



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

This document was filed electronically in the High Court of Australia on 04 Aug 2026 and has been accepted for filing under the *High Court Rules 2004*. Details of filing and important additional information are provided below.

Details of Filing

File Number: B24/2026
File Title: Redland City Council v. Burns
Registry: Brisbane
Document filed: Form 27F - Appellant's outline of oral argument
Filing party: Appellant
Date filed: 04 Aug 2026

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

Form 27F – Outline of oral submissions

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

REDLAND CITY COUNCIL

Appellant

and

DARREN BURNS

Respondent

APPELLANT’S OUTLINE OF ORAL SUBMISSIONS

Part I: Publication

1. These submissions are in a form suitable for publication on the internet.

Part II: Propositions to be advanced in oral argument

A. The respondent’s belief

2. The evidence regarding the respondent’s belief was that his conduct was a traditional activity that he as a Quandamooka man with “Native Title on that country” was entitled to undertake. This was, effectively, either a mistake as to the legal effect of the determination or a claim that it was a traditional cultural practice, based on the definition of *exempt clearing work* in the *Planning Act*, which excuses what would otherwise be criminal conduct. The *Planning Act* does not create a “private right under the civil law.” It is on this point that Doyle JA, with respect, erred at [174].

B. An offence relating to property?

3. To fall within subsection 22(2), the offence must be one *relating to property* and the act or omission must be *with respect to property*. The broad construction is apt to lead to absurdities of the kind identified by Doyle JA at [151].
4. An offence of carrying out prohibited development is not an offence “relating to property.” That the facts of an alleged offence involve an act or acts done “with

respect to property” does not make that offence one “relating to property”. Hence Doyle JA’s reasoning at [153] is, with respect, flawed. Despite the width of the expression “relating to”, context and the textual structure of the subsection supply compelling reasons for the narrow construction. All of the words of the subsection, including the two differing connections to property and “without intention to defraud” should be given effect.

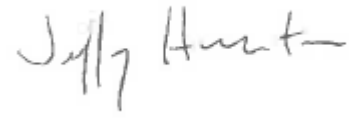
5. Subsection 22(2) of the *Code* should be construed so that the class of offence to which it can apply is limited to those in which an element is causing another to part with property or the infringement of another's rights in property. To do otherwise is to “put a premium on ignorance of the law”.

C. Claim of right arising under the civil law

6. It is well established that a claim of right is a private right arising under the civil law that would, if well founded, answer the charge. The rights recognised by the determination are private rights arising under the civil law; however, contrary to Doyle JA’s reasoning at [172]-[177], the respondent’s belief was merely a mistaken understanding of his rights, which were fixed under the determination. An honest belief in an entitlement to destroy the trees was irrelevant.
7. Alternatively, the respondent’s belief was that his conduct involved a traditional cultural practice. That exemption is a carve-out from criminal liability: it renders lawful what would otherwise be criminal, but it does not confer a private right and does not arise under the civil law. A belief about its operation is a belief about the reach of the criminal prohibition and falls foul of subsection 22(1).
8. In any event, the respondent’s conduct in engaging a private contractor to fell trees so that he could build a modern residence bore no resemblance to any traditional cultural activity. And while a claim of right need not be well founded in law, it must be a genuine assertion of a believed private right; a bare claim to freedom from any prohibition is not enough.

Dated: 4 August 2026

-3-

A handwritten signature in dark ink, appearing to read "Jeff Hunter". The signature is written in a cursive, slightly slanted style.

Jeffrey Hunter KC