

## **The NLC welcomes High Court decision that clarifies performance of native title functions**

7 October 2020

The Northern Land Council (the NLC) welcomes today's unanimous decision by the High Court that the NLC has the power to delegate to its CEO and other staff members the job of certifying applications for registration of Indigenous land use agreements (ILUAs).

This decision will help restore confidence in the ability of the Northern Territory's two representative bodies, the Northern Land Council and the Central Land Council, to perform their native title functions in an accountable and efficient way.

The decision is also likely to assist other native title representative bodies around Australia to better understand this complicated area of law.

In their majority opinion, Chief Justice Kiefel and Justices Gageler and Keane found that this power to delegate native title functions is conferred by the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth), which is the legislation that establishes the Northern Territory's Aboriginal Land Councils.

The majority also noted that the native title certification function might be "peculiarly ill-adapted" for performance by the full governing body of a Land Council, particularly where extensive evidence must be assessed and where there is potential for conflicts of interest.

Mr Quall and Mr Fejo's appeal about the certification of the Kenbi ILUA will now be returned to the Federal Court to be determined in accordance with the High Court's judgment.

NLC CEO Marion Scrymgour said: "The NLC will continue to work towards registration of the Kenbi ILUA, which is a crucial step in giving effect to the 2016 settlement of the Kenbi Land Claim".

NLC Chairman Samuel Bush Blanasi noted: “The Kenbi land claim covers the Cox Peninsula and was lodged in 1979 and is Australia’s longest-running Aboriginal land claim, involving four different hearings before the Aboriginal Land Commissioner and two challenges in the High Court. It is long overdue that the 2016 settlement is sorted out so that traditional Aboriginal owners and the broader Larrakia community can get on with their important business on Kenbi land”.

The 2016 settlement agreement includes a package of extensive benefits for the traditional Aboriginal owners and the broader Larrakia community.

The settlement includes:

- 51,152 hectares of land to be granted as Aboriginal land under the Commonwealth Land Rights Act for the benefit of the traditional Aboriginal owners, the Larrakia people and the Aboriginal residents of Belyuen;
- a further 10,766 hectares of land to be granted as NT freehold to a newly-formed Kenbi Land Trust; and
- 1,636 hectares of coastal property to be granted as NT freehold to the Larrakia Development Corporation.

Contrary to certain claims in the media, the majority of Larrakia people are strongly supportive of the settlement agreement and are growing impatient with the ongoing delays in implementation.

The High Court of Australia’s summary of the judgement in *Northern Land Council & Anor v Quall & Anor* can be accessed here: <https://www.hcourt.gov.au/>

***ENDS***

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