



# 2016 TERRITORY ELECTION

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## Media Release

1 December 2016

### Additional evidence prompts dismissal application

THE Northern Territory Electoral Commission has consented to dismissal of its application to the Court of Disputed Returns of 21 October, which questioned Mr Mark Guyula's qualification to nominate as a candidate for the division of Nhulunbuy in the 2016 Territory election based on information that he may have been a member of the Milingimbi Local Authority at the time of nomination.

"Additional evidence provided through the Court process does not establish that Mr Guyula was a member of the Milingimbi Local Authority at the time of his nomination. Consequently, on advice from the Solicitor-General, an application was made to the Court for dismissal with the consent of Mr Guyula," NT Electoral Commissioner Iain Loganathan said.

"No record of a signed nomination form for Mr Guyula to be a member of the Milingimbi Local Authority can be located.

"In addition, no employee of the East Arnhem Regional Council or member of the Milingimbi Local Authority is able to recall Mr Guyula agreeing to be a member.

"One member of the Milingimbi Local Authority has stated on affidavit that they had asked Mr Guyula to be a member but he had refused. Another member has stated on affidavit that she did not consider Mr Guyula to be a member.

"Further to this, Mr Guyula's affidavit states that he had not consented to be a member of the Authority and that his attendance at four meetings was as a Djirrikaymirri elder.

"These sworn affidavits and the complete state of the documentary records, were not available at the time of the Court of Disputed Returns' application deadline of 21 October. The relevant 2014 records had been archived by the East Arnhem Regional Council.

"The Solicitor-General advised that, based on the totality of evidence presented to the Court, it cannot be established on the balance of probabilities that Mr Guyula was a member of the Authority at the time of his nomination as a candidate for the division of Nhulunbuy," he said.

A consent application for dismissal was lodged with the Court on 1 December 2016.

To access documents lodged with the Court of Disputed Returns about this matter, please contact the registry of the Supreme Court of the Northern Territory on 8999 5446 or [dwnsupretreg.doj@nt.gov.au](mailto:dwnsupretreg.doj@nt.gov.au)

**MEDIA CONTACT:** Suzanne Gulikers | Manager, Public Awareness | PH: 08 8999 7635

**NT ELECTORAL COMMISSION**  
Level 3 | TCG Centre | 80 Mitchell St  
GPO Box 2419 | Darwin NT 0801  
PH: 08 8999 5000  
Fax: 08 8999 7630

**MYVOTE CENTRAL**  
Yeperenye Centre | Hartley St  
PO Box 2304 | Alice Springs NT 0871  
PH: 08 8951 5971  
Fax: 08 8953 6727

ABN: 84 085 734 992  
Website: [ntec.nt.gov.au](http://ntec.nt.gov.au)  
Email: [ntec@nt.gov.au](mailto:ntec@nt.gov.au)  
[facebook.com/NTElectoralCommission](https://facebook.com/NTElectoralCommission)  
@ntElecComm





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### Media enquiries

Suzanne Gulikers  
Manager, Public Awareness  
0412 712 226

### Background

- Initially, evidence presented to the NTEC following the declaration of the election result on 12 September, disclosed that Mr Guyula had been a member of the Milingimbi Local Authority at the date of nominating as a candidate in the Division of Nhulunbuy.
- This prima facie evidence included: council minutes nominating Mr Guyula as a member of the Millingimbi Local Authority; minutes noting Mr Guyula's attendance at four Millingimbi Local Authority meetings; and payment of sitting fees for attendance at these meetings.
- Membership of the Local Authority would likely fall within Part 3 section 21(1)(a) of the [Northern Territory \(Self-Government\) Act](#) 1978, meaning Mr Guyula did not meet the qualification requirements to nominate as a candidate for the division of Nhulunbuy.
- The [NT Electoral Act](#) Part 12 section 236(2)(b), states the validity of an election may be disputed on the eligibility of a person to be nominated as a candidate.
- Section 237(c) gives the Electoral Commission authority to bring such matters to the Court of Disputed Returns, the Court is established under the Act to determine election disputes.
- Based on this evidence and on advice from the Solicitor General, an application was made to the Court of Disputed Returns before the deadline of 21 October. This application provided an opportunity for additional evidence to be presented through the usual legal process.
- Following the application to the Court of Disputed Returns, affidavits of evidence from the Electoral Commission and East Arnhem Regional Council staff were lodged with the Court on 18 November.
- Mr Guyula's legal representatives also lodged their affidavits of evidence with the Court.
- A hearing on this matter was scheduled for 22 and 23 December.

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