



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### MEMBERS OF THE YORTA YORTA ABORIGINAL COMMUNITY v VICTORIA & ORS

The High Court of Australia has dismissed an appeal by eight members of the Yorta Yorta community against decisions by the Federal Court and the Full Court of the Federal Court rejecting their native title claim.

The Yorta Yorta claim covered an area in southern New South Wales and northern Victoria bisected by the Murray River. Victoria, New South Wales and South Australia, together with shire councils, water authorities, tourism and recreation bodies, business and industry groups, Telstra, the Murray Darling Basin Commission and dozens of landholders, were respondents to the claim.

The case involved interpretation of the definition of native title in the Native Title Act. The Act requires that rights and interests in relation to land and waters are held under traditional laws and customs, that the peoples still have a connection with the land and waters, and that the rights and interests are recognised by the common law of Australia. The High Court, by majority, held that the Yorta Yorta claim failed on all three counts.

Justice Howard Olney in the Federal Court found that by 1881 the claimants' ancestors were no longer in possession of their traditional lands and had ceased to observe traditional laws and customs.

The Full Court of the Federal Court upheld Justice Olney's finding that sometime after 1788 the Yorta Yorta community had lost its character as a traditional Aboriginal community.

The High Court, by majority, has upheld the Full Court of the Federal Court's determination that forebears of the Yorta Yorta claimants had ceased to occupy their lands in accordance with traditional laws and customs and that the claimants had not established that they had continued to acknowledge and observe those laws and customs. Such laws and customs needed to have continued substantially uninterrupted if the definition of native title in the Native Title Act were to be satisfied.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*