

LARRAKIA NATIVE TITLE CLAIM OVER AREAS OF METROPOLITAN DARWIN

Risk v Northern Territory of Australia (Unreported, FCA, 17 May 2006, Mansfield J)

The Larrakia claim involved a number of claimant applications for the recognition of native title over land and waters in and around Darwin. The issues to be determined were:

- Whether the Larrakia people had established that they held native title rights and interests in the claim area under s 223(1) of the **Native Title Act 1993 (Cth)** (NTA)
 - Where established, the nature and extent of those rights and interests;
 - Whether native title had been extinguished under the common law or the NTA

Mansfield J was not satisfied that the applicants had met the requirements of section 223(1) of the Native Title Act 1993 (Cth). More specifically, he found that the current laws and customs of the Larrakia people were not “traditional” in the sense required by s 223(1) and as explained by the High Court in *Yorta Yorta*.^[1] According to Mansfield J, this was because a combination of historical circumstances interrupted and changed the laws and customs of the present day Larrakia people from those which existed at the time of sovereignty.

This decision was later affirmed on appeal by the Full Federal Court in *Risk v Northern Territory of Australia* [2007] FCAFC 46 (5 April 2007).

See case note in May/June *Native Title Newsletter*.

Related Cases

- Dungalaba 1 - Tribunal File Number: DC96/1, Federal Court Number: NTD6010/98.
- Dinah Beach - Tribunal File Number: DC96/2, Federal Court Number: NTD6011/98.
- Dungalaba 3 - Tribunal File Number: DC96/3, Federal Court Number: NTD6012/98.

- Hundred of Ayers - Tribunal File Number: DC96/4, Federal Court Number: NTD6013/98.
- Elizabeth River - Tribunal File Number: DC96/5, Federal Court Number: NTD6014/98.
- Binybarra - Totem Rd/Buffalo Creek - Tribunal File Number: DC96/6, Federal Court File Number: NTD6015/98.
 - Dangkalaba 7 - Tribunal File Number: DC96/8, Federal Court Number: NTD6018/98.
 - Dangkalaba 8 - Tribunal File Number: DC96/9, Federal Court Number: NTD6019/98.
 - Larrakia - Palmerston - Tribunal File Number: DC94/1, Federal Court Number: NTD6007/98.
 - Larrakia - Darwin - Tribunal File Number: DC96/7, Federal Court Number: NTD6017/98.
 - Dangkalaba 9 - Tribunal File Number: DC97/3, Federal Court Number: NTD6022/98.
 - Larrakia No. 2 - Tribunal File Number: DC99/1, Federal Court Number: NTD6001/99.

Online Resources

- [For NNTT summary](#)
- [Complete judgement see](#)

Other Sources

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ABC, 21 April 2006, "[The Future of Native Title](#)" Stateline

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Koori Mail, 17 May 2006, "[Larrakia say they'll fight](#)" The Guardian

National Native Title Tribunal, 10 May 2006, '[Determination of Native Title – Larrakia](#)' Native Title Hot Spots Issue 19: 32

National Native Title Tribunal, June 2006 *'Vibrant, dynamic society' not enough*
Talking Native Title Newsletter Issue 19: 6

Related Materials

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Indigenous Law Bulletin 52

Hindson, K. 2001, *'Casenote on Risk (On behalf of the Larrakia People) v Northern Territory'* *Native Title News* 5 (3): 43-45

Lahn, J. 2007, *'"No vacancies at the Starlight Motel": Larrakia identity and the native title claims process'* in Smith, B. R. *The social effects of native title: recognition, translation, coexistence*. CAEPR Research monograph (ANU E-Press, Canberra).

Lambert, C. 1998, *'Bill Risk on behalf of the Larrakia People v Douglas Williamson QC'* *Native Title News* 3 (10): 148-150

National Native Title Tribunal, 4 April 1997, *'Larrakia claim to be mediated'* Media Release

Stewart, T. 1996 *"Larrakia claim Darwin harbour"* *Green Left Weekly*

Strelein, L. 1999, *'Fiction Over Fact: Extinguishing Native Title in the Larrakia Case'*
Indigenous Law Bulletin 16

Strelein, L. 2006, *'The Vulnerability of Native Title: Fejo v Northern Territory'*, *Compromised Jurisprudence: Native Title Cases Since Mabo* (Aboriginal Studies Press, Canberra).

[1] *Risk v Northern Territory of Australia* (unreported, FCA, 17 May 2006, Mansfield J), Summary [14].