

BEFORE THE ABORIGINAL LAND COMMISSIONER

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) ACT 1976 Seven Emu Region Land Claim No. 187, Wollogorang Area II Land Claim No. 187 and part of Manangoora Region Land Claim No. 185

Statement of David Ciaravolo, Executive Officer, the Amateur Fishermen's Association of the Northern Territory (AFANT), PO Box 40694, Casuarina NT 0811.

1. I was appointed as the Executive Officer at AFANT in February 2017. Prior to that I worked as the Executive Director at RecFish SA, the South Australian recreational fishing peak body, for a period of 2 years.
2. As Executive Officer of AFANT, I have responsibility for the achievement of AFANT's mission/objectives and the management of AFANT's operations. I work with the Committee on the development and achievement of agreed strategy, and I represent AFANT on government and non-government committees, groups and projects.
3. AFANT was formed in 1980 to represent NT recreational fishers on all matters of importance to the sector. This includes fisheries management, development strategies, access to areas for the purpose of recreational fishing, and responding to project proposals that may influence the quality or access for recreational anglers in the NT. AFANT has approximately 3500 members, however has been engaged formally by the NTG to consult with and provide advice to on behalf of (all) recreational fishers in the Northern Territory.
4. This statement updates issues raised in correspondence and statements provided by AFANT to previous Aboriginal Land Commissioner (Olney) in the Seven Emu Region Land Claim No. 187, Wollogorang Area II Land Claim No. 187 and part of Manangoora Region Land Claim No. 185. This updated statement is intended to provide contemporary evidence to the Commissioner for consideration, and to bring focus to the matters of detriment AFANT now views as most relevant; particularly those arising by effect of the decision of the High Court of Australia in Northern Territory of Australia v Arnhem Land Aboriginal Land Trust [2008] HCA 29 on 30 July 2008 (the Blue Mud Bay decision).
5. The immediate effect of a grant of these Claims, without Open Access declarations or other negotiated agreement(s), would be that the lands and waters of the Claim areas would become Aboriginal land and that access to the waters overlying those lands would be prohibited (in the absence of a permit).
6. AFANT are of the view that to inform current usage and potential detriment issues, the data held by the Northern Territory Government, eg., the results from the 2010 Recreational Fishing Survey, can be usefully be complimented by contemporary data collected about fishing activity specifically within the Claim Areas.

7. In order to ascertain evidence of fishing in the Land Claim Areas, AFANT conducted a community consultation survey; the “AFANT - Seven Emu, Robinson River (Manangoora) and Wollogorang Land Claims” (**Appendix A**), referred to hereafter as the AFANT Community Land Claim Survey to ask recreational fishers about their activities in the Claim Areas.
8. Due to time and human resource constraints (the 16 Bed and Bank Land Claims Detriment Reviews, and the current open Inquiries into LC’s 167, 188, 189, 190 & 192 has placed considerable strain on AFANT’s resources and ability to invest time into consultation and into the preparation of responses for individual claims), the opportunity to participate in the survey was made available to fishers for a 2 and a half-day period. It was sent to Members and made available online via AFANT’s social media accounts. 58 individuals participated in the consultation. Of these 38% identified as not being a resident of the NT; highlighting the interest of visiting fishers/ fishing tourism in this area.

ALC Reports 66 - comments on detriment to recreational fishing

9. In ALC Report 66 Commissioner Olney at 125 (g) stated:

Any loss or restriction of access to the claimed land that may result from a grant of title would have the potential to impact negatively upon the operations of Seven Emu, Wollogorang, Greenbank and Pungalina Stations and on recreational and commercial fishing in the area unless suitable arrangements are made with the traditional owners for the continued use of the land according to current practices

AFANT contends that the potential for negative impact remains and has indeed been increased by the effect of the Blue Mud Bay decision. This is because after the Blue Mud Bay decision, the fishers accessing the coastline and rivers via boat from elsewhere would also be impacted (not just those fishers crossing the bank or intertidal zone).

Recreational Fishing in the Northern Territory

10. Recreational fishing is an important social and cultural component of the Northern Territory lifestyle. It is also a major tourism drawcard and a significant contributor to the economy.
11. The [2010 NT Recreational Fishing Survey](#) (West *et al.*, 2012) indicates that more than 30,500 Non-Indigenous Territory residents went fishing in 12 months between April 2009 – March 2010. The Tourism NT, Fishing Segment Profile documents that there were over 40,000 fishing visitors to the NT in 2014

http://www.tourismnt.com.au/~media/files/corporate/marketing/fishing-segment-profile_northern-territory-australia.ashx).

12. [NT Government Recreational Fishing Development Plan \(2012-2022\)](#), provides that 70% of recreational fishing in the Northern Territory occurs in regional areas, where it is often the primary economic and development driver.
13. In the 2010 NT Recreational Fishing Survey (West *et al.*, 2012), annual resident fisher expenditure was estimated at \$51M.
14. [The Fishery Status Reports 2012 \(NTG, 2014\)](#) estimates the NT guided fishing industry to contribute \$26M annually to the NT economy.

Recreational fishing in the region

15. The East Coast / Gulf Area region where the Claim Areas are located accounted for approximately 7% of all fishing effort by NT Residents in 2009/10. (West *et al.* 2012. p.33)
16. The West Coast region where the Claim Areas are located, accounted for approximately 12% of all Barramundi caught by NT Residents in 2009/10 (West *et al.* 2012, p.47).
17. AFANT understands that the primary way that recreational fishers access the Claim Areas in this region is through a number of Pastoral Operations that offer fishing access and camping facilities/opportunities.

Recreational Fishing in the Part of Manangoora Land Claim 185 Claim Area (Robinson River section)

19. Recreational Fishing is currently permitted in the Claim Area without the need to obtain a permit, however access is often gained through pastoral leases that offer fishing access in return for a fee.
20. In the AFANT – Community Land Claim Survey, 14 respondents said they have fished in the lower Robinson River section of the (Part of LC 185 Claim Area), as shown to respondents on a Map (figure 1), and highlighted in red.
21. Participants who reported fishing in the part of LC 185 Claim Area said that they accessed the river via Seven Emu Station (6 respondents) and Greenbank Station (5 respondents). Eight respondents left a written comment explaining that they had gained access in other ways, including from Manangoora Station (3) and in a boat without reference to the launching location (3).

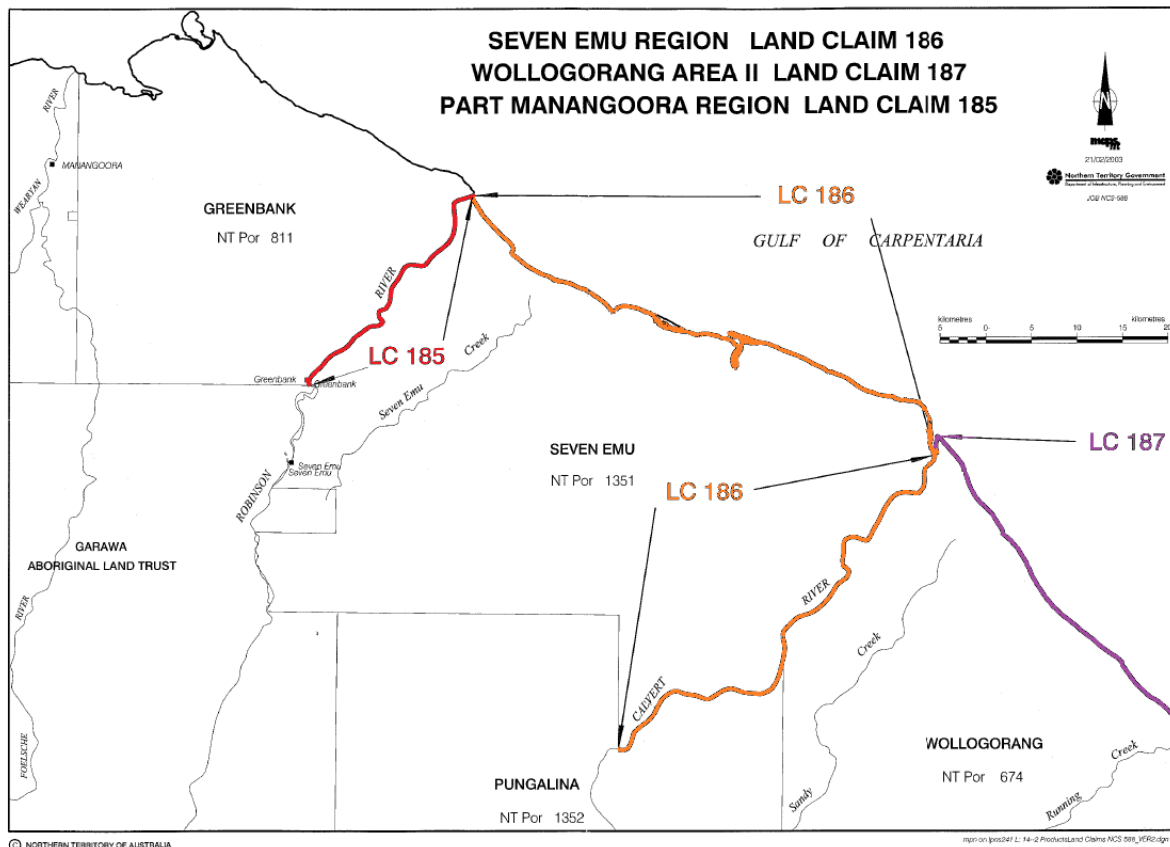


Figure 1 LCs Part of 185, 186 & 187 Claim Areas from AFANT Survey (enhanced from map supplied by ALC)

Recreational Fishing in the Seven Emu LC 186 Claim Area

22. Recreational Fishing is currently permitted in the Claim Area without the need to obtain a permit, however access is often gained through pastoral leases that offer fishing access in return for a fee.
23. In the AFANT – Community Land Claim Survey, respondents were asked about their fishing in the Seven Emu coastline section and the Calvert River section of the LC 186 Claim Area.
24. Eight AFANT – Community Land Claim Survey respondents said they have fished the Seven Emu coastline section, with six respondents reporting fishing in the Calvert River section. The Claim Areas were shown to respondents on the Map (figure 1) and highlighted in orange.
25. Participants who reported fishing in LC 186 Claim Area were invited to explain where they gained access. Three respondents said they accessed through Seven Emu Station. Five respondents referred to access via boat and one cited access from Managoora station.

Recreational Fishing in the Wollogorang LC 187 Claim Area

26. Recreational Fishing is currently permitted in the Claim (intertidal zone) Area without the need to obtain a permit.
27. In the AFANT – Community Land Claim Survey respondents were asked about their fishing in the Wollogorang LC 187 Claim Area. Nine respondents said they have fished in the LC 187 Claim Area, shown to respondents on the Map (figure 1) and highlighted in purple.
28. Participants who reported fishing in LC 187 Claim Area were invited to explain where they gained access. Six respondents said they accessed the area via boat launched elsewhere (presumably other stations or King Ash bay), and three respondents cited access through Wollogorang Station.

Potential Cumulative Impacts

29. It has been raised by AFANT in response to other Land Claims (167, 188, 189, 68, 190,192, 71, 198, 199, 184, 185 & 178), that there is potential for cumulative detriment to arise/accrue as a result of the granting of a number of Bed and Bank, and Intertidal Zone Land Claims in a given area, and across the Territory.
35. It has been put forward that cumulative detriment may occur should a system of permits be introduced resulting in the need for fishers to expend time and money obtaining permits for different areas. And we have contended that either the introduction of permits, or the closure of areas to recreational fishing, would put pressure on the resources, and by extension, the fishing experiences in other areas. In our view, although these Claim areas are less frequently visited by fishers, the remote experience and isolation is undoubtedly an important part of the experience. This valued quality has the potential to be impacted should the pattern of fishing access in the broader area change, especially if access conditions to the Land Claim areas to the north (e.g. King Ash Bay, Manangoora) area are made difficult or restricted.

I DECLARE that I have read this statement carefully before signing it, and that I believe it to be true and correct,

Signed:

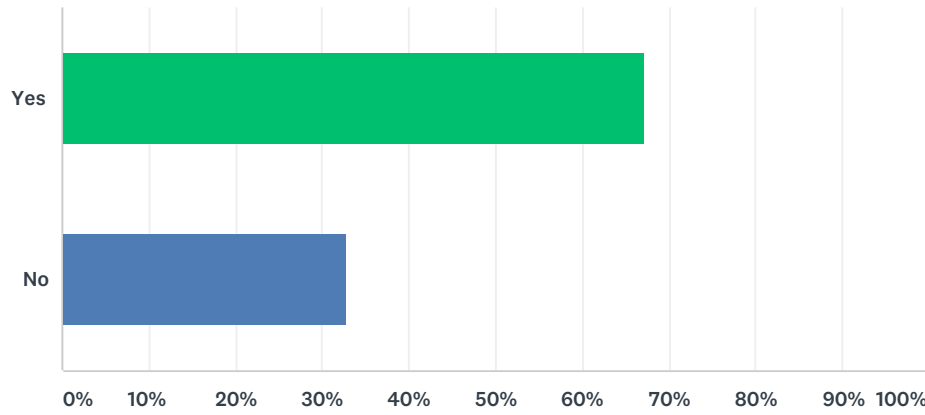


David Ciaravolo

Date: 4/06/2018

Q1 Are you a resident of the Northern Territory

Answered: 58 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	67.24%	39
No	32.76%	19
TOTAL		58

Q2 In what postcode is your home located?

Answered: 58 Skipped: 0

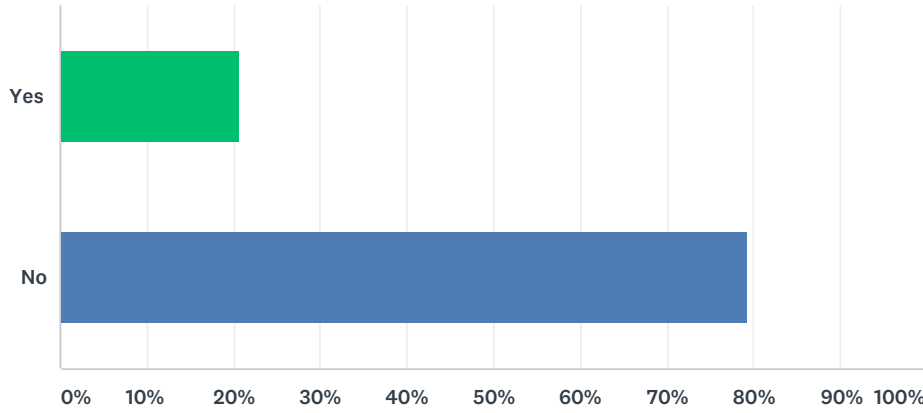
#	RESPONSES	DATE
1	2710	6/4/2018 6:52 PM
2	822	6/4/2018 12:27 PM
3	2333	6/4/2018 11:08 AM
4	812	6/4/2018 9:29 AM
5	836	6/4/2018 9:25 AM
6	812	6/4/2018 8:17 AM
7	812	6/4/2018 6:32 AM
8	836	6/3/2018 10:06 PM
9	840	6/3/2018 9:45 PM
10	822	6/3/2018 8:45 PM
11	830	6/3/2018 6:52 PM
12	810	6/3/2018 6:34 PM
13	810	6/3/2018 4:27 PM
14	885	6/3/2018 12:34 PM
15	830	6/3/2018 11:30 AM
16	820	6/3/2018 10:57 AM
17	832	6/3/2018 10:12 AM
18	810	6/3/2018 10:09 AM
19	854	6/3/2018 9:39 AM
20	814	6/3/2018 9:36 AM
21	812	6/3/2018 9:20 AM
22	3444	6/3/2018 8:37 AM
23	828	6/3/2018 8:36 AM
24	812	6/3/2018 7:44 AM
25	840	6/3/2018 7:27 AM
26	3934	6/3/2018 6:40 AM
27	3350	6/3/2018 4:54 AM
28	810	6/2/2018 11:22 PM
29	832	6/2/2018 11:05 PM
30	835	6/2/2018 10:23 PM
31	4034	6/2/2018 8:54 PM
32	835	6/2/2018 7:48 PM
33	4568	6/2/2018 7:15 PM
34	4123	6/2/2018 6:28 PM
35	854	6/2/2018 6:25 PM

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36	835	6/2/2018 6:18 PM
37	4352	6/2/2018 5:54 PM
38	835	6/2/2018 4:53 PM
39	820	6/2/2018 4:34 PM
40	2316	6/2/2018 4:12 PM
41	832	6/2/2018 3:57 PM
42	4723	6/2/2018 3:54 PM
43	2250	6/2/2018 3:53 PM
44	2866	6/2/2018 3:36 PM
45	820	6/2/2018 1:31 PM
46	4717	6/2/2018 1:26 PM
47	830	6/2/2018 12:39 PM
48	851	6/2/2018 12:36 PM
49	830	6/2/2018 12:31 PM
50	5222	6/2/2018 12:30 PM
51	820	6/2/2018 12:27 PM
52	870	6/2/2018 12:19 PM
53	2700	6/2/2018 12:09 PM
54	4815	6/2/2018 11:03 AM
55	4680	6/2/2018 10:56 AM
56	854	6/2/2018 10:49 AM
57	3551	6/2/2018 10:41 AM
58	835	6/2/2018 10:16 AM

Q3 Are you an AFANT Member

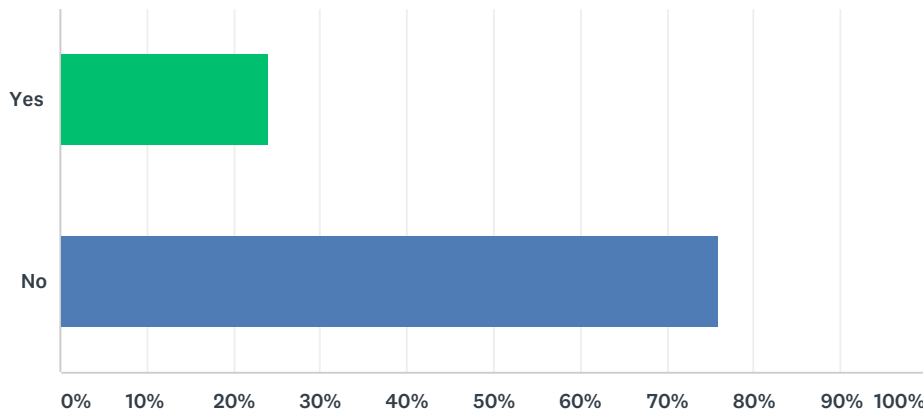
Answered: 58 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	20.69%	12
No	79.31%	46
TOTAL		58

Q4 Are you a member of a fishing club (eg King Ash bay Fishing Club, Darwin Game Fishing Club, etc) - affiliated with AFANT

Answered: 58 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	24.14%	14
No	75.86%	44
TOTAL		58

#	IF YES, PLEASE TELL US WHICH CLUB(S).	DATE
1	King Ash Bay	6/4/2018 11:08 AM
2	Darwin Fishing and Game and Palmerston Fishing Club	6/4/2018 9:25 AM
3	Darwin game	6/4/2018 6:32 AM
4	Groote	6/3/2018 10:06 PM
5	Dundee Beach Social and recreational club	6/3/2018 9:45 PM
6	King ash bay	6/3/2018 4:27 PM
7	Groote Eylandt game and sport fishing club	6/3/2018 12:34 PM
8	Darwin trailer boat club	6/3/2018 10:57 AM
9	PGFC & DARWIN fishing club	6/3/2018 9:20 AM
10	Darwin Flyrodders	6/2/2018 7:48 PM
11	King Ash Bay	6/2/2018 6:25 PM
12	Kink Ash Bay	6/2/2018 3:54 PM

Q5 Details to verify individual participants. (To help us collect evidence, your full name is required. Incomplete or false names will result in your survey response being deleted. We will keep your email address confidential)

Answered: 58 Skipped: 0

ANSWER CHOICES	RESPONSES	
Full Name (First and Last Required)	100.00%	58
Company	0.00%	0
Address	0.00%	0
Address 2	0.00%	0
City/Town	0.00%	0
State/Province	0.00%	0
ZIP/Postal Code	0.00%	0
Country	0.00%	0
Email Address	100.00%	58
Phone Number	0.00%	0

#	FULL NAME (FIRST AND LAST REQUIRED)	DATE
1	Grant Boyle	6/4/2018 6:52 PM
2	Jamps Hughes	6/4/2018 12:27 PM
3	Brett Barnes	6/4/2018 11:08 AM
4	Brian Warren	6/4/2018 9:29 AM
5	Tegan Cann	6/4/2018 9:25 AM
6	Craig Grose	6/4/2018 8:17 AM
7	Jon hay	6/4/2018 6:32 AM
8	Torrent Hobbs	6/3/2018 10:06 PM
9	Kelly Basnett	6/3/2018 9:45 PM
10	Jesi Cannell	6/3/2018 8:45 PM
11	Chris nagy	6/3/2018 6:52 PM
12	Matthew Tybell	6/3/2018 6:34 PM
13	David simula	6/3/2018 4:27 PM
14	Edan fisher	6/3/2018 12:34 PM
15	Aaron Tilley	6/3/2018 11:30 AM
16	Dale Bicheno	6/3/2018 10:57 AM
17	James Churchley	6/3/2018 10:12 AM
18	Dale Latter	6/3/2018 10:09 AM
19	Beverly Keighran	6/3/2018 9:39 AM

AFANT - Seven Emu, Robinson River (Manangoora) and Wollogorang Land Claims

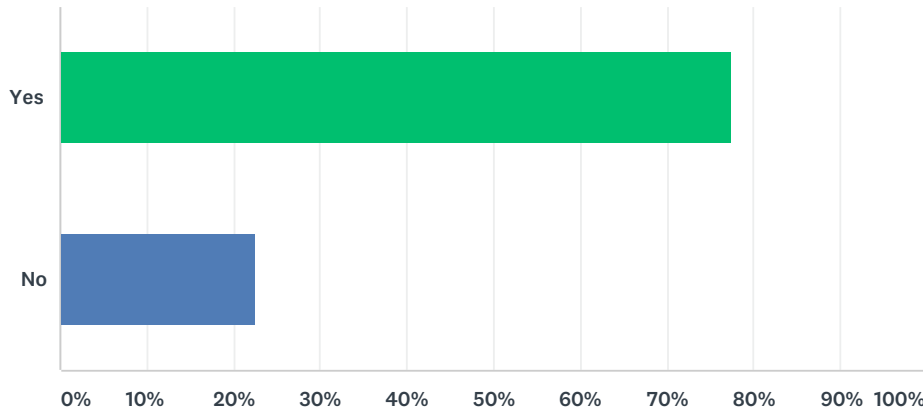
20	Graeme Wigg	6/3/2018 9:36 AM
21	Bill Griffiths	6/3/2018 9:20 AM
22	Travis hourigan	6/3/2018 8:37 AM
23	Joel Hackett	6/3/2018 8:36 AM
24	James Rogers	6/3/2018 7:44 AM
25	Garry Burrows	6/3/2018 7:27 AM
26	Robert McCallum	6/3/2018 6:40 AM
27	Michael Kleinhenz	6/3/2018 4:54 AM
28	John Tate	6/2/2018 11:22 PM
29	Christopher Ronnfeldt	6/2/2018 11:05 PM
30	Daniel Finn	6/2/2018 10:23 PM
31	Matthew lunn	6/2/2018 8:54 PM
32	Warren Jeffery	6/2/2018 7:48 PM
33	gary kildey	6/2/2018 7:15 PM
34	Tyrone machielsen	6/2/2018 6:28 PM
35	Robert Attenborough	6/2/2018 6:25 PM
36	Stuart winter	6/2/2018 6:18 PM
37	Michael Koschel	6/2/2018 5:54 PM
38	Jarred sack	6/2/2018 4:53 PM
39	DAVID CIARAVOLO	6/2/2018 4:34 PM
40	Anne L Griffiths	6/2/2018 4:12 PM
41	Alex lambert	6/2/2018 3:57 PM
42	Brenda Meiert	6/2/2018 3:54 PM
43	Peter Fitzgerald	6/2/2018 3:53 PM
44	Geoff shapland	6/2/2018 3:36 PM
45	Matt Bird	6/2/2018 1:31 PM
46	Rob dwyer	6/2/2018 1:26 PM
47	Darren Millar	6/2/2018 12:39 PM
48	Dan	6/2/2018 12:36 PM
49	Dennis Sten	6/2/2018 12:31 PM
50	Lynn Wright	6/2/2018 12:30 PM
51	George Vlazny	6/2/2018 12:27 PM
52	Stephen Morris	6/2/2018 12:19 PM
53	Julie & Toby Jones	6/2/2018 12:09 PM
54	Allan Steele	6/2/2018 11:03 AM
55	Steve Lyon	6/2/2018 10:56 AM
56	Joel Bradford	6/2/2018 10:49 AM
57	Anthony Anderson	6/2/2018 10:41 AM
58	Brad McDougall	6/2/2018 10:16 AM
#	COMPANY	DATE
	There are no responses.	

AFANT - Seven Emu, Robinson River (Manangoora) and Wollogorang Land Claims

#	PHONE NUMBER	DATE
There are no responses.		

Q6 Do you or have you, fished the section of the Robinson River (Part of Manangoora Land Claim 185) shown on the map above in red?

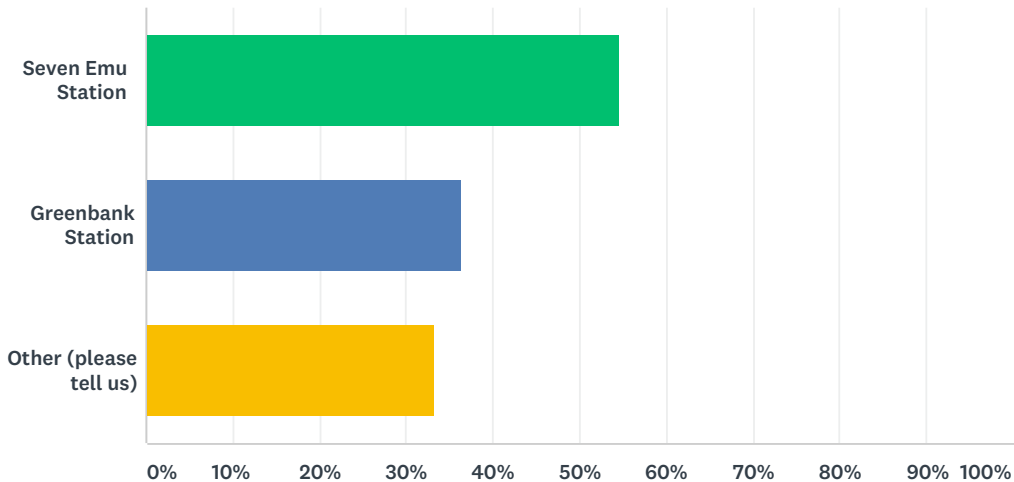
Answered: 40 Skipped: 18



ANSWER CHOICES	RESPONSES	
Yes	77.50%	31
No	22.50%	9
TOTAL		40

Q7 If you answered yes to fishing in the Robinson River (Manangoora LC 185 Claim Area) can you tell us how you accessed the river? (can choose multiple, or skip this question if you have not fished here)

Answered: 33 Skipped: 25

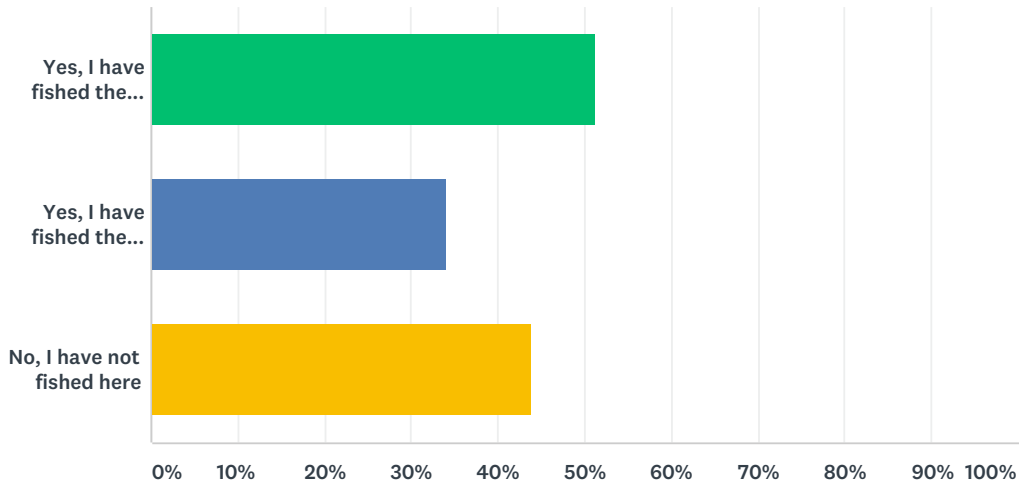


ANSWER CHOICES	RESPONSES
Seven Emu Station	54.55% 18
Greenbank Station	36.36% 12
Other (please tell us)	33.33% 11
Total Respondents: 33	

#	OTHER (PLEASE TELL US)	DATE
1	Manangoora stay on there and boat to the Fatfellas and surrounding area	6/4/2018 6:58 PM
2	Via boat from king ash bay using a houseboat as a base	6/3/2018 7:49 AM
3	Have not fished	6/2/2018 10:25 PM
4	Manangoora	6/2/2018 6:31 PM
5	I can't see the map in the survey?	6/2/2018 6:21 PM
6	By boat	6/2/2018 4:54 PM
7	Private family owned	6/2/2018 4:24 PM
8	Manangoora Station	6/2/2018 3:55 PM
9	By boat	6/2/2018 1:36 PM
10	by sea	6/2/2018 12:29 PM
11	Manangoora	6/2/2018 10:44 AM

Q8 Do you or have you, fished the section of the Seven Emu LC 186 Claim Area shown on the map above in orange? (Can choose multiple)

Answered: 41 Skipped: 17



ANSWER CHOICES	RESPONSES	
Yes, I have fished the Seven Emu coastline	51.22%	21
Yes, I have fished the Calvert River	34.15%	14
No, I have not fished here	43.90%	18
Total Respondents: 41		

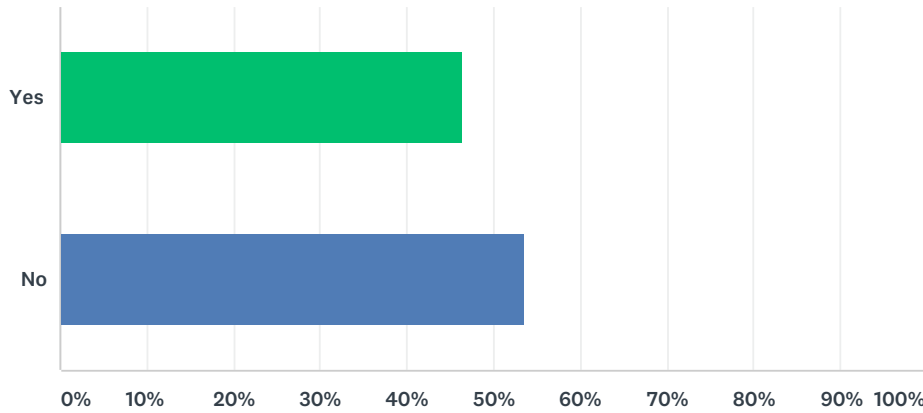
Q9 If you answered yes to fishing in the Seven Emu (LC 186 Claim Area) can you tell us how you accessed it? (skip if you have not fished here)

Answered: 23 Skipped: 35

#	RESPONSES	DATE
1	Got permission off Frank at Seven Emu Station	6/4/2018 11:12 AM
2	Accessed it from the mouth.	6/4/2018 9:28 AM
3	Seven Emu station	6/4/2018 8:18 AM
4	Seven emu's	6/4/2018 6:35 AM
5	King ash bay	6/3/2018 4:29 PM
6	From the Robinson river and around the front	6/3/2018 12:37 PM
7	Local frank gave us permission to enter from his property	6/3/2018 11:00 AM
8	Wollogorang station.	6/3/2018 10:16 AM
9	Via boat using a houseboat as a base from King Ash Bay	6/3/2018 7:49 AM
10	through station	6/3/2018 7:32 AM
11	boat	6/3/2018 4:57 AM
12	Seven emu station permission from frank	6/2/2018 8:58 PM
13	Seven Emu Station	6/2/2018 7:51 PM
14	Ive been to seven emu camping but as say can't see a map in this survey.	6/2/2018 6:21 PM
15	Via boat	6/2/2018 4:54 PM
16	4wd tinny	6/2/2018 3:58 PM
17	By boat	6/2/2018 1:36 PM
18	By boat	6/2/2018 12:41 PM
19	Through Seven and Emu Stations also from mothership	6/2/2018 12:39 PM
20	by sea	6/2/2018 12:29 PM
21	Seven emu station	6/2/2018 10:53 AM
22	Via Manangoora	6/2/2018 10:44 AM
23	Station access	6/2/2018 10:18 AM

Q10 Do you or have you, fished the Wollgorang Coastline Claim Area (Wollgorang Land Claim 187) shown on the map above in purple?

Answered: 41 Skipped: 17



ANSWER CHOICES	RESPONSES	
Yes	46.34%	19
No	53.66%	22
TOTAL		41

Q11 If you answered yes to fishing in the Wollogorang coastline (LC 187 Claim Area) can you tell us how you accessed it? (skip if you have not fished here)

Answered: 20 Skipped: 38

#	RESPONSES	DATE
1	By boat	6/4/2018 11:12 AM
2	From the mouth	6/4/2018 9:28 AM
3	seven emu station	6/4/2018 8:18 AM
4	Seven emu's	6/4/2018 6:35 AM
5	Road	6/3/2018 10:10 PM
6	From 7 Emus station	6/3/2018 11:00 AM
7	Calvert river via Wollogorang station	6/3/2018 10:16 AM
8	Through. The cattle station with permission	6/3/2018 9:22 AM
9	boat	6/3/2018 4:57 AM
10	Permission from wollogorang station. Paid to enter	6/2/2018 8:58 PM
11	Can't see the map to know where you are talking about?	6/2/2018 6:21 PM
12	Via boat	6/2/2018 4:54 PM
13	Not sure but i think i have only fished the Queensland side of the coast at massacre inlet and i accessed it through wollogorang station	6/2/2018 4:48 PM
14	4wd track from roadhouse	6/2/2018 4:24 PM
15	Boat	6/2/2018 3:58 PM
16	By boat	6/2/2018 12:41 PM
17	by mothership	6/2/2018 12:39 PM
18	From Wollogorang roadhouse when opened	6/2/2018 12:11 PM
19	Boat	6/2/2018 11:05 AM
20	By sea	6/2/2018 10:18 AM

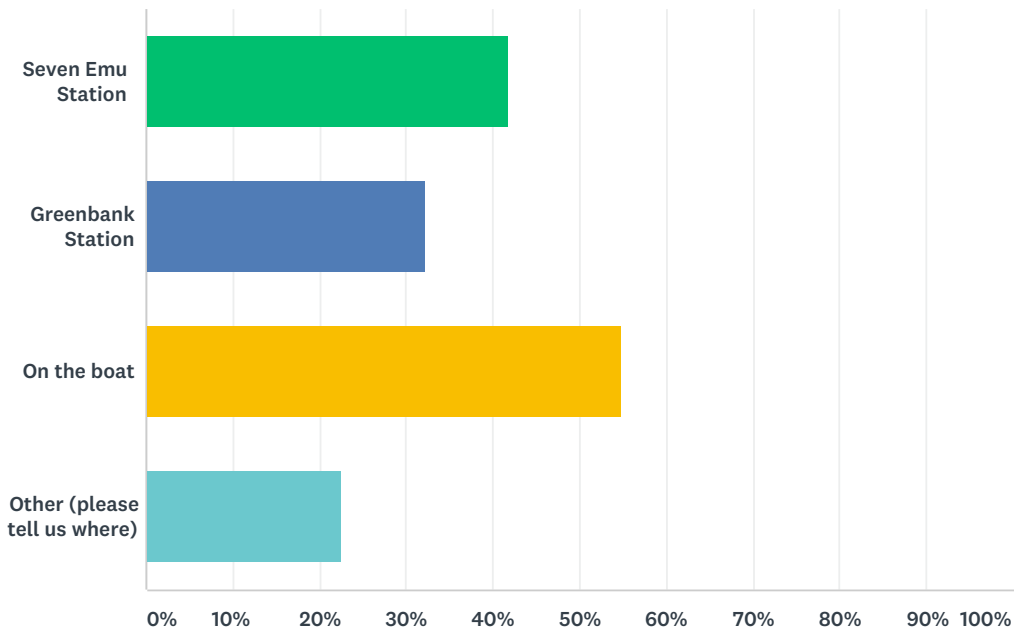
Q12 Have you done any land based fishing in ANY of the Claim Areas (185, 186 & 197)? If so, please tell us where....

Answered: 18 Skipped: 40

#	RESPONSES	DATE
1	Yes from seven emu station	6/4/2018 11:12 AM
2	No	6/4/2018 9:28 AM
3	no	6/4/2018 8:18 AM
4	Road access	6/3/2018 10:10 PM
5	Robinson river greenbank side via paid access	6/3/2018 12:37 PM
6	no	6/3/2018 11:00 AM
7	The banks of the Calvert.	6/3/2018 10:16 AM
8	Greenbank Station	6/3/2018 9:41 AM
9	Yes, off banks and with roof top tinny	6/3/2018 9:22 AM
10	Seven emu Robinson river Wollogorang tully inlet	6/2/2018 8:58 PM
11	Mouth of the Robinson	6/2/2018 7:51 PM
12	robinson river	6/2/2018 7:20 PM
13	Don't know, can't see the map.	6/2/2018 6:21 PM
14	Beach & boat wollogorang	6/2/2018 4:24 PM
15	No	6/2/2018 12:41 PM
16	Yes	6/2/2018 11:05 AM
17	Robertson river other place on green bank and seven emu station	6/2/2018 10:53 AM
18	No	6/2/2018 10:44 AM

Q13 If you fished ANY of the Claim Areas 185, 186 & 187, please tell us where you stayed? (can choose multiple)

Answered: 31 Skipped: 27



ANSWER CHOICES	RESPONSES	
Seven Emu Station	41.94%	13
Greenbank Station	32.26%	10
On the boat	54.84%	17
Other (please tell us where)	22.58%	7
Total Respondents: 31		

#	OTHER (PLEASE TELL US WHERE)	DATE
1	Camped on the boat	6/4/2018 9:32 AM
2	Camping	6/3/2018 10:10 PM
3	King ash bay	6/3/2018 4:29 PM
4	Banks of the Calvert.	6/3/2018 10:16 AM
5	Camped	6/3/2018 9:22 AM
6	Manangoora station	6/2/2018 6:31 PM
7	Manangoora	6/2/2018 10:44 AM

Q14 Was there anything else you wanted to add?

Answered: 12 Skipped: 46

#	RESPONSES	DATE
1	Im not sure what this survey is for. I have been going to Manangoora fishing for 3 weeks every year since 2010, I boat to most of the surrounding river systems.	6/4/2018 6:58 PM
2	We can all fish this area together	6/4/2018 11:12 AM
3	Our waterways cannot be owned. They are available for us by everyone!	6/4/2018 9:28 AM
4	Can we all fish together as we have for years	6/3/2018 10:10 PM
5	I haven't fished it yet but was planning a trip there next year	6/3/2018 11:32 AM
6	In today's paper Michael Gunner wrote we should all be apart of a Territorian treaty that offers a new way, one that makes all Territorians equal. How can this be when because I am white I will be excluded from natural waterways an area that is crown land in every other part of Australia. You are chasing the wrong argument you should be going down the discrimination line. Making all Australians equal	6/3/2018 11:10 AM
7	Greenbank Station is owned by my father John Keighran.	6/3/2018 9:44 AM
8	I as an Australian and of Aboriginal descent believe wholly that all waterways should be accessible to all Australians for recreational use with restrictions but with respect to the surrounding land owners	6/3/2018 9:25 AM
9	where we going to fish	6/3/2018 7:33 AM
10	no	6/2/2018 7:21 PM
11	Keep ALL Australians fishing It is our right to fish without permits or permission	6/2/2018 4:26 PM
12	Iv stayed at king ash, would love to return	6/2/2018 10:58 AM

Q15 Get news and updates from AFANT and participate in future consultations! (we won't use your email provided at the beginning and will only add you to our list if you provide details here..)

Answered: 9 Skipped: 49

ANSWER CHOICES	RESPONSES	
Name	100.00%	9
Company	0.00%	0
Address	0.00%	0
Address 2	0.00%	0
City/Town	0.00%	0
State/Territory	0.00%	0
ZIP/Postal Code	0.00%	0
Country	0.00%	0
Email Address	100.00%	9
Phone Number	0.00%	0

#	NAME	DATE
1	██████	6/4/2018 6:36 AM
2	██████████	6/3/2018 11:10 AM
3	██████████	6/3/2018 9:25 AM
4	██████████	6/3/2018 7:49 AM
5	██████████	6/3/2018 7:33 AM
6	██████████	6/2/2018 7:21 PM
7	██████████	6/2/2018 6:32 PM
8	██████████	6/2/2018 4:48 PM
9	██████████	6/2/2018 4:26 PM

#	COMPANY	DATE
	There are no responses.	

#	ADDRESS	DATE
	There are no responses.	

#	ADDRESS 2	DATE
	There are no responses.	

#	CITY/TOWN	DATE
	There are no responses.	

#	STATE/TERRITORY	DATE
	There are no responses.	

#	ZIP/POSTAL CODE	DATE
	There are no responses.	

AFANT - Seven Emu, Robinson River (Manangoora) and Wollogorang Land Claims

There are no responses.

#	COUNTRY	DATE
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There are no responses.

#	EMAIL ADDRESS	DATE
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Removed as per privacy conditions

9

#	PHONE NUMBER	DATE
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Our ref: 20181343:BST

7 August 2018

By Email: AboriginalLandCommissioner@network.pmc.gov.au

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801

Dear Commissioner Mansfield

**RESPONSES TO SUBMISSIONS ON BEHALF OF CLAIMANTS: GARRWA
LAND CLAIM NO 78, MCARTHUR RIVER REGION LAND CLAIM NO 184,
MANANGOORA LAND CLAIM NO 185, SEVEN EMU LAND CLAIM NO 186,
AND WOLLOGORANG AREA II LAND CLAIM NO 187**

Introduction

Pursuant to your correspondence to Mr David Ciaravolo of the Amateur Fishermen's Association of the Northern Territory (**AFANT**) dated 24 July 2018, please find below the following responses provided on behalf of AFANT.

I note that some of the responses will refer to relevant testimony in the hearings on the Peron Island Area Land Claim No 190 (**Peron Island**) and Woolner/Mary River Region Land Claim No 192 (**Mary River**). Copies of relevant transcripts have been attached. Any reference to transcripts in this reply is a reference to the transcripts of those hearings and we respectfully request they be incorporated by reference.

Agreements and permit-making

You have brought to our attention NLC's submissions on agreements and permit making from page 2 and invited AFANT's reply.

Agreements

The fishing access agreements referred to in [9] of the NLC submission are permit-free open access agreements. The references to those agreements, along with the first sentence of [10] and references to the agreements sprinkled elsewhere throughout its submissions (see, e.g., [34], [40], [41], [42]), create the impression that permit-free open access agreements would be a realistic possibility if a land claim is granted or would be provided in exchange for a grant of a land claim. AFANT does not believe this impression is a correct one.

Based on the limited information available to us, we do not believe that permit-free open access agreements have been presented as an option to Traditional Owners who would be affected by the new permit system being created by NLC; only the permit system is being presented as an option, thus precluding informed consent on the part of the Traditional Owners. Similarly, we believe permit-free open access agreements are not and will not be presented as a potential option to land claim claimant groups.

AFANT noted in its Lower Daly Land Claim response to NLC submissions that the submissions actually appear to suggest an unwillingness on NLC's part to provide permit-free open access agreements as an option in consultation with Traditional Owners. We further pointed to the testimony provided by claimant's witness Kane Bowden in the Peron Island and Mary River hearings that there are no negotiations being undertaken for open access recreational fishing, only consultations as to the introduction of NLC's permit system. See transcripts of 25.06.2018 at P-4 and P-11.

The last line of [15] of NLC's submission gives us further reason to believe that the permit-free open access agreements like those identified in [9] have not been presented to Traditional Owners. That line is that the new permit system, a *fait accompli* at this point, "will be fee-free for the first three years but may be subject to an administration cost-recovery fee thereafter", citing Mr Bowden's testimony.

What this says is that Traditional Owners will not only forego the financial benefits they might otherwise secure through permit-free open access agreements for the first three years, but they will also forego financial benefits into the future beyond those three years because any revenue stream would be directed to NLC for cost recovery. AFANT does find this credible. We question whether the Traditional Owners have been advised of this in consultation with NLC and have been able to compare it to an option of a permit-free access agreement. Further reasons why AFANT does not find this credible are detailed below under 'permit making'.

AFANT also notes that NLC did not directly respond to the Northern Territory's submission in the Group 4 land claims that "The NLC has advised that it does not want to put the Territory's offer to the Traditional Owner groups", instead saying "Whether or not that is correct, the comment is irrelevant because, whatever the content of the NT offer was or is only relates to the tidal waters overlaying Aboriginal land. No similar offer has been made with respect to the areas in these land claims." NLC submission at [37].

The Northern Territory's submission referred to in the NLC submission at [37] is relevant and the lack of a direct response by NLC is telling. If NLC is unwilling to present a Northern Territory offer for a permit-free access agreement to one set of Traditional Owners¹, that is probative evidence of the likelihood it will also be unwilling to present similar offers to claimants in these and other land claims should a claim be granted in whole or part.

In one respect, however, we are in accord with the submission of NLC. Paragraph [10] begins, "by their very nature these land claims require that proposed agreements may need to be evidenced in some circumstances in order for the Minister to consider the decisions he must make in response to the recommendations". This was a point AFANT made in its

¹ AFANT notes it has no knowledge of the offer the Northern Territory asked NLC to present to the Traditional Owners.

Lower Daly submission, distinguishing agreements such as that between the Northern Territory and the Port Keats/Daly River Aboriginal Land Trust for the situation surrounding the Lower Daly Land Claim:

The present situation is significantly different to the context of the agreements referred to in the submissions in that the lands and waters under Claim in LC 68 are not presently Aboriginal Land. The Minister must clearly understand that the respective negotiating positions are different. Presumably, any talk of agreement is based upon the acceptance that the granting of the claim would result in detriment to recreational fishers. The Minister therefore has the responsibility and the opportunity to seek an optimal outcome and to set certain conditions that should be met before the claim is granted, if it is to be granted.

AFANT contends that in the case of LC 68, the Minister should seek to settle provisions for ongoing perpetual rights of access for recreational fishers. This should take place prior to any decision to grant of the claim (as was the case for the Kenbi Land Claim). In addition, with the benefit of having the experience of the Kenbi Land Claim settlement process and subsequent implementation, the process prior to grant should also necessitate the issuance of any Sacred Sites Certificates for the claim area, inclusive of any negotiated conditions of avoidance and access.²

This statement does not discount the relevance of NLC's unwillingness to present offers that include permit-free open access fishing to Traditional Owners. It is simply to note again that if NLC will not present an offer where Aboriginal land already exists, there is reason to believe that NLC will not present a similar offer where Aboriginal Land may exist in the future.

Permit making

AFANT first directs the Commissioner to the cross-examination testimony of Mr Ciaravolo on 26.06.2018 at P-214 to P215 (lines 1-12), P-219, and P-225 (lines 44-46) to P-226.

The new permit system has been outlined in theory only. It is simply a bridge too far to accept the assertions of the NLC in relation to the operation of the future permit system, however well intentioned. To be more direct, the testimony of Mr Bowden (transcript of 25.06.2018 at P-21) advising the Commissioner that the NLC seeks secure standing orders from 100 Traditional Owner Clan Groups in six-months is as alarming as it is naïve.

In any event, while the new permit system outlined by the NLC may (where standing orders are eventually received) reduce the time taken to apply for and receive a permit, that is not the major issue when it comes to claims yet to be granted, as NLC seems to suggest at [10]. The permit system propounded by Mr Bowden is not any kind of long-term agreement recognising the detriment to fishers should they be excluded from the areas to which they currently enjoy legal access. There is no guarantee, or even any assurance, that permits would be offered for areas that fishers want to access nor can there be any certainty that if offered the permits will continue to be available into the future.

² AFANT Response to NLC Submissions (Lower Daly River – LC 68) (19 July 2018) at 3.

As noted above, NLC's claim at [15] that the permits "will be fee-free for the first three years but may be subject to an administration cost-recovery fee thereafter" is not credible. The assertion raises serious concerns about the long-term viability of the permit system, not just from an operational point of view but in terms of offering Traditional Owners the opportunity to benefit from their ownership of Sea Country.

NLC's submission in regards to permit fees is also not credible because it has been directly and publicly contradicted by the CEO of the Northern Land Council. In an interview on ABC Radio Darwin on 31 July 2018, he said the following when questioned about whether permits would be fee-free for the first three years:³

Kate O'Toole: Is that promise going to be maintained? Free at least for three years?

Joe Morrison: "Well, I mean that's a decision for Traditional Owners. It's not a decision for staff at the Northern Land Council. Whatever has been said at the Aboriginal Land Commissioner hearing obviously is something that's been said and done, but as far as I am concerned as the CEO of the Northern Land Council it is up to Traditional Owners to make that decision..."

Based on this, no weight should be given to the submission or to Mr Bowden's testimony as to how the permit system will operate. Indeed, it casts doubt on the credibility of the entirety of Mr Bowden's testimony in this and all other land claims in which his testimony has been given or cited.⁴

Even assuming for argument's sake that permits will be free for the first three years, it is AFANT's contention that free permits are most unlikely to continue into the future. If we take the Dhimurru example, referred to in [16] of the NLC submission, a yearly family permit for access to a relatively limited recreation area is \$160. AFANT's concern is that the permit system has potential to become a patchwork of access that comes at considerable cost. Or worse, access permits could be sold on the basis of exclusivity to the highest bidder. There is simply no guarantee of what the permit system will look like after three years.

AFANT fishing surveys

You have also brought to our attention [33] of NLC's submission, which adopts its general observations challenging AFANT fishing surveys in the Lower Daly Land Claim, and have invited comment. See also NLC submission at [39].

We first note that NLC provides no specific challenge to any part of the AFANT Seven Emu, Robinson River (Manangoora) and Wollogorang Land Claims survey. We additionally note that NLC does rely, in part, on AFANT fishing surveys, referring to the McArthur River Land

³ ABC Darwin Drive with Kate O'Toole, 31 July 2018 at 1h:09m:25s – 1h:10m:18s, <http://www.abc.net.au/radio/darwin/programs/drive/drive/10032294> (accessed 2 August 2018).

⁴ Mr Bowden's testimony with regard to permit fees has also been entered into the record in numerous other Land Claims, including Fitzmaurice River Region Land Claim No 189, Legune Area land Claim No 188, Gregory National Park/Victoria River Land Claim No 167, Peron Island Area Land Claim No 190, Mary River Region Land Claim No 192, and Lower Daly Land Claim No 68. It – and any submissions that rely on it – should be accorded no weight in any of those Land Claims.

Claim fishing survey in [16] of its submissions here. NLC cannot have it both ways. It either accepts the surveys as valid or it does not.

The AFANT Seven Emu, Robinson River (Manangoora) and Wollgorang Land Claims survey, along with the McArthur, Robinson, Wearyan Rivers and Bing Bong, Manangoora Coast Land Claim Survey (collectively, the **surveys**), is useful and reliable for what it purports to be, a snapshot of the self-reported fishing activities and opinions of persons who fish the claim area.

NLC posits that self-reported surveys are *per se* invalid because those who self-report cannot be trusted to answer truthfully. AFANT categorically rejects this contention and draws attention to the fact that self-reports are commonplace in the collection of fisheries data. In addition, '[m]uch of social science relies on self-reported information. Because of this, there has been extensive research regarding the validity of self-reported data. Researchers have found that self-reported data are accurate when individuals understand the questions and when there is a strong sense of anonymity and little fear of reprisal'.⁵ The questions in the surveys are easy to understand and sufficient anonymity exists to provide respondents with a high enough level of comfort to provide honest answers. The degree to which dishonest answers may be a problem varies with the topic of the questionnaire; respondents may be less likely to be fully truthful about measures relation to matters seen as socially unacceptable, like underage drinking or illicit drug use.⁶ Those concerns are simply not present here.

AFANT, of course, is relying on the honesty of those responding. This is not meant, however, to assert 100% truthfulness; every survey has some margin of error. The results of the survey, however, provide data of sufficient accuracy for the purpose for which it has been used; to support the professional knowledge of AFANT regarding fishing in the Claim Area.

Paragraph-specific responses

AFANT further provides responses to specific paragraphs of the NLC submissions to the extent those paragraphs are not addressed above.

Response to [39]

The NLC submission displays a misunderstanding of cumulative detriment, confusing overfishing (depletion of stock) with the social amenity of recreational fishing. AFANT here adopts its response to NLC's submission on the Lower Day Land Claim:⁷

⁵ D Steslow, N Lasher, S Kong, 'Closing the Loop or Jumping Through Hoops: The Impact of Assessment on the Legal Studies Curricula' (2016) 33 *Journal of Legal Studies Education* 97, 103-104. See also, W Baldwin, 'Information no one else knows' in A Stone et al (eds.), *The science of self-report: Implications for research and practice* (2000: Lawrence Erlbaum Publishers Inc., Mahwah, NJ) 3-5.

⁶ N Brener, J Billy, W Grady, 'Assessment of Factors Affecting the Validity of Self-Reported Health-Risk Behavior Among Adolescents: Evidence From the Scientific Literature' (2003) 33 *Journal of Adolescent Health* 436, 436.

⁷ *Supra*, n 2 at p 7.

The cumulative detriment that comes from crowding more recreational fishing into a smaller area is not primarily about depletion of stock to unsustainable levels, and no evidence has been provided to the contrary. The detriment that occurs from crowding more fishers into a smaller space is detriment to the social amenity and experiential value of recreational fishing. This was pointed out in [39]-[40] and [42]-[43] of Mr Ciaravolo's statement on behalf of AFANT [for the Lower Daly Land Claim]:

39. The enjoyment of recreational fishing is about much more than just the catching of fish; for participants the activity is about the experience as a whole. The enjoyment, social and lifestyle values of recreational fishing experiences can be impacted by informal competition with, or the presence of, other fishers on the water. This is especially the case in regional settings where enjoying space on the water is usually an intrinsic part of the visitation experience.

40. Increased competition [and] the presence of others, is one way that cumulative detriment from more fishers being squeezed in to fewer locations may be seen to extend beyond resource sustainability/availability, and to also impact upon on social and amenity values (the availability of a valued experience).

...

42. It is reasonable to expect that increased pressure on existing infrastructure would also occur if more fishers are concentrated into fewer areas as the result of a loss of access or changed (less favourable) access conditions to a popular fishing area (such as the Claim area).

43. Congestion of limited infrastructure may also cause detriment through the cost of time, as well as through the impact on the social value/ enjoyment of a fishing trip...

Response to [43]

The NLC assertion that it is hypocritical for the NT Government to assert cumulative detriment in the relocation of fishing from one place to another, while at the same promoting increased fishing effort across the board is simply a non-sequitur. At best, it is an assertion with no evidentiary support. The promotion of fishing is, as NLC notes, "across the board", as in across the entire Top End. Promotion of fishing throughout the entire Top End has no relationship to a concern that the grant of land claims will create cumulative detriment by squeezing fishers into a smaller and smaller area.

//
//
//
//
//

What NLC is suggesting through its comment – the NT Government should desist from promotional efforts to increase fishing efforts in the Northern Territory in order to alleviate cumulative detriment – has no basis in fact. It is not credible and should be disregarded.

Yours faithfully
WARD KELLER



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David Ciaravolo
Executive Officer
AFANT

Attachments

TRANSCRIPTS

KANE BOWDEN: Right here?

MR AVERY: Yes. Can you see anywhere where you suggest that?
05

KANE BOWDEN: Where consultations are continuing?

MR AVERY: Yes, negotiations, negotiations.

10 KANE BOWDEN: Well, there's nothing on negotiations.

MR AVERY: Right. Now, at paragraph 6 you talked about consultations.

KANE BOWDEN: That's right.

15 MR AVERY: What are they about?

KANE BOWDEN: They're about consulting with the traditional owners in
the NLC regions as to the introduction of a permit system to help them
20 understand it and inform it.

MR AVERY: Right. And you also mention at paragraph 4 in the last
paragraph you again mention consultations?

25 KANE BOWDEN: That's right, yes.

MR AVERY: And is that for the same purpose?

KANE BOWDEN: Absolutely, yes. And a lot of this reform depends on the
30 consultations with traditional owners to ensure that they're aware of what's
been put in place on their behalf, and to seek their instructions on the permit
system.

MR AVERY: So, those consultations are required under the Aboriginal Land
35 Act as far as permits are concerned?

KANE BOWDEN: They are, yes.

MR AVERY: Thank you. That's all I have, your Honour.
40

COMMISSIONER: Now, that statement which is dated 29 May, have I
received that yet or do you want me to - - -

MR AVERY: I think - - -
45

MR WALSH: Yes, you did, your Honour.

Yes. Now, Mr Avery touched on this: in paragraph 5 there appear to be six agreements that have been negotiated to date. Following the Blue Mud Bay decision the NLC and various land trusts entered into agreements with the
05 Northern Territory Government over six high valued fishing areas. Are you aware that these agreements were completed between approximately 2012 and July 2014 and that there have been no agreements since that time?

KANE BOWDEN: The timing is not – I don't have that in front of me, but I
10 am aware that's around about the timing.

MR WALSH: Thank you. And in paragraph 6, and again you spoke to Mr – spoke with Mr Avery about this where you say, while consultations continue over the remaining intertidal zones, etcetera, you are distinguishing
15 consultations from negotiations, I think in your answer to Mr Avery. Is that - -

KANE BOWDEN: Yes, there have been no negotiations. I'm not empowered or don't have in my remit any negotiations. My remit is to ensure that
20 consultations are carried out with every clan group wishing to introduce the permit system.

MR WALSH: And you said in answer to Mr Avery that the consultations with traditional owners were concerning the introduction of a permit system?
25

KANE BOWDEN: Correct.

MR WALSH: So, there were no other options put to the traditional owners other than the current system?
30

KANE BOWDEN: Oh, no, and this starts with traditional owners wanting a permit system, so my understanding is it came from traditional owners and it went to a full council meeting in 2017, and it was made a priority project for the Northern Land Council and that's why we're – I'm sitting here today
35 talking to you.

MR WALSH: But to your knowledge the consultations that you refer to in your statement have been with traditional owners about the introduction and perhaps the nature of a permit system?
40

KANE BOWDEN: They have, and the consultations that I have personally been involved in have commenced.

MR WALSH: Yes. Now, in paragraph 7 you talk about the design of an
45 updated permit management system which is not yet complete. And I think you've already given some evidence about how far it's progressed, but when you say "not yet complete", what is the intended timeframe from here on?

However, they have each of them integral duties committed to the permit reform project.

05 MR TORGAN: Has an allocation of – has a general allocation of time percentage wise been made to work as a policy officer?

10 KANE BOWDEN: The policy officer is 100 percent for the first six months of their role, and the business system administrator would be 50 percent, give or take, and the data analysts will be 50 percent.

MR TORGAN: Moving to a couple of questions on paragraph – focusing on paragraph 12 – actually your statement in paragraph 14 refers to various intertidal areas. Is there – how are the various areas being prioritised?

15 KANE BOWDEN: Mostly where the highest volume of fishing is occurring.

MR TORGAN: I guess could you forgive my ignorance, but how many different groups and different clans do you have to consult with over the course of developing the system?

20 KANE BOWDEN: And that's a very good question. We've got 12 priority areas, and there are close to 100 clan groups that need to be consulted before the end of the year.

25 MR TORGAN: That's all I have, your Honour.

COMMISSIONER: Thank you. Now, Mr Avery.

30 MR AVERY: Well, I'll get back to where I was.

<RE-EXAMINATION BY MR AVERY

[2.15pm]

35 MR AVERY: Yes, I'll just take you back. You were asked about eligibility criteria. If I could perhaps suggest things. So, a fairly common form would require your licence number, driver's licence number and your name, address and I forget - - -

40 KANE BOWDEN: That's right.

MR AVERY: Hey?

45 KANE BOWDEN: That's right, yes.

The \$50 million you mentioned when you gave evidence in – I think it was in Fitzmaurice.

05 DAVID CIARAVOLO: Yes. So I think there are already allocated to commercial.

MR AVERY: So you – you'd go cap in hand for some more money to put more boat ramps in.

10 DAVID CIARAVOLO: Well, not necessarily. I mean, look, recreational fishers don't like ways used in infrastructure that can impact upon the experience. That's certainly one of the – one of the concerns. But a place like the – particularly the Shady Camp system. It is so large that it does allow people to get on the water and spread out a little bit.

15 MR AVERY: So just getting – moving on to another topic: permits. So your recreational fisherman – I've put this proposition to you in a previous week – wakes up in the morning, turns on the radio, the fish are biting out at – at the Mary River, and he's in his – jumps in his car and he drives out to go fishing.
20 Hasn't got time to apply for a permit online, as suggested in the evidence of Kane Bowden yesterday.

DAVID CIARAVOLO: Ten days in advance and - - -

25 MR AVERY: No. No - - -

DAVID CIARAVOLO: - - - in which he gets a response.

MR AVERY: No. Kane Bowden said, if they – they're developing an online
30 app you download and you go clickety-click.

DAVID CIARAVOLO: Mm.

MR AVERY: And once they get those instructions you can get your permit.
35

DAVID CIARAVOLO: Once – once Kane's able to get standing instructions from the (TUI).

MR AVERY: Yes.
40

DAVID CIARAVOLO: Potentially.

MR AVERY: Okay. That – no, that's right. So – but your eager fisherman has arrived now at the boat ramp at Shady Camp and there's a hundred cars in
45 front of him. So could he have just spent two or three minutes getting his permit?

DAVID CIARAVOLO: I think if there were standing orders from the traditional owners to allow that kind of access – this remains to be seen, although is an objective of Kane Bowden – then, yes, that – he potentially could. However, that remains to be seen. This is the – this is the tricky part. I think we've never said that the technology doesn't exist to have a working permit system, but establishing, essentially, nominated area for access is very different.

But I also note that you introduced some distinctions between this point in time now, when we're dealing with – we don't have traditional owners in this area, so we don't really know what their views are about that.

MR AVERY: No. Right. No. I mean, I was going to comment that one of the traditional owners operates a tourism venture, and you probably know him. So we might be anticipating his views - - -

DAVID CIARAVOLO: One of the claimants or - - -

MR AVERY: One of the claimants, yes.

DAVID CIARAVOLO: - - - because there's not traditional owners in this area at the moment, under the Aboriginal Land Act.

MR AVERY: Well, they are if we're doing an 11A agreement. They're called traditional owners. 11As are agreements where you make an anticipation of . . .

DAVID CIARAVOLO: Perhaps I misunderstood the distinction when we were talking about it yesterday.

MR AVERY: Yes. No, you're – you're right. You're right and you're wrong. That's alright. So but we're – you know, I just mention that. One of our senior claimants operates a tourism business – actively operates a tourist business. Anyway, we'll get to that another day.

DAVID CIARAVOLO: Well, he should be looking to applying for one of the recreational fishing grants they fought so hard for to have avail to traditional owners looking to open up that country.

MR AVERY: Oh, right. Now, getting to the permits and Peron Islands, you mentioned that, in the wet, or the runoff, people put their boats in at – well, the Daly River, which I think's Wooliana.

DAVID CIARAVOLO: No, I said – I corrected myself and said - - -

MR AVERY: Dundee.

DAVID CIARAVOLO: - - - at – at Dundee.

jurisdictions do not face. It is an entirely separate cost to managing a fishery.
It's - - -

05 COMMISSIONER: I'm not sure how much further I'm going to be helped by
this, Mr Avery.

10 MR AVERY: No. It's a – not going anywhere. Yes. I think I'll just – I'll
leave it there. So we've got permits. We're back where we were on permits.
You've heard Mr Bowden's evidence about that. You – you adopt a wait and
see. Did you hear the remarks yesterday about the timing for grant of land
from any recommendation to when it actually might happen?

DAVID CIARAVOLO: Mm.

15 MR AVERY: You heard that?

DAVID CIARAVOLO: Mm.

20 MR AVERY: And did you understand the exchange we had about the role of
the Minister in determining whether land should be granted?

DAVID CIARAVOLO: I'm – I'm very well aware of that.

25 MR AVERY: Right.

DAVID CIARAVOLO: And I know he's eager to learn the results of our
survey.

30 MR AVERY: Yes, well, send it to him. The – so the Minister's agency in
this is – is to read the report and the comments.

DAVID CIARAVOLO: Of course.

35 MR AVERY: And then he can make a decision, which may actually be
reviewable by a party who's not satisfied.

40 DAVID CIARAVOLO: Yes. Look, I – I understand – I understand the
process. I understand the role of – of the Commissioner. I understand,
obviously – I've read the reports of the previous Commissioner, and I have –
I've – I've familiarised myself with the – the context of that and I'm aware of
the passage of time since the recommendation of the last grant and detriment
review. So I feel fairly – I'm fairly well across that.

45 MR AVERY: So even the time it took for those processes to run, Mr
Bowden's system is online, you would be able to see it and know what you
would be able to say about it, whether it's workable for your members.

DAVID CIARAVOLO: Yes and no. I mean, I think – I think it kind of misses the point. I mean, I think if the traditional owners were coming to the Minister and saying, “Well, this is the area that we want to nominate as an open access area and this is the conditions”, whether it's open access or open
05 access by a permit and whichever way they wanted to agree to that, that's a different scenario.

I'm not sure that Mr Bowden's going to, you know, solve all of the issues of getting claim agreements on different fishing areas through his electronic
10 design. I think – I think that – that's a long way down the road.

MR AVERY: So if, on the Peron Islands or the Woolner area, the claimants were minded to – to agree with a proposition for one of those access agreements that have been done previously for Aboriginal land, would AFANT
15 be happy about that? You wouldn't be paying the cost.

DAVID CIARAVOLO: I think our preference would be, where it's possible, to have the area – areas that report recreational fishing to be declared as open areas under the Indigenous – under the Aboriginal Land Rights Act. If they
20 were – if the claim was going to be granted.

MR AVERY: Thank you. That's all.

COMMISSIONER: Thank you.
25

MR WALSH: Just a couple of points of clarification, if I may be permitted, your Honour.

COMMISSIONER: Yes.
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<CROSS-EXAMINATION BY MR WALSH [4.19pm]

35 MR WALSH: Mr Avery referred to bag limits. It's correct to say, isn't it, that bag limits relate to the – the matter of the number of fish kept, not the number of fish caught?

DAVID CIARAVOLO: Absolutely. Absolutely.
40

MR WALSH: And, secondly, the concept known as catch and release is – is commonly practised by NT recreational fishers?

DAVID CIARAVOLO: It's – it's very – it's very common. I can't say the
45 number right now because, normally, my statement would refer to the – the report in the government's research, which – and I used the one that was in my – in my survey, which I'm not allowed to talk about. But, certainly, you could