

Robert Blowes SC

Barrister & Mediator

Contacts

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Campbell, ACT 2622

Qualifications to practice law

High Court of Australia

Enrolled as a legal practitioner 24 February 1977

Australian Capital Territory

Admitted as a Barrister & Solicitor 8 February 1977
Commenced practice as a Barrister 25 September 1987
Appointed Senior Counsel 26 July 2004

New South Wales

Admitted as a Solicitor 11 February 1977
Admitted as a Barrister 2 November 1990

Northern Territory

Admitted as a Legal Practitioner 4 March 1982

Queensland

Admitted as a Barrister 17 December 1992

Qualifications as a mediator

Bond University training course November 2009
Bond University process and skills assessment February 2010
National Mediator Accreditation 26 March 2010
Federal Court Native Title List of Mediators July 2010

Education

Australian National University, Canberra Bachelor of Arts, 1974
Bachelor of Laws (2A Honours), 1976

Legal Workshop, ANU (1976)

Orange High School, Orange, NSW

Higher School Certificate, 1970

Glens Falls High School, Glens Falls, New York

Graduated with Honours, 1970

Memberships

ACT Bar Association

Principal Area of Legal Practice – Indigenous Property and Cultural Heritage law

37 years full time experience as instructing solicitor, counsel and, since 2004, as senior counsel in:

- Conduct of matters arising under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)(**Land Rights Act**) and under the *Native Title Act 1993* Cth (**Native Title Act**) including land claims and native title proceedings and appeals, and provision of related advice; participation in and conduct of mediation, arbitration, negotiation, legal drafting, opinion writing

- Negotiation (sometimes in mediation) of indigenous land use agreements including for major mining projects, national parks and other proposals. Drafting and settling of related agreements over Aboriginal lands and native title claim and determination areas
- Cross cultural communications and understanding indigenous perspectives and anthropological concepts
- Legislative and indigenous policy advice, formulation and writing

ACT Bar, (1987 to date)

Presently briefed with Bret Walker SC in appeals to the High Court from the Full Court of the Federal Court in *Manado v State of Western Australia* [2018] FCAFC 238 in which I appeared for the applicant and also at trial. Also appeared with Bret Walker SC in *Akiba v Cth* (2013) 250 CLR 209 following appearances in the Full Court appeal and trial (before North J) in that matter; and in *WA v Brown* (2014) 253 CLR 507. Appeared as senior counsel in the trial before McKerracher J in the Yilka Claim, *Murray v WA (No 5)* [2016] FCA 752. In 2008 Appeared as senior counsel on appeals following a decision of French J in *Sampi v Western Australia* [2005] FCA 777 and the decision of Merkel J in *Rubibi v Western Australia* (No 6) (2006) 226 ALR 676. Other proceedings, land claims and negotiations involved in as junior or senior counsel include those listed as after 1987 in the lists of proceedings, land claims, mediations and negotiations that appear below

University of Western Australia, Perth, WA (May to June 1997)

Visiting appointment at the Anthropology Department of the University of Western Australia to write a joint paper with Professor David Trigger on Indigenous Regional Land Use Agreements in Australia

Freehill Hollingdale & Page, Solicitors, Canberra, ACT (1987)

Solicitor. Six months commercial conveyancing, advice and litigation. Advice on NT Aboriginal land rights legislation and mineral exploration negotiations

Northern Land Council, Darwin, NT (1982-1987)

Solicitor. The Northern Land Council is an Aboriginal Land Council incorporated under the *Aboriginal Land Rights (Northern Territory) Act 1976*. Engaged as Senior Legal Advisor until March 1984 then as Principal Legal Advisor. Major responsibilities included the following

Preparation of and appearances in Aboriginal land claims including Cox River, Jawoyn (Katherine Area), Upper Daly, Nicholson River

Instructing solicitor in numerous Federal and High Court appeals and in other litigation arising from land claims and the *Land Rights Act*

Negotiation for legislation, lease and management arrangements for Kakadu National Park, and other parks in the Northern Territory, Mudginberri abattoir lease arrangements, Northern Territory legislation affecting Aboriginal land rights in the Northern Territory, a number of mineral exploration licences on Aboriginal land and the renegotiation of arrangements for the Ranger Uranium Project.

Provision of day to day advice to Northern Land Council, its Executive, Chairman, Director and senior staff

Management of legal branch of 5 professional staff and other support staff

Mallesons, Solicitors, Canberra, ACT (1977-1982)

Solicitor: 6 months conveyancing and commercial law, 4.5 years general litigation

Some other proceedings instructed or appeared in

Kearney [R v]; Ex parte Northern Land Council (1984) 158 CLR 365 HC (Full court)

Attorney-General (NT) v Kearney (1084) 55 ALR 545 FC (Full court)

Peko Wallsend Ltd v Minister for Aboriginal Affairs (1985) 5 FCR 532 [FC (Full court)]

Attorney-General (NT) v Kearney (1985) 61 ALR 55 [HC (Full court)]

Northern Land Council v Commonwealth (1986) 64 ALR 222 [HC (Gibbs CJ)]

Northern Land Council v Commonwealth (1986) 161 CLR 1 [HC (Full court)]

Minister for Aboriginal Affairs v Peko Wallsend Ltd (1986) 162 CLR 24 [FC (Full court)]

Northern Land Council (No.2) v Commonwealth (1987) 61 ALJR 616 [HC (Full court)]

Queensland Mines Ltd v Northern Land Council (1070) 68 NTR 1 [NTSC (Angel J)]

Northern Land Council v Commonwealth (1990) 24 FCR 576 [FC (Jenkinson J)]

Northern Land Council v Queensland Mines Ltd Unreported NTCA

Northern Land Council v Commonwealth (1991) 30 FCR 1 [FC (Full court)]

Northern Territory v Northern Land Council (1992) 81 NTR 1 [NTSC (Kearney J)]

Commonwealth v Northern Land Council (1993) 176 CLR 604 [HC (Full court)]

Wik Peoples v Queensland & others (1994) 49 FCR1 [FC (Drummond)]

Wik Peoples v Queensland & others Unreported 26/05/94 [FC (Drummond)]

Wik Peoples v Queensland & others Unreported 06/09/94 [FC (Full court)]

Waanyi Peoples Native Title Application (1994) 129 ALR 100 [NNTT (French J)]

Waanyi Peoples Native Title Application (1995) 129 ALR 118 [NNTT (French J)]

North Ganalanja Aboriginal Corporation v Queensland & CRA (1995) 69 ALJR 569 [HC (Full court)]

North Ganalanja Aboriginal Corporation v Queensland & CRA (1995) 61 FCR 1 [FC (Full court)]

Wik Peoples v Queensland & others (1996) 134 ALR 637 [FC (Drummond)]

Re North Ganalanja Aboriginal Corporation: ex parte Queensland (1996) 70 ALJR 344 [HC (Full court)]

Queensland v Wik Peoples (Removal application) Unreported 15/04/96 [HC (Full court)]

Wik Peoples & Thayorre People v Queensland & Others (1996) 187 CLR 1 [HC (Full court)]

Savage Togarah Coal v Gurang Land Council & Others Unreported 05/06/98 [SC (Qld)]

Fejo & Another v Northern Territory & Another (1998) 158 ALR 477 [HC (Full court)]

Yorta Yorta v Victoria [2001] FCA 45 [FC (Full court)]

Anderson (Euahlay-1 Dixon Clan) v Wilson (2000) 97 FCR 453 [FC (Full Court)]

Larrakia Native Title Claims (East Arm) Settled 2001 [FC (O'Loughlin J)]

Wilson v Anderson (2002) 213 CLR 401 [HC (Full court)]

Yorta Yorta v State of Victoria (2002) 214 CLR 422 [HC (Full court)]

Risk v Northern Territory of Australia [2006] FCA 404 [FC (Mansfield J)]
Attorney-General of the Northern Territory v Ward [2003] FCAFC 283 [FC (Full Court)]
Neowarra v Western Australia [2003] FCA 1402 [FC (Sundberg J)]
Harrington Smith v Western Australia (No 9) [2007] FCA 31 [FC (Lindgren J)]
Jango v Northern Territory (2006) 152 FCR 150 [FC (Sackville J)]
Attorney-General of the Northern Territory v Ward [2003] FCAFC 283
Stanley Mervyn and Ors, on behalf of the Peoples of the Ngaanyatjarra Lands v The State of Western Australia and Ors [2005] FCA 831
Lovett on behalf of the Guditjmarra People v State of Victoria [2007] FCA 474
The State of Western Australia v Sebastian [2008] FCAFC 65
Sampi on behalf of the Bardi and Jawi People v State of Western Australia [2010] FCAFC 26
Jeffrey James on behalf of the Martu People v State of Western [2010] FCAFC 77
Akiba and Another v Queensland and others (No 3) (2010) 204 FCR 1
Commonwealth v Akiba and another (2012) 204 FCR 260
Akiba v Cth (2013) 250 CLR 209
Western Australia v Brown (2014) 253 CLR 507
Murray v Western Australia (No 5) (Yilka Claim) [2016] FCA 752
Manado, Bindunbur Native Claim Group v Western Australia [2017] FCA 1367; [2018] FCA 275; [2018] FCA 854
Manado v State of Western Australia [2018] FCAFC 238

Some Northern Territory Aboriginal land claims instructed or appeared in

Yutpundji-Djindiwirritj (Roper Bar) Land Claim, Toohey J, 1982
Kenbi (Cox Peninsula) Land Claim, Toohey J, 1982
Nicholson River (Waanyi/Garawa) Land Claim, Kearney J, 1984
Cox River (Alawa/Ngandji) Land Claim, Kearney J, 1984
Murrnaji Land Claim, Kearney J, 1986
Jawoyn (Katherine Area) Land Claim, Kearney J, 1987
Garawa/Mugularrangu (Robinson River) Land Claim, Olney J, 1990
Upper Daly Land Claim, Kearney J, 1990
Jawoyn (Gimbat Area) Land Claim, Gray J, 1995
Elsey Land Claim, Gray J, 1997
Upper Daly (Repeat) Claim (Settled), Olney, 1999
Kenbi (Cox Peninsula) Land Claim Gray J, 2000

Some negotiations and mediations

Nitmiluk (Katherine Gorge) National Park - legislation and lease back arrangements

Kakadu National Park – renegotiation of lease back arrangements

Ranger Uranium Project - renegotiation of agreements under *Land Rights Act* – at one stage with Sir Ninian Stephen as mediator

Century Zinc Project - negotiation of agreement under *Native Title Act* – including stages with National Native Title Tribunal members as mediators

Wik Native Title Claim – various negotiations with Queensland and other interested parties – including stages with National Native Title Tribunal members as mediators

Goldfields area WA – negotiation and drafting proposal for standard form access arrangements for exploration and mining on native title claim areas

Miriuwung & Gajerrong Native Title Claim – settlement of appeals remitted from High Court in *Western Australia v Ward* – including extensive negotiations with Federal Court Deputy Registrar Efthim as mediator [see *Attorney-General of the Northern Territory v Ward* [2003] FCAFC 283]

Ngaanyatjara Lands Native Title Claim – settlement of a native title claim in the Western Desert region in Western Australia resulting in a consent determination of native title [see *Stanley Mervyn and Ors, on behalf of the Peoples of the Ngaanyatjarra Lands v The State of Western Australia and Ors* [2005] FCA 831]

Gunditjmara Native Title Claim – settlement of a native title claim in south western Victoria – including extensive negotiations with Federal Court Registrars Anderson and Edwards and Professor Mick Dodson as mediators [see *Lovett on behalf of the Gunditjmara People v State of Victoria* [2007] FCA 474]; also, see *Lovett on behalf of the Gunditjmara People v State of Victoria* (No 5) [2011] FCA 932

Djakunde & Jangeri Jangeri, Wulli Wulli and proposed Wakka Wakka claims mediation – January 2011. Engaged as mediator by Queensland South Native Title Services.

Negotiation, Legal Drafting, Submission & Opinion Writing

Experience in these areas has been extensive and varied; has mostly been in context involving Aboriginal land rights and native title issues; and has ranged across a number of legal, social, cultural and geographical contexts

Computer Skills

Extensive experience in use of computers in legal practice, in negotiating and drafting of agreements, in litigation and in writing generally. Competent in use of Microsoft Office applications and text retrieval software

Age

Born 1951