

## What's New?

### Recent cases

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria (No 6) [2010] FCA 1036**

**Atkinson on behalf of the Gunai/Kurnai People v State of Victoria (No 5) [2010] FCA 1035**

16 September 2010

Federal Court of Australia, Melbourne

North J

Letters from the Sporting Shooters Association and Mr Clive Sydney Hammett informed the Court that, contrary to their previous applications, neither party wished to be joined as a respondent to the proceedings any longer. Justice North dismissed the original applications that those parties be made respondents to this proceeding.

**Mangarrayi Aboriginal Land Trust v Banibi Pty Limited [2010] FCA 1195**

3 November 2010

Federal Court of Australia, Adelaide via video link with Darwin and Melbourne

Mansfield J

This proceeding concerned a disagreement between the Northern Land Council (NLC) and Banibi Pty Ltd (Banibi), a company whose shares were held by Mangarrayi Aboriginal Corporation (MAC). The disagreement concerned a Pastoral Land Use Agreement made in 2004 and varied in 2006 and 2008. Banibi saw the agreement as void but continued to occupy the pastoral station it covered. As the NLC considered that Banibi has repudiated the agreement, it gave notice of termination in 2010.

Justice Mansfield ordered that Banibi's first notice of motion; that MAC be joined as a respondent, was refused, as it was not supported by adequate evidence and MAC's status was not an impediment to progressing the proceeding.

In the second notice of motion, Banibi pleaded that ss. 19(6) and 5(2) of the *Land Rights (Northern Territory) Act 1976* (NT) were invalid because they

purported to permit compulsory acquisition of property otherwise than on just terms, contrary to s. 51(xxxi) of the Constitution and that therefore the NLC could not rely on those sections to maintain the validity of the 2008 agreement. Justice Mansfield allowed this notice of motion but required that an amended defence be filed by 5 November which would provide proper particulars in relation to several matters that he considered had not been properly addressed.

Certain paragraphs of the defence were not allowed but Banibi had leave to file a cross claim or a supplementary amended defence raising those general matters. The NLC also had leave to file an amended reply by 11 November 2010.

The application was listed for hearing on 15 November and costs were reserved.

**Allen, in the matter of North East Wiradjuri Co Limited (Administrators Appointed) [2010] FCA 1248**

5 November 2010

Federal Court of Australia, Sydney

Jacobson J

Bill Allen, Ester Cutmore and Robert Bugg applied for an interlocutory order appointing David Shannon and Bruce Gleeson as receivers and managers of the third plaintiff, North Eastern Wiradjuri Company Limited (NEWCO) and the defendant, North Eastern Wiradjuri Community Fund (NEWCF).

NEWCO and NEWCF are companies that were established to deal with payments received from native title properties. A dispute arose between two groups of shareholders of the two companies which resulted in a deadlock between them and an inability to conduct company affairs. Justice Jacobson considered that this deadlock was sufficient to justify the appointment of receivers. He found that it was just and convenient to appoint receivers to oversee the affairs of both companies and to supervise the receipt and safekeeping of moneys coming in while the ultimate dispute pended, as this would preserve the assets of both companies.

**Lovett on behalf of the Gunditjmara People v State of Victoria (No 2) [2010] FCA 1283**

**15 November 2010**

**Federal Court of Australia, Melbourne  
North J**

The Framlingham Aboriginal Trust had been a party to this application, but as a representative did not appear at the directions hearing of 15 November 2010, North J ordered that it cease to be a party to the application.

**Naghir People #1 v State of Queensland [2010] FCA 1265**

**17 November 2010**

**Federal Court of Australia, Brisbane  
Greenwood J**

Mr Phillip Mills applied on behalf of the Nagilgaul people to adjourn a mediation of the claims and contentions of the Nagilgaul people, the Mualgal people and the interests of the Billy family, scheduled for 17 and 18 November on Thursday Island in the Torres Strait.

The adjournment was necessary as two senior members of the Nagilgaul people had died earlier that week. The traditional laws and customs of the Nagilgaul people provide that the three individuals who were planning to travel to Thursday Island to participate in meetings should not do so until after the funerals of the deceased. There was some concern from the Torres Strait Regional Authority as Mr Mills had earlier advised that he wished to adjourn the meeting due to a meeting in Canberra he planned to attend on that date.

Justice Greenwood found that the proper course of action (despite the significant cost of the organisation of the meeting) was to adjourn the mediation, noting the importance of honouring and respecting the traditional laws and customs of the Nagilgaul people and as a matter of respect and dignity shown to the deceased. The Mualgal people and Torres Strait Regional Authority accept that

adjourning the mediation in these circumstances is the correct approach.

Mr Phillip Mills was required to provide an affidavit stating whether he engaged in any air travel or meetings in Canberra and whether he participated in any meetings with Commonwealth Government employees in other places during the period in which he first became aware of the deaths and the date of the funeral of each person.

The costs incidental to the adjournment were reserved for later determination.

**Cheedy v State of Western Australia [2010] FCA 1305**

**25 November 2010**

**Federal Court of Australia, Perth  
Gilmour J**

The appellant sought orders that the judgment in *Cheedy on behalf of the Yindjibarndi People v State of Western Australia* [2010] FCA 690 and two determinations of the National Native Title Tribunal (NNTT) (which were the subject of that judgment) be stayed, pending the outcome of the appeal to the Full Court of the Federal Court of Australia.

The order made by the Primary Judge was that the appeal be dismissed. As such an order is not executory, Gilmour J found that it was incapable of being stayed.

Justice Gilmour did not consider that staying the NNTT's orders was apt since the determinations were permissive in nature and did not require that any positive action be taken. He found that a more appropriate course of action in this case would have been for the appellant to approach the Court for orders restraining the respondent from taking steps to obtain mining leases (permitted by the NNTT's determinations). He also considered that any power to stay the determinations under s. 170(2) of the *Native Title Act 1993* (Cth), if this were possible, lay with the Primary Judge because it was before him that the appeals of those determinations, referred to by the NTA, were brought.

The motions were dismissed.

**Doyle on behalf of the Kalkadoon People #4 v State of Queensland (No 2) [2010] FCA 1398**

**8 December 2010**

**Federal Court of Australia, Brisbane**

**Collier J**

As they had not complied with a previous court order to indicate in writing whether they adopted the admissions of the State of Queensland, the Court ordered that Joseph Sandham Rogers, Italo Foschi, Elizabeth June Holt and Ernest William Arthur Holt ceased to be parties to the proceedings.

**Nelson v Northern Territory of Australia [2010] FCA 1343**

**8 December 2010**

**Federal Court of Australia, Newhaven**

**Reeves J**

This was an application for a determination of native title over an area of 2,610 square kilometres in the Northern Territory.

The native title holders are members of the Jipalpa-Winitjaru, Pikilyi, Yarripilangu-Karrinyarra, Watakinpirri and Winparrku landholding groups by virtue of descent (including adoption) through father and father's father and mother and mother's father.

The native title rights and interests possessed by the native title holders include the right to access and travel over any part of the land and waters; the right to live on the land, and for that purpose, to camp, erect shelters and other structures; the right to hunt, gather and fish on the land and waters; the right to take and use the natural resources of the land and waters; the right to take and use the natural water on or in the land; the right to light fires for domestic purposes, but not for the clearance of vegetation. They also include the right to access and to maintain and protect sites and places on or in the land and waters that are important under traditional laws and customs; the right to conduct and participate in the following activities on the land and waters: cultural activities; ceremonies; meetings; cultural practices relating to birth and death including burial rites; teaching the physical and spiritual attributes of sites and places on the land and waters that are important under traditional

laws and customs including the power to regulate the presence of others at any of these activities on the land and waters, other than persons exercising a right conferred by or arising under a law of the Northern Territory of Australia or the Commonwealth of Australia in relation to the use of the land and waters. They include the right to make decisions about the use and enjoyment of the land and waters including traditional items made from the natural resources; the right to be accompanied on the land or waters by persons who, though not native title holders are: people who have rights in relation to the land and waters according to the traditional laws and customs acknowledged by the native title holders or people required by the native title holders to assist in, observe, or record traditional activities on the areas.

The native title rights and interests do not confer rights and interests to the native title holders to the exclusion of all others. The native title rights and interests are subject to and exercisable in accordance with federal laws, laws of the Northern Territory and the traditional laws and customs of the native title holders.

Other interests in the area include that of the Australian Wildlife Conservancy, the rights of Aboriginal people pursuant to the reservation established under the *Pastoral Land Act 1992* (NT) and by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT), the rights of access by an employee, servant, agent or instrumentality of the Northern Territory or Commonwealth as required in the performance of statutory duties and the interests of persons to whom valid interests have been granted by the Crown pursuant to statute.

There are no native title rights and interests in minerals, petroleum or prescribed substances under the *Atomic Energy (Control of Materials) Act 1946* (Cth) or the *Atomic Energy Act 1953* (Cth).

The determination area covers 2,610 square kilometres of land in the central area of the Northern Territory that is held under a Perpetual Pastoral Lease called 'Newhaven'. Native title rights

and interests are wholly extinguished in the homestead, house, sheds and other buildings, the airstrip, bores, turkey nests, squatters' tanks, constructed dams and other constructed stock watering points, stockyards and trapyards.

Based on the description of the steps taken in the materials filed and the fact that the parties all had competent legal representation, Reeves J was satisfied that the agreement reached between the parties was free and informed and further, that terms of the proposed orders were unambiguous and clear. He was satisfied that the native title rights and interests were capable of being recognised by the common law of Australia.

The Court made the order to determine under the laws of Australia that native title exists according to the traditional laws and customs of the claimants' society and is held by the five landholding groups mentioned.

The native title holders had not yet nominated a prescribed body corporate to hold the native title on trust. An order was made that the operational commencement of the determination be delayed until a prescribed body corporate had been nominated and accepted by the Court.

**Roberts v State of Western Australia [2010] FCA 1483**

**9 December 2010**

**Federal Court of Australia, Perth**

**North J**

The Kariyarra people had divergent views as to which families formed part of their native title claim group. Both the applicant party and the State suggested that a Court expert be appointed to attempt to resolve the uncertainty in this case.

Justice North was satisfied that the case was of sufficient importance that the Court should devote its resources to funding the reasonable costs of an independent anthropological expert. He ordered that before 31 January 2011, the native title claim group and the State meet to attempt to agree on a suitably qualified and experienced anthropologist to

be appointed as a Court expert. He ordered that both parties report on any agreement reached by 14 February 2011. If agreement could not be reached, he ordered that by 14 February 2011 both parties file and serve the curriculum vitae of an anthropologist that the party believed the Court should engage. The matter was relisted for 21 February 2011.

**Doctor on behalf of the Bigambul People v State of Queensland [2010] FCA 1406**

**15 December 2010**

**Federal Court of Australia, Brisbane**

**Collier J**

An ILUA had been negotiated between the Bigambul native title claim group and the Queensland government which all of the members of the applicant for the claim group had signed, except for one individual. A claim group meeting was scheduled for 5 June 2010 to allow the group the opportunity to consider what should be done (if anything) in order to properly execute the ILUA. A decision was made at the meeting to replace the previous applicant with a new, proposed applicant.

A notice of motion was brought, seeking orders to replace the previous applicant with the proposed applicant who had been authorised at the claim group meeting. Those individuals who had been members of the previous applicant, but who, after the meeting, did not form part of the proposed applicant opposed the notice of motion.

Justice Collier considered the contentions of those members but did not uphold them. He found that that the authorisation meeting was properly conducted, that the authorisation had not been corrupted by the will of the individuals who wanted to replace the previous applicant, that those who attended the authorisation meeting were claim group members and therefore authorised to vote on resolutions and further, that those who attended were representative of the claim group.

Justice Collier stated that the evidence was clear that the resolutions at the claim group meeting were

passed with significant majorities and that the will of the Bigambul People as expressed at the meeting was to replace the previous applicant with the proposed applicant. An order was made to replace the applicant.

**Roe v State of Western Australia [2010] FCA 1436**

**17 December 2010**

**Federal Court of Australia, Perth  
Gilmour J**

The Court had previously upheld a claim of legal professional privilege asserted by the Kimberley Land Council (KLC) in relation to a connection report associated with the applicant's native title claim. The applicant called for the connection report to be published, claiming that the legal professional privilege had been waived because it had been used by Ms Rubinich, a consultant anthropologist for the KLC, in the formulation of her opinions expressed in her affidavit evidence.

Justice Gilmour found that Ms Rubinich had not used the report to formulate opinions expressed in her affidavit; rather that those opinions were based on materials in the affidavits that she had identified. He considered that she had used the report as a 'convenient reference' to enable her to locate relevant secondary sources. He found that Ms Rubinich had not disregarded or contravened the Court's guidelines for expert witnesses when preparing her affidavit by not mentioning the report in those affidavits.

Justice Gilmour upheld the KLC's claim for client privilege.

**Murray on behalf of the Yilka Native Title Claimants v State of Western Australia (No 3) [2010] FCA 1455**

**21 December 2010**

**Federal Court of Australia, Perth  
McKerracher J**

In this hearing, McKerracher J considered the future timetabling of this application. He outlined a number of key dates and conditions for the filing of draft

reports, written submissions and future hearing dates.

**Ashwin on behalf of the Wutha People v State of Western Australia (No 2) [2010] FCA 1472**

**23 December 2010**

**Federal Court of Australia, Perth  
Siopis J**

The State of Western Australia sought an order striking out the Wutha people's native title determination application on the basis that the application had not been properly authorised and was bound to fail. The State claimed that Lindgren J's decision in *Harrington Smith on behalf of the Wongatha People v State of Western Australia (No 9) (2007) 238 ALR 1 (Wongatha)*, where he found that in respect of the area of overlap, the Wutha claim was not authorised and dismissed it meant that the case was now bound to fail.

Justice Siopis found that, first, Lindgren J's decision was binding only in respect of what it decided: that in relation to the land comprising the overlap with the Wongatha claim, the Wutha claim was dismissed. He found that he was therefore not bound to follow that decision.

Second, he considered that Lindgren J was, based on his findings at that time, bound to dismiss the Wutha claim in so far as it related to overlap of land, however, since the introduction of s. 84D into the *Native Title Act 1993 (Cth)* (after the Wongatha decision), the Court is now allowed the discretion to determine whether a defect is conclusive to the fate of that determination and the Court was not bound to reach the same result. The State's application was therefore dismissed.

Justice Siopis stated that he would hear the parties on directions for the trial of whether the Wutha claim is lawfully authorised.

## Legislation

### Commonwealth:

#### Native Title Amendment Act (No. 1) 2010

The Act commenced on 16 December 2010, after receiving assent on 15 December 2010. The Act can be downloaded from:  
<http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/all/search/731C9AA6BF0E7D3ACA2577FF0002D6C7?OpenDocument>

#### Native Title (Notices) Amendment Determination 2010 (No. 1) Legislative Instrument - F2010L03001

This Determination amends the Native Title (Notices) Determination 1998 to include new provisions to give effect to the Native Title Amendment Act (No. 1) 2010. The Determination can be downloaded from:  
<http://www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/all/search/71736B8C610765FBCA2577D7007A28CB?OpenDocument>

#### Wild Rivers (Environmental Management) Bill 2010

This Bill proposes that the development or use of native title land in a wild river area cannot be regulated under the *Wild Rivers Act 2005* (Qld) without the agreement of the land owner. The Bill was referred to the Standing Committee on Economics on 17 November 2010. Report from the Committee is due end of autumn sittings in 2011.

Further information available at:

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=ld%3A%22legislation%2Fbillhome%2Fr4467%22>

### Queensland:

#### Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill 2010

Click here to download a PDF version of the Bill:  
<http://www.legislation.qld.gov.au/Bills/53PDF/2010/AbLTSILOLAmB10.pdf>

Click here to download a PDF version of the Explanatory Notes:

<http://www.legislation.qld.gov.au/Bills/53PDF/2010/AbLTSILOLAmB10Exp.pdf>

## Native title publications

### AIATSIS Publications:

R Morgan and H Wilmot, *Written proof: the appropriation of genealogical records in contemporary Arrernte society*, Land, Rights, Laws: Issues of Native Title, Vol 4. Issue Paper 5, 2010.

### Articles:

- M Durette, A comparative approach to Indigenous legal rights to freshwater: key lessons for Australia from the United States, Canada and New Zealand, *Environmental and Planning Law Journal*, Vol. 27, No. 4, 2010, pp. 296-315.
- D Howard-Wagner & A Maguire, 'The holy grail' or 'the good, the bad and the ugly'? : a qualitative exploration of the ILUAs agreement making process and the relationship between ILUAs and native title, *Australian Indigenous Law Review*, Vol. 14, No. 1, 2010, pp. 71-85.
- J Hunt, *Looking After Country in New South Wales: Two Case Studies of Socioeconomic Benefits for Aboriginal People*, CAEPR Working Paper 75, 2010. Download at:  
<http://caepr.anu.edu.au/Publications/WP/2010WP75.php>
- J Hunt & D Campbell, *Community Development in Central Australia: Broadening the Benefits from Land Use Agreements*, Centre for Aboriginal Economic Policy Research, Topical Issue 7 / 2010, December 2010. The article can be downloaded from:  
<http://caepr.anu.edu.au/Publications/topical/2010TI7.php>
- C Ross and B Merner, *Traditional Owner Settlement Bill 2010*, [Victorian] *Parliamentary Library Research Service, Research Brief*, Number 13, August 2010.

- U Secher, The concept of 'operational inconsistency' in Australia: implications for native title: the common law and statutory positions. Part 1, *Australian Property Law Journal*, Vol. 18, No. 2, 2010, pp. 150-184
- U Secher, The concept of 'operational inconsistency' in Australia: implications for native title: the common law and statutory positions. Part 2, *Australian Property Law Journal*, Vol. 18, No. 3, 2010, pp. 218-244.
- R Webb & M McKenna, Proving continuity in community: reviewing implications of the *Sampi/Bardi* 2010 decision, *Native Title News*, Vol. 9, Iss. 9, 2010, pp. 145-150.

#### Books:

- L Godden and M Tehan (eds), *Comparative perspectives on communal lands and individual ownership: sustainable futures*, Abingdon, Oxon, [England]; New York, NY : Routledge, 2010.
- R. J. Miller, J Ruru, L Behrendt and T Lindberg, *Discovering indigenous lands: the doctrine of discovery in the English colonies*, Oxford: Oxford University Press, 2010.

#### Reports:

##### **Browse LNG Precinct Strategic Assessment Report (SAR)**

The Department of State Development on behalf of the State of Western Australia, proposes to develop the Browse LNG Precinct as a common user facility to process natural gas from the Browse Basin gas fields, near James Price Point, approximately 60 kilometres north of Broome, on the West Kimberley coast of Western Australia. A Strategic Assessment Report on the proposed precinct has been prepared by the Department of State Development in accordance with Western Australian Government procedures and Terms of Reference agreed between the State and the Commonwealth. The Strategic Assessment Report describes the proposal, examines the likely environmental and social effects and the proposed environmental management procedures associated

with the proposed development. The Strategic Assessment Report is released for 12 weeks public review commencing on Monday 13 December 2010. (Summary provided by NNTT). The report can be downloaded from: <http://www.dsd.wa.gov.au/8249.aspx>

##### **Kimberley Land Council – Indigenous Impacts Report.**

The Kimberley Land Council has released a six-volume Indigenous Impacts Report that identifies what is needed to achieve responsible development of natural gas resources off the Kimberley Coast. The Indigenous Impacts Report examines the likely effects of LNG development in one of the most comprehensive studies of its type undertaken in Australia, funded by the Government of Western Australia and prepared under the direction of the KLC and Traditional Owners for James Price Point. Volume 1 of the Report provides an overview of the remaining five volumes and consolidates all of their recommendations. Volume 2 looks at the issue of Traditional Owner consent and Indigenous community consultations. Volume 3, the most extensive part of the Report, examines the economic and social impacts of LNG development. Volume 4 examines impacts on heritage; Volume 5 provides an archaeological site survey of James Price Point; Volume 6 is an ethnobiological report that focuses on Indigenous environmental values. (Summary provided by NNTT). The report can be downloaded from:

<http://klc.org.au/2010/12/09/james-price-point-indigenous-impacts-report-released/>

##### **Administration of Funding Agreements with Regional and Remote Indigenous Organisations / Report by the Commonwealth Ombudsman**

Indigenous organisations working in regional and remote areas face unique challenges, particularly when their funding is largely derived from government grant programs. Complex grant requirements and a failure to adequately support Indigenous organisations to meet reporting requirements increase the risk that these organisations will fail, even where the programs are being delivered successfully. A focus on delivering services efficiently whilst simplifying and reducing

the burden of administrative and reporting requirements is needed. This report explores some of these challenges and outlines five principles for better administration by government agencies of funding agreements with regional and remote Indigenous organisations. (Summary provided by NNTT). The report can be downloaded from: [http://www.ombudsman.gov.au/files/office\\_for\\_the\\_arts\\_dpmmc\\_admin\\_of\\_funding\\_agreements.pdf](http://www.ombudsman.gov.au/files/office_for_the_arts_dpmmc_admin_of_funding_agreements.pdf)

### **Annual Highlights Report for Queensland's Discrete Indigenous Communities July 2009 – June 2010**

This report evidences the Queensland Government's ongoing commitment to closing the gap between the life outcomes and opportunities experienced by Aboriginal and Torres Strait Islander Queenslanders and non-Indigenous Queenslanders. It is the first *Annual Highlights Report for Queensland's Discrete Indigenous Communities July 2009 – June 2010* and provides information on achievements in Queensland's discrete Indigenous communities. It incorporates the *Quarterly report on key indicators in Queensland's discrete Indigenous communities for April – June 2010* and significantly, for the first time, provides a detailed trend analysis of data on key indicators over the years since this data has been collected. (Summary provided by NNTT). The report can be downloaded from: <http://www.parliament.qld.gov.au/view/legislativeAssembly/tableOffice/documents/TabledPapers/2010/5310T3779.pdf>

## **Native title in the news**

### **National**

**20/12/2010**

#### **Tax Toll on Native Title Payments**

The Australian Treasury has received 33 submissions in regards to the Native Title, Indigenous Economic Development and Tax Consultation Paper. Thirty-two of these are public submissions and one is confidential. This article outlines some of the submissions including The

Minerals Council of Australia, who have argued that the payments to Indigenous landholders be exempt from the mineral resources rent tax.

Some of the proposals included in the Consultations Paper include a blanket tax exemption for native title payments, the creation of a tax exempt Indigenous community fund and a native title withholding tax originally considered by the Howard government in 1998. While the mining sector has broadly backed the concept of the community fund, BHP is opposed to tax breaks for native title payments to individuals, declaring they would be 'free to spend (the benefits) at their discretion' rather than preserving them for future generations.

All public submissions are available for download from:

<http://www.treasury.gov.au/contentitem.asp?ContentID=1916&NavID=037> *Australian* (Australia, 20<sup>th</sup> December 2010), 2.

### **New South Wales**

**16/11/10**

#### **Hunter Valley Mining Lease**

The Wonnarua Nation Aboriginal Corporation has distanced itself from statements made by another Aboriginal Group who is preparing to negotiate with Ashton Coal over a mining lease in the Hunter Valley. Their acting chief executive officer Laurie Perry has said that his organisation did not support the statements by Scott Franks, on behalf of the Wanaruah Plains Clans in *The Singleton Argus*. Mr Perry said 'it is important that people understand that The Wonnarua Nation Aboriginal Corporation, at this stage, has no involvement in the negotiations with Ashton Coal, in relation to the proposed expansion of mining through the south east open cut project.' *Singleton Argus* (*Singleton NSW, 16 November 2010*), 2.

**01/12/2010**

#### **Hay Community Sign MOU**

Head of the National Parks and Wildlife Service, Sally Barnes said environmental and cultural



management in the region has been given a boost with the signing of a Memorandum of Understanding by the Nari Nari Tribal Council, Hay Local Aboriginal Land Council and NSW Department of Environment, Climate Change and Water.

'The MOU formalises the existing positive partnership between the organisations and helps to ensure future support and involvement in the management of parks, reserves and protected land,' Ms Barnes said. *Riverine Grazier* (Hay NSW, 1 December 2010), 5.

### 03/12/2010

#### **Wonnarua Peoples Land Claim**

Ashton Coal is required to negotiate its plans to mine under Bowman's Creek near Singleton due to the National Native Title Tribunal approving a native title claim from the Plains Clans of the Wonnarua People relating to a part of land opposite Camberwell Village.

Scott Franks, spokesman of the Plains Clans of the Wonnarua People, said the area affected by the claim was of major importance to the Aboriginal people of this region. Ashton Coal and the traditional owners are now in confidential discussions as part of the native title claim process. A separate Aboriginal group, the Wonnarua Nation, is also in the process of lodging a claim relating to the area. *Newcastle Herald* (Newcastle NSW, 3 December 2010), 23.

### **Northern Territory**

#### 16/11/2010

#### **Alice Springs Telegraph Station Historical Reserve**

Locals are invited to have their say on a new joint management plan for the Alice Springs Telegraph Station Historical Reserve. The 1171ha reserve will be jointly managed by the Lhere Atrepe native title body and the NT government. Parks and Wildlife Minister Karl Hampton stated 'the joint management plan will provide direction for the management of

the Reserve for the next 10 years, outlining how the interests of the community, traditional owners, heritage and conservation values will be served.' *Centralian Advocate* (Alice Springs NT, 16 November 2010), 4.

#### 19/11/10

#### **Dispute Resolved**

The Federal Court has ordered a private company, Banabi Pty Ltd, which has held the grazing licence at Eley Station for nearly 10 years to leave by November 26, 2010. Banabi Pty Ltd is owned by traditional owners and is backed by the federal Indigenous Land Corporation. It has held the grazing licence at Eley Station, about 120km south of Katherine, for nearly 10 years. The Northern Land Council applied to the Federal Court to evict Banabi after allegations that the property was not being managed well. *Northern Territory News* (Darwin WA, 19 November 2010), 7.

### **Queensland**

#### 9/11/10

#### **Wild Rivers**

Tony Abbott, the federal opposition leader, has announced that he intends to table a private members bill in Parliament designed to roll back existing Wild Rivers declarations, and limit the capacity for future declarations to be made, with or without the support of key Indigenous leader Murrandoo Yanner.

Mr Abbott has the support of powerful Cape York Aboriginal leader Noel Pearson, other Cape York Indigenous leaders, mining companies, farming lobby groups and north Queensland independent MP Bob Katter for his bill, but has so far failed to convince Mr Yanner. Mr Abbott met with Mr Yanner during November to try and gain support for his Bill. Mr Yanner said 'the greatest minds in my region are perplexed by this [the bill] because we don't see the reason for it'.

In related news, Anna Bligh has announced five new Aboriginal ranger jobs in north Queensland; this will take the total to 35. *Courier Mail* (Brisbane QLD, 9 November 2010), 19. *Courier Mail*

(Brisbane QLD, 10 November 2010), 2. *Australian* (Australia, 10 November 2010), 2. *Cairns Post* (Cairns QLD, 10 November 2010), 4. *Cairns Post* (Cairns QLD, 10 November 2010), 4. *Courier Mail* (Brisbane QLD, 12 November 2010), 8. *Courier Mail* (Brisbane QLD, 16 November 2010), 18. *Sydney Morning Herald* (Sydney NSW, 16 November 2010), 7. *Age* (Melbourne VIC, 16 November 2010), 8. *Townsville Bulletin* (Townsville QLD, 16 November 2010), 3. *North West Star* (Mount Isa QLD, 17 November 2010), 7. *North Queensland Star* (Townsville QLD, 18 November 2010), 11.

#### 11/11/10

##### **Native Title Agreement for Palm Island**

Palm Island Aboriginal Council and the Manbarra people have met to work towards the first native title agreement which will include social housing, home ownership, and economic and commercial development, while preserving the native title rights and interest of the Manbarra people. Natural Resources Minister Stephen Robertson welcomed the ratifying of a decision to move towards an Indigenous land use agreement. *Townsville Bulletin* (Townsville QLD, 11 November 2010), 5. *National Indigenous Times* (Malua Bay NSW, 25 November 2010), 14.

#### 24/11/10

##### **New Bill Introduced to Parliament**

Aboriginal and Torres Strait Islander communities could gain more options to manage and develop their land under the Aboriginal and Torres Strait Islander Land and Other Legislation Amendment Bill (QLD), which was introduced to Queensland Parliament. The bill proposes additional leasing and land transfer arrangements for Indigenous communities. If passed, the bill will allow Indigenous communities to appoint existing community groups to manage land. *Cairns Post* (Cairns QLD, 24 November 2010), 7.

#### 25/11/10

##### **Claim Lodged on Gold Coast**

The Gold Coast Native Title Group lodged an application for a determination of native title with the

Federal Court in September 2006 over an area of 1640sq km between Beenleigh and Tweed Heads. The Native Title Registrar has accepted the application for registration. *Gold Coast Sun* (Gold Coast QLD, 24 November 2010), 3. *Gold Coast Sun* (Gold Coast QLD, 25 November 2010), 3.

#### 26/11/10

##### **Cape York National Park**

The Queensland State Government will return more than 75,000ha of Cape York national park to traditional owners and rewrite a shameful chapter in Queensland's history', Sustainability Minister Kate Jones says. Another 380,000ha of land that makes up the remainder of the Mungkan Kanju National Park, northwest of Cairns will be jointly managed by the Government and the Wik Mungan people under changes approved in State Parliament. *Courier Mail* (Brisbane QLD, 26 November 2010), 22.

#### 05/12/2010

##### **Fraser Island Claimants**

Butchulla elder Frances Gala, 68 has lodged for 'party status' in the Federal Court against current native title claims on Fraser Island. There are currently two applications registered with the National Native Title Tribunal by the Butchulla people for more than 8500sq km of Hervey Bay land and sea and for Fraser Island. *Sunday Mail* (Brisbane QLD, 5 December 2010), 24. *Fraser Coast Chronicle* (Hervey Bay QLD, 7 December 2010), 4.

#### 16/12/2010

##### **Largest Native Title Determination in Qld**

The largest single native title determination in Queensland's history which covers about 1.73 million hectares was handed down to the Waanyi People. The determination area extends to the town of Gregory Downs in the east, north to the Nicholson River, south to O'Shannassy River and across to the state's border with the Northern Territory.

The Queensland Government says the decision affirms the Waanyi People as custodians of their ancestors' land. This decision formally

acknowledges that Waanyi People have, and always have had, the right to camp, hunt, fish and gather in the area, maintain places of significance, and conduct ceremonies in accordance with their traditional laws and customs. *North Queensland Register* (Townsville QLD, 16 December 2010), 12.

**17/12/2010**

#### **Land Secured**

In an historic celebration on the weekend at Kuranda, 1600ha of land was leased to the people of Mona Mona. Aboriginal and Torres Strait Islander Partnerships Minister Desley Boyle and Member for Barron River Steven Wettenhall attended the celebration. Ms Boyle said the lease was a significant step forward for Indigenous land management in Queensland. It also delivers on a 2009 election commitment to re-examine the future land tenure of the reserve. 'The lease effectively returns a place of spiritual significance to the people of Mona Mona'. Mr Wettenhall said the Mona Mona Bulmba Aboriginal Corporation would hold the lease and manage the land. *Tablelands Advertiser* (Mareeba QLD, 17 December 2010), 7.

### **Western Australia**

**3/11/10**

#### **Housing Shortage in Coral Bay**

Western Australia's Lands Minister Brendon Grylls and members of the Baiyungu Aboriginal Corporation (BAC) have signed a land transfer document which gives the BAC freehold ownership of about 30ha of the crown land near the town centre of Coral Bay. In return the state will be able to lease back just over one hectare of the site to provide seasonal staff accommodation in the town. Mr Grylls said the agreement would enable the development of a 70-bed facility to provide short term accommodation for people employed in the local tourism industry. *Northern Guardian* (Carnarvon WA, 3 December 2010), 4. *Yamadji News* (Geraldton WA, November 2010), 16.

**4/11/10**

#### **10 Year Conservation Plan**

A 10 year conservation plan covering 16 million hectares of southeast WA is aimed at halting the loss of native vegetation. Western Australia's Environment Minister Donna Faragher said the plan will eradicate feral dogs and other pests through a buffer zone, support the resolution of many native title claims, implicate joint management with traditional owners and provide a tourist attraction. *West Australian* (Perth WA, 4 November 2010), 18.

**4/11/10**

#### **James Price Point**

The Western Australian State Opposition has slammed Premier Colin Barnett's move to compulsorily acquire the land surrounding James Price Point, saying the move slapped indigenous land holders and the Broome community squarely in the face. Shadow treasurer Ben Wyatt and shadow regional development minister Mark McGowan claimed the Broome community requires better consultation from the State Government on gas issues. In other related articles, Premier Colin Barnett has denied stalling a string of native title claims to gain a 'bargaining chip' to force the Kimberley Land Council to reach settled negotiation on the James Price Point land. *Broome Advertiser* (Broome WA, 4 November 2010), 16. *West Australian* (Perth WA, 18 November 2010), 10. *Perth Voice* (Perth WA, 20 November 2010), 5. *Fremantle Herald* (Perth WA, 20 November 2010), 5. *Sydney Morning Herald* (Sydney NSW, 20 November 2010), 4. *The Weekend West* (Perth WA, 20 November 2010), 65. *Sydney Morning Herald* (Sydney NSW, 22 November 2010), 2. *West Australian* (Perth WA, 22 November 2010), 13. *Broome Advertiser* (Broome WA, 25 November 2010), 7. *Age* (Melbourne VIC, 25 November 2010), 12.

**6/11/10**

#### **Woodside Gas Tests**

Woodside Petroleum has started preliminary work for the design of the \$30 billion gas precinct. Kimberley Land Council members have stated that this is a 'kick in the guts for traditional owners [who are] working hard to see this project done

responsibly'. Jabirr Jabirr man Anthony Watson said 'it's worrying us to consider Woodside is willing to progress this work on country regardless of the concerns of traditional owners'. Mr Watson also said the work was in breach of a heritage protection agreement between the land council and Woodside. *Canberra Times* (Canberra ACT, 6 November 2010), 6. *Herald Sun* (Melbourne VIC, 6 November 2010), 87. *Oil & Gas Review* (Australia, November 2010), 3. *National Indigenous Times* (Malua Bay NSW, 25 November 2010), 4,5.

### 10/11/10

#### WA Native Title Amendments

Native title groups have reacted strongly to the WA Government proposal to streamline native title. The proposal requires Indigenous land use agreements (ILUAs) to be negotiated at the same time as claimants are proving they are traditional owners. Native title groups have said it would result in fewer claims being determined and less certainty for the resource industry.

Yamatji Marlpa Aboriginal Corporation chief executive Simon Hawkins said combining the two processes would add an extra level of complexity to the already complex process. The proposed amendment was slammed by National Native Title Council chief executive Brian Wyatt as taking WA back to the dark ages. 'The Western Australian Government has an attitude of development at any

cost but this type of approach will not contribute to the goal of closing the gap that all other stakeholders, including industry are striving to achieve,' Mr Wyatt said. *North West Telegraph* (South Hedland WA, 10 November 2010), 19.

### 30/11/10

#### Joseph Roe Challenge

Joseph Roe commenced a legal challenge to being ousted as a named applicant on the Goolarabooloo Jabirr Jabirr native title claim. The Broome hearing was instigated by the Kimberley Land Council for the claimant group after its members voted in August to remove Mr Roe and Cyril Shaw as named applicants and replace them with six others. The move followed a breakdown in negotiations after the group entered into an agreement with Woodside Pty Ltd and the WA State Government to allow a \$30 billion gas processing precinct at James Price Point a move Mr Roe strongly opposes. Mr Roe lodged an objection in the Federal Court, claiming several of the new applicants were not authorised to speak for the Goolarabooloo Jabirr Jabirr people. *West Australian* (Perth WA, 30 November 2010), 13.