

Tara Cheyne MLA

Manager of Government Business

Attorney-General

Minister for Human Rights

Minister for City and Government Services

Minister for the Night-Time Economy

Member for Ginninderra

RESPONSE TO QUESTION ON NOTICE**Questions on Notice Paper No 4****21 March 2025****Question No. 207****MR CAIN:** To ask the Attorney-General —

1. What involvement, if any, did the ACT Government have in assisting or supporting the Appellant in Commonwealth of Australia v Yunupingu & Ors.
2. If the ACT Government assisted or supported the Appellant, can the Attorney-General outline the reasons why.
3. What (a) legal advice and (b) policy advice has the ACT Government requested and/or received on the outcomes, or potential outcomes, of Commonwealth of Australia v Yunupingu & Ors.
4. Has the ACT Government undertaken any preparations for possible liability of compensation payments to First Nations people; if so, what have these preparations entailed.
5. Is the ACT Government aware of any Native Title claims for the ACT currently being prepared.
6. What is the ACT Government policy on responding to Native Title claims for the ACT.

TARA CHEYNE MLA - The answer to the Member's question is as follows:

1. The Attorney-General for the ACT intervened in support of the First Respondent (Dr Yunupingu) on ground 1 of the appeal. Ground 1 was about whether the just terms requirement in s 51(xxxi) of the Constitution applies to laws enacted pursuant to s 122. The Attorney-General intervened in support of the Appellant (the Commonwealth) on grounds 2 and 3. Ground 2 was about whether extinguishment of common law native title



by or under a law of the Commonwealth prior to the commencement of the *Native Title Act 1993* (Cth) constituted an acquisition of property within the meaning of s 51(xxxi) of the Constitution. Ground 3 was about whether the grant of pastoral leases under the *Northern Territory Land Act 1899* (SA) extinguished non-exclusive native title rights over minerals on or under the subject land.

2. The Attorney-General intervened in support of the Appellant on grounds 2 and 3, as those grounds gave rise to matters directly relevant to the scope of any native title claim that may be made over land in the ACT in the future.
3. The Solicitor-General has provided legal advice to Government on the outcome of the decision. That advice is subject to legal professional privilege. Legal advice will be considered in the development of any policy advice in due course.
4. No Native Title claim has been made by First Nations people and it is accordingly premature to consider any issues around compensation.
5. Yes.
6. The ACT Government will respond to any Native Title claim in accordance with its terms.

Approved for circulation to the Member and incorporation into Hansard.


Tara Cheyne MLA
Attorney-General

Date: 30/4/25

This response required 4hrs 59mins to complete, at an approximate cost of \$665.70