



HIGH COURT OF AUSTRALIA

5 August 2026

MPWEREMPWER ABORIGINAL CORPORATION RNTBC (ICN 7316) v MINISTER FOR
TERRITORY FAMILIES AND URBAN HOUSING AS DELEGATE OF THE MINISTER FOR
THE ENVIRONMENT & ANOR
[2026] HCA 23

Today, the High Court unanimously allowed an appeal from a judgment of the Court of Appeal of the Northern Territory. The appeal concerned the validity of a decision made on review to grant a 30-year water extraction licence under the *Water Act 1992* (NT) ("the Water Act").

In April 2021, the Controller of Water Resources ("the Controller") granted Fortune Agribusiness Funds Management Pty Ltd ("Fortune") a licence for a 30-year term to extract groundwater for the purposes of irrigating a property known as "Singleton Station". Mpwerempwer Aboriginal Corporation RNTBC ("MAC"), the prescribed body corporate for the native title holders of the Singleton Station pastoral lease, sought review of that decision under s 30 of the Water Act. The Minister for the Environment referred the matter to the Review Panel pursuant to s 30(3)(b) of the Water Act. In November 2021, the Minister for Territory Families and Urban Housing as delegate of the Minister for the Environment ("the delegate Minister") substituted the Controller's decision with a decision to grant Fortune a 30-year licence, subject to several conditions, relevantly including "CP 10" which required Fortune to develop and submit a groundwater dependent Aboriginal cultural values impact assessment.

MAC sought judicial review in the Supreme Court of the Northern Territory. The primary judge dismissed the proceeding, and the Court of Appeal dismissed MAC's appeal. In the High Court, MAC relied on three grounds: (1) the delegate Minister was required to be satisfied under s 60(4)(b) of the Water Act that special circumstances justified the grant of a licence for a period exceeding ten years, and failed to discharge her statutory function in that respect; (2) the delegate Minister failed to consider a mandatory relevant consideration, namely the protection of Aboriginal cultural values, in a manner sufficient to comply with s 90(1) of the Water Act; and (3) the delegate Minister failed to accord MAC procedural fairness by not providing MAC with notice that CP 10 would be attached to the water extraction licence.

The High Court unanimously allowed the first and third grounds of appeal. The Court held that the delegate Minister had failed to discharge her statutory function because she did not reach the state of satisfaction required by s 60(4)(b) of the Water Act that there were special circumstances justifying the grant of a licence for a term exceeding ten years. In addition, the Court held that the delegate Minister had denied MAC procedural fairness and that MAC should have been given a reasonable opportunity to make a submission in respect of the possible imposition of CP 10.

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.