

Party status – respondents removed

Kuuku Ya'u v Queensland [2006] FCA 1500

Greenwood J, 13 November 2006

Issue

The issue before the Federal Court was whether John and Nancy Wolff should be removed as respondents to the proceedings relating to the combined Kuuku Ya'u claimant application.

Background

On 20 March 2003, the Kuuku Ya'u application was amended to remove parcels of land in which John and Nancy Wolff (the Wolffs) held an interest. The relevant lots were special leases, all of which had expired by 31 July 1998. The relevant area had been subsumed into a national park in March 2000.

On 1 November 2006, the applicant in the Kuuku Ya'u application sought an order under s. 84(8) of the *Native Title Act 1993* (Cwlth) (NTA) that the Wolffs be removed as respondents. That subsection provides that the Federal Court may, at any time, order that a person (other than the applicant), cease to be a party to the proceedings. The court is to consider making an order under s. 84(8) if, among other things, it is satisfied that 'the person never had, or no longer has, interests that may be affected by a determination in the proceedings'.

Decision

Justice Greenwood held that the Wolffs should be removed as parties because:

- neither of them continued to hold the interest which they held at the moment in time when there were joined as parties;
- they no longer had interests that may be affected by a determination in the proceedings—at [15] to [16].