452A of the *Land Act 1962* (Qld). Justice Dowsett held that Mr Ludwick was entitled to a lease. He did not, however, determine whether Mr Ludwick was also entitled to a licence and the effect of the lease on native title but rather indicate he would hear further submissions

Jabiru Metals Ltd v Lynch [\[2009\] WASC 238](#)

In this case the issue was whether the situation arising in the case was fundamentally different from the situation contemplated by the contracts initially signed between Jabiru Metals and the native title claimants. In particular, did payments due to native title claimants under a mining agreement still need to be made after the native title claims had been dismissed? The court confirmed that the contracts had been terminated due to frustration. If payments were due as a result of accrued rights, these would be made voluntarily.

Nuoorilma Clan of the Gamilaray Aboriginal People v NSW Minister for Land & Water Conservation [\[2009\] FCA 1043](#)

In this case the native title claimants sought an extension of time to file a number of documents required under a previous court order. The judge was not satisfied that the extension should be granted because of the history of non-compliance with court orders and the resulting delay, expense and other prejudice to the respondent.

Legislation

[Aboriginal Land Rights Amendment Bill 2009](#) (NSW)

[Fisheries Management Amendment Bill 2009](#) (NSW)

[Native Title Amendment Act 2009](#) (Cth)

Government Reports

Australian Human Rights Commission, [“Our future in our hands” – Creating a sustainable National Representative Body for Aboriginal and Torres Strait Islander peoples](#), Australian Human Rights Commission, 2009.

The report outlines a proposed model for a new national representative body for Aboriginal and Torres Strait Islander peoples, which was designed and developed from 12 months of intensive consultations with Indigenous peoples.

Attorney-General’s Department, [‘A Strategic Framework for Access to Justice in the Federal Civil Justice System’](#), Report by the Access to Justice Taskforce Attorney-General’s Department, 2009.

The Access to Justice Taskforce was established to conduct a comprehensive examination of the federal civil justice system with a view to developing a more strategic approach to access to justice issues. The report is the result of that examination.

Chapter 3 discusses the ‘supply of justice’ – essentially the availability of solutions for the resolution of disputes. Native title is discussed within the context of types of disputes that are suited to particular forms of dispute resolution.

Native Title Determinations

The Native Title Research Unit maintains a [Determinations Summary](#) which provides hyperlinks to determination information on the Austlii, NNTT and ATNS websites.

Indigenous Land Use Agreements

The Native Title Research Unit maintains an [ILUA summary](#) which provides summary statistics and hyperlinks to information on the NNTT and ATNS websites.

Native Title in the News

The Native Title Research Unit publishes [NTRU Native title in the News](#) which contains summaries of newspaper articles and media releases relevant to native title. The story headings are as they appear in the press.

Native Title Publications

Jamie Baxter and Michael Trebilcock, ‘“Formalizing” land tenure in First Nations: Evaluating the case for reserve tenure reform’, *The Indigenous Law Journal*, vol.7, no.2, 2009, pp.45-122.

Katie O’Bryan, ‘Issues in natural resource management: inland water resources: implications of native title and the future of Indigenous control and management of inland waters’, *E Law: Murdoch University Electronic Journal of Law*, vol.14, no.2, 2007, pp.280-327.

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.