

Legal

The legal work of the ILC is coordinated through an in-house solicitor. The legal section was involved in a wide variety of matters through the year, including legal advice, litigation, commercial and property services. The principal suppliers of legal services to the ILC are the regional offices and Office of General Counsel of the AGS.

The senior management portfolio for the Legal Section is held by the Eastern Divisional Manager

Litigation Matters

Bidjara Aboriginal Housing and Land Company Limited v ILC

On 25 October 2000 Kiefel J. of the Federal Court [2000 FCA 1501] dismissed the application by Bidjara Aboriginal Housing and Land Company Limited ('Bidjara') that the ILC had acted contrary to section 191D(3)(b) of the *ATSIC Act* in not transferring the Mt Tabor pastoral lease to an Aboriginal and Torres Strait Islander Corporation within the meaning of the Act. In delivering judgment, Kiefel J found that the ILC had maintained a preference to divest the subject land to a corporation that represented persons with a traditional connection to the land and in so doing was acting in a manner that is consistent with the ILC's policy documents (ie the NILS 1996-2001, the Regional Indigenous Land Strategy for Queensland and the land acquisition guidelines).

The ILC was justified in taking the approach of awaiting the outcome of relevant native title proceedings to achieve its policy objectives, namely the identification of traditional owners or persons with traditional links with the land.

The full Federal Court delivered its decision [2001 FCA 138] in this matter on 27 February 2001. The Court dismissed the appeal by Bidjara. The Full Court supported the action taken by the ILC to defer any grant of the land until after the determination of the native title claim and expressed the view that circumstances may arise after acquisition and before a grant of land, which, in the opinion of the ILC, make a grant no longer appropriate.

Sharon Firebrace v ILC

On 30 June 2000 Ms Sharon Firebrace as plaintiff commenced proceedings

in the Federal Court, Australian Capital Territory District Registry, seeking injunctions and declarations against the ILC, Mr John Wilson (the ILC GM of the time) and Mr Stephen Skehill (the Minister's appointed inquirer into behaviour of the ILC Board).

The plaintiff claimed that there had been a breach of natural justice due to an apprehension of bias against herself, as chairperson of the ILC, in the undertaking of the private report by Mr Stephen Skehill. On 5 September 2001, Justice Conti dismissed the interlocutory action of the plaintiff and shortly afterwards a notice of discontinuance in relation to the whole of the action was filed by the plaintiff. Costs were awarded to the ILC.

Freedom Of Information Requests

Two requests for documents were made under the *Freedom of Information Act 1982*. They were from:

Mr Mark Nevill MLC

A request for documents which detail the nature and date and work undertaken by any consultancies and any payments made to any consultants since 1 July 1995 by the ILC or LEA or related companies to:

- (a) Mr Peter Yu or any associated company
- (b) Mr Patrick Dodson or any associated company
- (c) any consultant for work associated with the purchase and operation of Roebuck Plains Station.

No documents were found relating to Mr Peter Yu. The documents found relating to the other requests were released.

Mr Gary Pappin, Mutthi Mutthi Aboriginal Corporation

A request for documents from the ILC Canberra office on 20 December 2000 regarding Billa Downs Station.

His request was granted and the documents were released.

