PRESS RELEASE FOR IMMEDIATE RELEASE ON BEHALF OF THE ARABANA APPLICANTS

ARAYA-NGURRKU ARLA ("Yes! Really good" in Arabana)

HIGH COURT CONFIRMS THAT CONNECTION BY LAWS AND CUSTOMS IS WHAT MATTERS IN NATIVE TITLE

The Arabana People have unanimously won a native title appeal to the High Court of Australia.

On 22 May 1993, before the *Native Title Act* came into being, the Arabana People and Elder Reg Dodd lodged a Common Law native title claim in the High Court of Australia over their traditional lands around Kati Thanda in South Australia.

In 1998 the Arabana People lodged a native title claim and in 2012 obtained native title over 99% of their country by a Consent Determination in the Federal Court of Australia (*Dodd v South Australia* [2012] FCA 519)

The Determination did not include the Oodnadatta Common, as the State of South Australia was to transfer it to the local Dunjiba Community Council. When this did not proceed, in 2013 the Arabana relodged their claim over the Oodnadatta Common.

Unfortunately, another group the Walka Wani with the support of the SA Native Title Service lodged an overlapping claim, which led to a trial before Justice White in the Federal Court.

In an error prone judgment, Justice White ruled that although the Common was traditionally the land of the Arabana People, they had lost their connection to the Country, and he gave the land to their overlapping neighbours even though it was not their traditional land.

In 2023, the Full Federal Court dismissed the Walka Wani claim but failed to reinstate the Arabana.

The Arabana appealed to the High Court and today they came to Canberra to hear the outcome of their appeal.

In the decision today, all seven judges of the High Court found that the trial judge had erred in focusing on the need for physical connection.

The Court has clarified that the connection must be "by law and custom" and highlighted the law relating to a spiritual connection to country.

In addition, the Court ruled that the judge erred in not accepting evidence from the Consent Determination in the adjoining Arabana Country.

The Arabana Applicant Aaron Stuart said:

"Today I'm thinking about the hard fought process that Arabana People went through back then with native title and our fight as a new generation for Arabana wadhlu. Through truth, honesty and strength we have gotten here today." Aaron said.

"It was always Arabana land and always is and always will be. Fences or territories may go up but blood land will always be blood land, stronger than any barbed wire fence. Ilanakunha (that's right)."

Leonie Warren, on behalf of her siblings Greg and Joanne Warren said, *"We thank all our supporters and our elders, especially Sydney Strangways, Reg Dodd and all those who gave evidence and everyone who has fought for this. We now look forward to moving forward with our younger generations in strength for Arabana wadhlu and get our home back."*

"We are proud to win today and we know our family who we have lost would be happy today too." Dennis Amos said.

Stephen Kenny and Leonora Herweijer, solicitors for the Arabana Applicants, said:

"It is great to see that the High Court has corrected the serious errors by the trial judge."

"This is an area of great significance to the Arabana People and they now feel that they have had justice from the Court system."

"The significance of the decision is that in future native title cases, the courts need to look more carefully at the spiritual connection that Aboriginal people have to their land. In addition, future applicants will be able to use evidence from a Consent Determination to assist their case."

"This case is significant because it emphasizes that the law relating to native title connection is primarily about spiritual connection and it is a mistake to focus on physical acts alone."

"This decision has clarified the law and will assist Aboriginal People making native title claims in the future."

The Arabana People will now take their case for native title over the Oodnadatta Common back to the Federal Court.

For further information please contact Stephen Kenny on 0419 689 266 or lh@cllegal.com.au