

Jabiru Township
Native Title Claim (NTD6027/1998)
Applicant's Submissions

Daniel Wells, Northern Land Council

Introduction

Thank you Your Honour

1. Today, there is before this Honourable Court a Minute of Proposed Orders and Determination of Native Title.
2. The proposed determination recognises certain native title rights and interests held by the Mirarr People in respect of areas within the boundaries of the Jabiru Township.
3. Written submissions in support of the proposed orders and determination have been filed jointly on behalf of the Applicant and the First Respondent – the Northern Territory of Australia.
4. We are in the midst of what countrymen here call *Kurrung*. The heat and humidity is not conducive to long daytime hearings. So I now only wish to speak briefly, Your Honour, to add to our written submissions.

Native title claim

5. The proposed determination brings to a conclusion a native title claim that was first lodged with the National Native Title Tribunal in 1997 and filed with this Court in 1998.
6. The origins of this claim are closely bound up in the Ranger Uranium Environmental Inquiry, which commenced in 1975.
7. The Second Report of the Ranger Inquiry, published in 1977, recommended that the area of what is now known as Kakadu be granted as Aboriginal land under the newly-enacted *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) – to be leased back to the Director of National Parks and managed in consultation with traditional Aboriginal owners.
8. However, it was also recommended that the area of the Jabiru Township be excluded from the grant of Aboriginal land. So began the Mirarr People's quest to have this part of their Country back.

Litigation

9. Ever since the Ranger Inquiry, it has been beyond dispute that Jabiru is Mirarr Country. So much was agreed between parties in a Statement of Agreed Facts filed with this Court in 2009.
10. At around that time, it was thought that this claim might settle, but it was not to be.
11. In 2013, His Honour Justice Mansfield presided over a hearing about the extent to which historical grants of tenure and public works had extinguished native title in the area. A

very extensive and detailed body of evidence was put before the Court. On 24 August 2016, His Honour made orders in relation to those issues and published reasons.

12. Pursuant to further case management orders, the Applicant and the First and Second Respondents – the Northern Territory and the Commonwealth of Australia – have since reached final agreement on the form of proposed orders and determination that give effect to Justice Mansfield’s decision and the earlier Statement of Agreed Facts. This agreed form is contained in the Minute before Your Honour. This Minute has been circulated among all parties to this proceeding and submitted to this Court in the absence of any objection.

Acknowledgments

13. In closing, Your Honour, I wish to briefly acknowledge and thank some of those people who have enabled us to arrive at this happy day.
14. First and foremost, I would like to acknowledge the claimants, the Traditional Owners of this Country, the Mirarr People. Led by Yvonne Margarula, the Mirarr continue to demonstrate extraordinary resilience, determination and creativity, as they reclaim their birthright and build an exciting future for Jabiru. This proposed native title determination is but one aspect of their vision.
15. Your Honour, the Applicant wishes to particularly acknowledge those Mirarr People who gave evidence for the Ranger Inquiry, either directly or as informants for the expert anthropologists.
16. The NLC anthropologists who provided reports to the Ranger Inquiry were Dr Ian Keen and the late George Chaloupka. The Inquiry also commissioned a report from the late Professor Ronald and Catherine Berndt. They too are remembered on this day.
17. In 1995, the Mirarr set up Gundjeihmi Aboriginal Corporation to represent their interests. Their corporation has played an important part in the story of this native title claim. I extend my sincere thanks to the Gundjeihmi board and membership. It is also appropriate to acknowledge the hard work of the corporation’s staff and advisors, including Justin O’Brien, Susan O’Sullivan, Murray Garde, Crystal Whittaker and Deirdre O’Sullivan.
18. I am also instructed that the Mirarr People wish to thank their other supporters and stakeholders in the Jabiru community, not least the West Arnhem Regional Council and Energy Resources of Australia Ltd.
19. The Mirarr People and the Northern Land Council wish to express our gratitude to the Justices and administrators of the Federal Court of Australia, including His Honour Justice Mansfield, District Registrar Nicola Colbran, and Senior Case Manager Suzie Ladlow.
20. We also take this opportunity to acknowledge the hard work and collegiality of the respondent parties and their advisors, particularly Ms Jennifer Laurence of the Solicitor for the Northern Territory and Ms Sally Davis of the Australian Government Solicitor. We express our gratitude to the advocates who have had conduct of this matter in Court, particularly Sturt Glacken who has regularly appeared as senior counsel for the Applicant
21. Finally, if the Court will indulge me, my clients and I would like to thank current and former colleagues at the Northern Land Council who have put so much work into this

matter over the years. I cannot hope to name them all, but they include Michael O'Donnell, Tamara Cole, Jonathan Kneebone, Erroll Thorne, Natalie Christopherson, Rosie Thomas, Tracey Fairman, Adam Thompson, Bronwyn Motlop, Kim Jeffrey, Shannon O'Connell, Audrey Bulpit and Eva Molnar.

Conclusion

22. I return, now, to the Minute of Proposed Orders and Determination of Native Title currently before the Court. The proposed orders and determination reflect a Statement of Agreed Facts about native title connection and detailed, litigated outcomes in relation to extinguishment. The requirements of the Native Title Act have been met. The Applicant seeks orders and a determination in these terms.
23. If your Honour pleases, those are my submissions.