

Tucker on behalf of the Narnooobinya Family Group v Western Australia [\[2009\] FCA 1459](#)

Under the *Native Title Act* 1993 (Cth) two separate motions were filed on 11 September 2009 by the Ngadju and Narnooobinya groups respectively for the determination of Native Title. While both claims overlap significantly, the Ngadju claim is more advanced than that of the Narnooobinya claim which has created delays for the Ngadju's submission. Therefore the Goldfields Land and Sea Council on behalf of the Ngadju people has sought a motion requesting that the Narnooobinya application be dismissed. The Narnooobinya applicants seek to dismiss this application in the course of seeking rejoinder to the Ngadju application. Marshall J, while acknowledging the caution with which to exercise the dismissal of Native Title claims has provided the Narnooobinya applicants with the opportunity to set out the details of their proposed application by 11th December 2009. Failure to comply will result in the dismissal of their Native Title claim.

Angale on behalf of the Irlpme Arrernte People v Northern Territory of Australia [\[2009\] FCA 1488](#)

The case concerned a native title application made in 2006 by the Irlpme Arrernte native title claim group. The application was made for the purpose of invoking the applicant's right to negotiate with the holders of an Exploration Licence Application in respect of land comprising some 270 square kilometres within the Bond Springs pastoral lease in the Northern Territory. In February 2008, the parties advised the court that, through negotiation, an agreement in respect of the Exploration Licence Application had been reached. However, the Irlpme Arrernte native title claim group did not formally withdraw the claim. Nor did the applicants further progress their claim for a period of more than a year and a half, despite directions from the court.

The Court thus considered that the mandatory dismissal provisions under section 94(C)(1) of the *Native Title Act* 1993 (Cth) had been triggered. The applicants had failed, despite directions, to take any steps to have their claim resolved and nor, on what the court was told, did they intend to. The Court considered that there were no compelling reasons not to dismiss the application. No-one would be prejudiced by the dismissal of the application. The claim, the court found, had served its purpose, and would continue to be available to the applicants in the future should they wish to reassert their rights. The application was thus dismissed.

Native Title Publications

Department of Finance and Deregulation, '[Evaluation of the Capacity Development Program of the Office of the Registrar of Indigenous Corporations](#)', Office of Evaluation and Audit (Indigenous Programs), Department of Finance and Deregulation, 2009.

National Native Title Tribunal, '[Guide to future act decisions made under the right to negotiate scheme](#)', National Native Title Tribunal, 2009.

D Ritter, *Contesting Native Title: From controversy to consensus in the struggle over Indigenous land rights*, Allen & Unwin, N.S.W, 2009.

CJ Sumner & L Wright, 'The National Native Title Tribunal's application of the Native Title Act in future act inquiries', *University of Western Australia Law Review*, vol. 34, no. 2, 2009.

J Sheehan, 'Native title holders as vulnerable publics: conflict between spatial planning and native title law in Australia', *Geography Research Forum*, vol. 29, 2009, pp. 132-140.

P Memmott, M Moran, C Birdsall-Jones, S Fantin, A Kreutz, J Godwin, A Burgess, L Thomson and L Sheppard, '[Indigenous home-ownership on communal title lands](#)' *AHURI Final Report*, no. 139, Australian Housing and Urban Research Institute, Melbourne, 2009.

J Render, [Mining and Indigenous Peoples Issues Review](#), International Council on Mining and Metals, London, UK, 2009.

Western Australian Government, [Ord-East Kimberley Development Plan](#), Department of Regional Development and Lands, Western Australian Government, Perth, 2009.

Native title in the News

National

23/12/2009 -AU- Native title blocking Indigenous home ownership Indigenous Business Australia blamed native title laws for blocking the signing of individual 99-year leases on lands held under Aboriginal trust in Queensland. This leaves many Indigenous Australians keen to own a home, instead forced to remain in the public housing system. The Mayor of Palm Island

disputes this claim. *Australian*, (National AU, 23 December 2009), 5. *Australian*, (National AU, 24 December 2009), 4.

New South Wales

10-Dec-2009 - NSW - Land use undecided Darug Traditional owners are seeking a determination on a native title claim via court appointed mediation. Traditional Owners are concerned that determinations on the heritage and cultural value of the land (which is earmarked for development), are being made by certifiers who claim to act on behalf of the Darug people, but do not have any affiliation with the group. *Penrith City Star*, (Sydney NSW, 10 December 2009), 11. *Rouse Hill Times* (Sydney NSW, 16 December 2009), 1.

23-Dec-09 - NSW - Native title claim registered Aboriginal families in the Wellington Valley have had their native title claim registered in the Native Title Tribunal. The claim covers a large tract of Central West land including Wellington, Mudgee and Orange. Gallangabang Aboriginal Corporation facilitated the claim for the traditional owners. *Wellington Times*, (Wellington NSW, 23 December 2009), 1, 5.

Northern Territory

27-Nov-09 - NT - Top End town handed back to first owners One of the longest-running native title claims in Australian history has been settled by a township being handed back to traditional owners. Jabiru township, 220km east of Darwin will now be leased back to the Federal Government rent free for 99 years. It will remain part of Kakadu National Park. The native title claim was originally lodged in 1997. *Northern Territory News*, (Darwin NT, 27 November 2009), 4.

Queensland

03-Nov-09 - QLD - Native title dismissed The Federal Court has dismissed three native title claims affecting the Central Highlands Regional Council area. The claims by the Ghungalu and Kangoulu People were dismissed on September 1 due to failure to comply with directions orders. *Blackwater Herald*, (Blackwater QLD, 3 November 2009), 6. *Morning Bulletin*, (Rockhampton QLD, 3 November 2009), 10.

04-Nov-09 - QLD - Missing link sorted Cairns Regional Council has agreed to acquire all native title rights over a

small area of the Cairns Esplanade to create a reserve. Councillors were told the matter was a longstanding issue which came about during Esplanade re-development. *Cairns Sun*, (Cairns QLD, 4 November 2009), 9.

07-Nov-09 - QLD - Step closer to native title claim Two north-west Queensland Aboriginal groups have moved closer to securing a native title claim on a segment of land in the lucrative minerals field. A Memorandum of understanding (MoU) was this week signed between the Balarnu Waluwarra and Wangkayujuri people and Mount Isa City, Boulia and Cloncurry Shire Councils. The negotiated native title interest will require the creation of an Indigenous Land Use agreement for almost 24,000sq km in three local government areas. *Townsville Bulletin*, (Townsville QLD, 7 November 2009), 15.

02-Dec-09 - QLD - Kuuka Ya'u ILUAs finalised The ILUAs set out how the Kuuku Ya'u Peoples, Queensland Government and Great Barrier Reef Marine Park Authority will work together to manage national parks and the marine park where native title exists. *Western Cape Bulletin* (Weipa QLD, 2 December 2009), 5.

11-Dec-09 - QLD - Consent Determination for the Girramay People The Federal Court has made a consent determination recognising the Girramay People as native title holders of almost 475ha in North Queensland. The determination covers 16 parcels of unallocated State land from Cardwell to Bilyana and Murray Upper area, north of Townsville. Four separate indigenous land use agreements which involve other parcels of state land have also been lodged. *Cairns Post*, (Cairns QLD, 11 December 2009), 7. *Townsville Bulletin*, (Townsville QLD, 11 December 2009), 4. *Innisfail Advocate*, (Innisfail QLD, 12 December 2009), 7. *Tully Times*, (Tully QLD, 17 December 2009), 5. *Herbert River Express*, (Ingham QLD, 31 December 2009), 14.

18-Dec-09 - QLD - Native Title Determination for Dulabed and Malanbarra Yidinji Peoples Native title rights have been won by the Dulabed and Malanbarra Yidinji peoples of far north Queensland. A Federal Court sitting in Gordonvale affirmed the groups' native title rights over 16,460ha of land and water 37km south of Cairns. *Cairns Post*, (Cairns QLD, 18 December 2009), 9. *Morning Bulletin*, (Rockhampton QLD, 18 December 2009), 18. *Warrnambool Standard*, (Warrnambool VIC, 18 December 2009), 12.

South Australia

5-Nov-09 - SA - Wilcherry Hill on target Ironclad's Wilcherry Hill project is on target for mining and production of iron in 2010. Recent drilling has revealed high levels of direct shipping ore at the site, north of Kimba. The company's in-house prefeasibility study is on track for completion by the end of the year, with native title, heritage clearances and approvals currently proceeding on schedule. *Eyre Peninsula Tribune*, (Cleve Sam 5 November 2009), 2.

13-Nov-09 - SA - Uranium fallout over native title Joint venture partners of what is expected to be Australia's next uranium mine are locked in a legal dispute over a native title agreement. Alliance Resources, a 25 percent stakeholder is accusing Quasar and Heathgate of exclusion while negotiating a native title agreement to possibly combine the Four Mile Project with Heathgate's Beverley mine. *Australian*, (AU, 13 November 2009), 25. *Advertiser*, (Adelaide SA, 13 November 2009), 1. *Age*, (Melbourne VIC, 13 November 2009), 5. *Advertiser*, (Adelaide SA, 13 November 2009), 85. *Australian*, (13 November 2009), 22.

26-Nov-09 - SA - Karno's dreaming of recognition for his people The Ramindjeri people have lodged a native title claim over Kangaroo Island in a bid for recognition as the traditional keepers of the land on the Fleurieu Peninsula. *Islander*, (Kingscote SA, 26 November 2009), 1.

19-Dec-2009 - SA - Maralinga lands given back to traditional owners The final section of the former Maralinga nuclear test site in South Australia's north was returned to traditional owners. It followed the passing of legislation in South Australian Parliament allowing for Section 400, an area of 3100sq km located about 300km north-west of Ceduna, to be handed back to the traditional owners. *Advertiser*, (Adelaide SA, 19 December 2009), 7. *Sunshine Coast Daily*, (Maroochydore QLD, 19 December 2009), 29. *Mercury*, (Hobart TAS, 19 December 2009), 81. *Sydney Morning Herald*, (Sydney NSW, 19 December 2009), 9. *Daily Liberal*, (Dubbo NSW, 19 December 2009), 16.

Victoria

4-Nov-09 - VIC - Wait on native title claims slammed Australian of the Year Mick Dodson has called for a drastic overhaul of Australia's education system and native title legislation. Professor Dodson announced his concerns whilst delivering this year's La Trobe University

Sir John Quick lecture at the Bendigo Town Hall. *Bendigo Advertiser*, (Bendigo VIC, 4 November 2009), 1.

Western Australia

4-Nov-09 - WA - Court rejects native title The Federal Court dismissed two native title claims over Dampier, Karratha, Wickman and Point Samson last week after the State Government applied to have the claims rejected. The claim was made by the Wong-goo-tt-oo people over these towns but was dismissed after the court ruled the claim could not be sustained in law. *Pilbara News*, (Pilbara WA, 4 November 2009), 7.

5-Nov-09 - WA - Native title negotiations winding up Years of negotiations between the State Government and Broome's traditional owners could be finalised by the end of the month paving the way for the expansion of Broome. It is understood that the package of native title agreements being negotiated will empower the Yawuru people, giving them authority in Broome's economic, environment and cultural development. Last week Yawuru man and Indigenous leader Professor Pat Dodson announced the Yawuru people had agreed to sign the native title agreement with the State Government. *Broome Advertiser*, (Broome WA, 5 November 2009), 1.

27-Nov-09 - WA - Telescope land deal Native title claimants have struck an agreement that will allow the world's most powerful telescope to be built on their land in Western Australia. The Wajarri people announced yesterday they had signed an agreement for the Pathfinder Telescope to be erected. The site is near the town of Meekatharra. *Canberra Times*, (Canberra ACT, 27 November 2009), 7. *Border Mail*, (Albury-Wodonga VIC, 27 November 2009), 12.

27-Nov-09 - WA - Native title fight A legal battle is looming between local Aboriginal groups over entitlements to a multibillion dollar port at Oakajee. The Mallard family, of the Nanda group, believe they have been unfairly left out of native title discussions. Bill Mallard said he had procured substantial funds to take legal action against the Naaguja claimant group. Mr Millard also claimed his ancestors hailed from the proposed Oakajee site and that he has historical documents to prove his ancestry. *Geraldton Guardian*, (Geraldton WA, 27 November 2009), 2.

03-Dec-09 - WA - Consent Determination for the Thudgari People The Thudgari Peoples' native title

claim over 11,280km of mainly pastoral country was determined at a Federal Court hearing at Ullawarra Station under Justice Michael Barker. It has taken 12 years to reach a consent determination, including two years of tribunal-facilitated mediation. The native title mediation included the development of 14 Indigenous Land Use Agreements (ILUAs). *Farm Weekly*, (Rural WA, 3 December 2009), 161. *Yamaji News*, (Geraldton WA, December 2009), 21.

10-Dec-09 - WA - Nyiyaparli people make agreements with Brockman Resources Limited WA iron ore company Brockman Resources Limited announced it had signed the second and final native title agreement with the Nyiyaparli peoples in the Pilbara. Brockman now has agreements in place with all native title claimant groups covering the entire Marillana Project site. *North West Telegraph*, (South Hedland WA, 9 December 2009), 5.

10-Dec-09 - WA - Martu Idjya Banyjima native title group sign access agreement Iron Ore Holdings (IOH) signed a final land access agreement for Phil's Creek with the Martu Idjya Banyjima native title group. This has ensured that a mining license can be granted. *West Australian*, (Perth WA, 10 December 2009), 54.

16-Dec-09 - WA - Native title deal signed for Mikurrnya mine site The Ngarla people have signed a heritage and mining agreement with the Boral Group of Companies regarding the Tabba Tabba rock quarry 40 kilometres east of Port Hedland. The agreement includes compensation to the Ngarla People for impact on their country and formal recognition that past operations had disturbed the Mikurrnya site, causing distress to the Ngarla People. *Pilbara Echo*, (Pilbara WA, 5 December 2009), 3. *North West Telegraph*, (South Hedland WA, 16 December 2009), 18.

19-Dec-09 - WA - Deal struck between Eastern Guruma native title holders, NRW Holdings and Rio Tinto Eastern Guruma native title holders have signed a deal with mining giant Rio Tinto. Under the deal, Eastern Guruma and NRW Holdings will build a road and then transport ore 15km to the Tom Price mine for processing and blending with other Pilbara Blend stocks. The four-year contract was designed to increase the Eastern Guruma people's equity in the joint venture from 25 to 35 per cent which would see a rise in Aboriginal employment levels to an average of 27 per cent throughout the entirety of the agreement. The contract includes a \$6 million component for training. *Sunshine Coast Daily*, (Maroochydore QLD, 19 December 2009), 108. *Illawarra Mercury*, (Wollongong NSW, 19 December 2009), 56. *Advertiser*, (Adelaide SA, 19 December 2009),

83. *Courier Mail*, (Brisbane QLD, 19 December 2009), 86. *Northern Territory News*, (Darwin NT, 19 December 2009), 39. *Herald Sun*, (Melbourne VIC, 19 December 2009), 86. *Sydney Morning Herald*, (Sydney NSW, 19 December 2009), 2. *West Australian*, (Perth WA, 19 December 2009), 79. *Townsville Bulletin*, (Townsville QLD, 19 December 2009), 71. *Bendigo Advertiser*, (Bendigo VIC, 19 December 2009), 54. *Launceston Examiner*, (Launceston TAS, 19 December 2009), 42. *North West Star*, (Mount Isa QLD, 21 December 2009), 14. *Warrnambool Standard*, (Warrnambool VIC, 21 December 2009), 18. *North West Telegraph*, (South Hedland WA, 23 December 2009), 4.

22-Dec-09 - WA - Native title resolution on agenda A Heads of Agreement process has been signed off with the South West Aboriginal Land and Sea Council. This has established a two-year timeframe for the negotiation of a settlement package to resolve all current and future native title claims across Perth and the South West. It ends the State Government's appeal against the Federal Court decision that Noongar people held native title on land where rights had not been extinguished. *Bunbury Herald*, (Bunbury WA, 22 December 2009), 11. *Albany Advertiser*, (Albany WA, 24 December 2009), 6. *Busselton Dunsborough Times*, (Busselton WA, 25 December 2009), 8. *Bunbury Mail*, (Bunbury WA, 30 December 2009), 5. *West Australian*, (Perth WA, 31 December 2009), 20.

23-Dec-2009 - WA - Owners to fight gas project deal Kimberley traditional owners have challenged an agreement between the State Government, Kimberley Land Council and Woodside to develop a gas precinct at James Price Point, 60km north of Broome. *West Australian*, (Perth WA, 23 December 2009), 18.