

COX ON BEHALF OF THE YUNGNGORA PEOPLE V STATE OF WESTERN AUSTRALIA (NOONKANBAH)

Federal Court of Australia, Western Australian District Registry (French J)
27 April 2007
[2007] FCA 588

This matter involved a claim brought by the applicant, Dickey Cox, on behalf of the Yungngora People, for a determination of native title according to the terms agreed upon by the parties. It marks the conclusion of 'a long and difficult path', as French J acknowledged in confirming the determination.

The Court's order in this matter reflects an agreement made between the parties about the resolution of the matter, as reflected in the Minute of Consent Determination of Native Title, subject to the applicant's finalisation of the rules of a prescribed body corporate in order to act as a native title body corporate under the *Native Title Act 1993* (Cth) ('NTA') for the purposes of administering the area in question.

Justice French affirmed that the Court has the power, under sections 87(2) and 94A of the *NTA*, to make such determinations. His Honour then endorsed the terms of the parties' Minute of Consent Determination. The determination therefore provides that, within six months, representatives of the common law native title holders over relevant lands will nominate a prescribed body corporate to be the trustee of those interests. Alternatively, if that action is not taken within six months, the rights will remain with their common law holders and the matter will be re-listed for hearing.

The determination, described in the First Schedule to the judgment, extends from Noonkanbah Station and comprises approximately 1,800 square kilometres of land. Determination of native title is subject to other rights and interests in general, and to five reserves – one for a stock route, one for an aerodrome, two mining tenements and one petroleum interest (as defined in the Second Schedule). The determination is also subject to public works and road exclusions (as defined in the First Schedule).

Subject to those limits, the determination grants the Yungngora People communal (and coexisting) rights to possess, occupy, use and enjoy the land to the exclusion of all others. It also grants rights in relation to camping; the taking of natural resources for personal, domestic and non-commercial purposes; and engaging in ceremony and protecting and caring for various sites of significance to the applicants.

The full text of this determination is available at: <http://www.austlii.edu.au/au/cases/cth/federal_ct/2007/588.html>.