

NTRU Project Report

NTRU Publications

S Burnside, '[Negotiation in Good Faith under the Native Title Act: A Critical Analysis](#)', *Land, Rights, Laws: Issues of Native Title*, vol.4, no.3, 2009.

K Guest, '[The Promise of Comprehensive Native Title Settlements: The Burrup, MG-Ord and Wimmera Agreements](#)', AIATSIS Research Discussion Paper No. 27, 2009.

What's New

Legislative Reforms

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

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

[Major Transport Projects Facilitation Act 2009 \(Vic\)](#)

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

[Native Title Amendment Bill \(No. 2\) 2009](#)

Recent Cases

[Champion v State of Western Australia \[2009\] FCA 1141](#)

The applicant sought, under section 641A of the Native Title Act 1993 (Cth), to amend their native title claim. The amendments sought would substantially reduce the application area. The judge was satisfied that (a) the applicant had sufficient authorisation from the native title claim group for the application and (b) that the application should not be deferred as was suggested by an applicant in an overlapping application.

Coalpac Pty Ltd/State of New South Wales/North Eastern Wiradjuri People of the Bathurst, Lithgow, Mudgee area, [2009] NNTA 133 (19 October 2009)

This case concerned granting of a proposed mining lease to Coalpac Pty Ltd by the NSW Government. In response to a section 29 *Native Title Act 1993* (Cth) (NTA) notice, a native title claim was registered by the North Eastern Wiradjuri People who subsequently gained status to negotiate under the right to negotiate provisions of the NTA. The negotiations did not progress as the native title party split into two factions. There were four key issues to be resolved. First, it was held that the Tribunal should not reopen the issue of whether Coalpac had negotiated in good faith. Second, further evidence could not be presented by a representative of the native title party. Third, it was decided that the proceedings should not be stayed to allow an application to replace the native title applicants. Fourth, the requirements of procedural fairness had been satisfied.

Coalpac Pty Ltd/State of New South Wales/North Eastern Wiradjuri People of the Bathurst, Lithgow, Mudgee area, [2009] NNTA 137

This case concerns the same parties and set of facts as the case described above. In this case the Tribunal held that the mining lease to Coalpac Pty Ltd could be granted. Deputy President Sumner stated that it was regrettable that the native title party did not provide evidence to the inquiry due to the split, especially because the mining will seriously disrupt the capacity of the native title party to enjoyment of any native title rights and interest which may have existed.

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