FEDERAL COURT OF AUSTRALIA

Secretary, Department of Primary Industries, Parks, Water and Environment v Tasmanian Aboriginal Centre Incorporated (No 2) [2016] FCAFC 137

Appeal from:	*Tasmanian Aboriginal Centre Incorporated v Secretary, Department of Primary Industries, Parks, Water and Environment (No 2)* [2016] FCA 168
File number:	TAD 9 of 2016
Judges:	**ALLSOP CJ, GRIFFITHS AND MOSHINSKY JJ**
Date of judgment:	12 October 2016
Catchwords:	**ENVIRONMENT LAW** – National Heritage places – Western Tasmania Aboriginal Cultural Landscape – Ministerial decision to include area in National Heritage List – proposal by Tasmanian Government to open three tracks in area to recreational vehicles – form of orders to give effect to reasons for judgment – questions stated by the parties at the invitation of the Court and answered in accordance with reasons for judgment **COSTS** – the Court's discretion as to costs – applicable principles – where appellant and respondent each enjoyed a significant measure of success **PRACTICE AND PROCEDURE** – costs – costs of respondent on appeal – application by respondent for costs certificate in respect of appeal costs – whether the Court should exercise discretion to grant such a certificate
Legislation:	*Environment Protection and Biodiversity Conservation Act 1999* (Cth), ss 68, 523, 524 *Federal Court of Australia Act 1976* (Cth), s 43 *Federal Proceedings (Costs) Act 1981* (Cth), ss 3, 6, 14 *Federal Proceedings (Costs) Regulations 1991* (Cth), reg 4 *National Parks and Reserved Land Regulations 2009* (Tas), regs 18, 33
Cases cited:	*Anti-Doping Rule Violation Panel v XZTT (No 2)* [2013] FCAFC 135 *Bowen Investments Pty Ltd v Tabcorp Holdings Ltd (No 2)* [2008] FCAFC 107 *Bullock v The Federated Furnishing Trades Society of*

	Australasia (No 2) (1985) 5 FCR 476 *Minister for Immigration and Citizenship v SZNVW (No 3)* [2010] FCAFC 102 *Queensland North Australia Pty Ltd v Takeovers Panel (No 2)* (2015) 236 FCR 370 *Richards v Faulls Pty Ltd* [1971] WAR 129 *Ruddock v Vadarlis (No 2)* (2001) 115 FCR 229 *Secretary, Department of Families, Housing, Community Services and Indigenous Affairs v Mouratidis* (2012) 200 FCR 464 *Sims v Chong (No 2)* [2015] FCAFC 163 *State of Victoria v Sportsbet Pty Ltd (No 2)* [2012] FCAFC 174 *Tasmanian Aboriginal Centre Inc v Secretary, Department of Primary Industries, Parks, Water and Environment* [2014] FCA 1443
Date of hearing:	Determined on the papers
Date of last submissions:	4 October 2016
Registry:	Tasmania
Division:	General Division
National Practice Area:	Administrative and Constitutional Law and Human Rights
Category:	Catchwords
Number of paragraphs:	29
Counsel for the Appellant:	Mr ME O'Farrell SC, Solicitor-General for the State of Tasmania, with Ms J Rudolf
Solicitor for the Appellant:	Office of the Solicitor-General (Tasmania)
Counsel for the Respondent:	Mr B Walters QC with Ms T Acreman
Solicitor for the Respondent:	Environmental Defenders Office (Tasmania)
Counsel for the Intervener:	Mr PRD Gray QC with Ms FI Gordon
Solicitor for the Intervener:	Australian Government Solicitor

ORDERS

TAD 9 of 2016

BETWEEN:	**JOHN WHITTINGTON, AS SECRETARY OF THE DEPARTMENT OF PRIMARY INDUSTRIES, PARKS, WATER AND THE ENVIRONMENT AND AS DIRECTOR OF NATIONAL PARKS AND WILDLIFE** Appellant
AND:	**TASMANIAN ABORIGINAL CENTRE INCORPORATED** Respondent
	MINISTER FOR THE ENVIRONMENT AND ENERGY Intervener
JUDGES:	**ALLSOP CJ, GRIFFITHS AND MOSHINSKY JJ**
DATE OF ORDER:	**12 OCTOBER 2016**

THE COURT NOTES:

1. The appellant's undertaking that prior to taking any action to implement conditions attached to any designation that the appellant may make under regulation 18 of the *National Parks and Reserved Land Regulations 2009* (Tas) in relation to tracks 501, 503 or 601 in the Western Tasmania Aboriginal Cultural Landscape, or to carry out works in and around the tracks to facilitate recreational vehicles to be driven on the tracks, the appellant will either:

   (a) refer the proposed action to the Commonwealth Minister for the Environment and Energy under section 68 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); or

   (b) if the appellant decides not to refer the proposed action to the Commonwealth Minister under section 68 of that Act, give the respondent 30 days' written notice of the appellant's intention to take the action.

THE COURT ORDERS THAT:

1. The appeal be allowed in part.

2. The declaration and paragraph 1 of the orders of the Court made 1 March 2016 be set aside.

3. Questions raised on appeal as stated by the parties at the invitation of the Court in its reasons given on 16 September 2016 be answered as follows:

   (a) Is the proposed designation by the appellant under reg 18 of the *National Parks and Reserved Land Regulations 2009* (Tas) of tracks 501, 503 and 601 in the area called the Western Tasmania Aboriginal Cultural Landscape and the attaching of conditions to that designation under reg 33 of those regulations a governmental authorisation (howsoever described) for another person to take an action within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**), s 524(2)?

   Yes.

   (b) Is the conduct proposed by the appellant to implement the conditions and to carry out works in and around the tracks to facilitate recreational vehicles to be driven on the tracks a project, undertaking or series of activities and thus an action or actions within the meaning of the EPBC Act, s 523(1)?

   Yes.

   (c) Is the National Heritage value for the Western Tasmania Aboriginal Cultural Landscape the value included in the National Heritage List by the Minister by notice dated 7 February 2013, published in the Gazette?

   Yes.

4. The matter be remitted to the primary judge for any necessary further hearing and determination.

5. In relation to the costs of the appeal:

   (a) the appellant bear his own costs;

   (b) the intervener bear his own costs;

   (c) the intervener pay the respondent's reasonable costs of:

      (i) considering and responding to the intervener's submissions;

      (ii) the second hearing day,

      on a party and party basis provided that such costs are sufficiently particularised;

(d) the respondent otherwise bear its own costs.

6. Subject to the respondent providing confirmation by affidavit that it is not a body corporate within s 14(1)(f) or (g) of the *Federal Proceedings (Costs) Act 1981* (Cth), the respondent be granted a certificate to the effect that in the opinion of the Court it would be appropriate for the Attorney-General to authorise a payment under the *Federal Proceedings (Costs) Act 1981* (Cth) to the respondent in respect of the costs incurred by the respondent in relation to the appeal.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

THE COURT:

Introduction

1 On 16 September 2016, we published our reasons for judgment in the appeal and made provision for the parties to file minutes of proposed orders, and submissions in support of those proposed orders, to give effect to our reasons (including as to costs). These reasons, which should be read together with the 16 September 2016 reasons, deal with those matters.

2 The parties reached agreement on some, but not all, of the orders to be made to give effect to the reasons dated 16 September 2016. The parties agreed that there should be orders that:

(a) the appeal be allowed in part;

(b) the declaration and paragraph 1 of the orders of the primary judge made 1 March 2016 be set aside;

(c) the questions raised on appeal as stated by the parties at the invitation of the Court in its reasons given 16 September 2016 be answered as follows:

(i) Is the proposed designation by the appellant under reg 18 of the *National Parks and Reserved Land Regulations 2009* (Tas) of tracks 501, 503 and 601 in the area called the Western Tasmania Aboriginal Cultural Landscape and the attaching of conditions to that designation under reg 33 of those regulations a governmental authorisation (howsoever described) for another person to take an action within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**), s 524(2)?

Yes.

(ii) Is the conduct proposed by the appellant to implement the conditions and to carry out works in and around the tracks to facilitate recreational vehicles to be driven on the tracks a project, undertaking or series of activities and thus an action or actions within the meaning of the EPBC Act, s 523(1)?

Yes.

(iii) Is the National Heritage value for the Western Tasmania Aboriginal Cultural Landscape the value included in the National Heritage List by the Minister by notice dated 7 February 2013, published in the Gazette?

Yes.

(iv) Is it permissible to identify the relevant National Heritage value (and indigenous heritage value) by evidence in a particular case?

No.

(v) To understand or explain the National Heritage value, may recourse be had to material in, or referred to in, the National Heritage List?

Yes.

(vi) Is the National Heritage value in the Western Tasmania Aboriginal Cultural Landscape limited to the physical sites proximate to hut depressions, seal hides and middens lacking bony fish?

No.

(vii) Is it necessary that there be observable hut depressions in the proximity for the National Heritage value to be present?

No.

(viii) Before taking any of the actions referred to in question (ii), should the appellant consider referral of the proposed action to the Commonwealth Minister under s 68(1) of the EPBC Act?

Yes.

(d) the intervener bear his own costs of the intervention and pay the respondent's reasonable costs of:

(i) considering and responding to the intervener's submissions;

(ii) the second hearing day, being the additional hearing time as a result of the intervention by the intervener

on a party and party basis provided that such costs are sufficiently particularised.

3 We will make orders substantially in the terms proposed jointly by the parties as set out in paragraphs (a), (b), (c)(i)-(iii) and (d) above. There is utility in stating and answering the

questions in paragraphs (c)(i)-(iii) to ensure that the Secretary is able to seek to appeal the decision, should he wish to do so. We think it unnecessary to state and answer the balance of the questions posed by the parties; it is sufficient, and preferable, in respect of these matters, to refer to the reasons dated 16 September 2016.

4 The appellant (the **Secretary**) and the respondent (the **Tasmanian Aboriginal Centre**) were not agreed, however, as to the following matters, in respect of which they filed short written submissions:

(a) the mechanism for preservation of the *status quo*, and the form of orders to be made concerning the further hearing and determination of the matter (should this be necessary); and

(b) the costs of the appeal.

5 In addition, the Tasmanian Aboriginal Centre sought a certificate under s 6(1) of the *Federal Proceedings (Costs) Act 1981* (Cth).

6 We note for completeness that, although in his minutes of proposed orders the Secretary sought an order that the appellant and the respondent bear their own costs of the trial before the primary judge, the appellant subsequently indicated (by email from the Solicitor-General for Tasmania) that he abandoned the application for that order. Accordingly, neither side seeks to disturb the costs order below (being paragraph 2 of the orders of the primary judge made 1 March 2016).

7 We now address the matters referred to in [4] and [5] above.

Preservation of the *status quo*, and the form of orders to be made

8 Shortly after the proceeding was commenced, a judge of the Court granted an interlocutory injunction to restrain the Secretary from giving permission for vehicular access to the relevant tracks until the hearing and determination of the proceeding: *Tasmanian Aboriginal Centre Inc v Secretary, Department of Primary Industries, Parks, Water and Environment* [2014] FCA 1443. The injunction, which remained in place until judgment below, was in the following terms:

> 2. Until the hearing and determination of this proceeding, or further order the respondents [i.e. the Secretary] by themselves servants or agents are restrained from giving permission for vehicular access to the Protected Tracks by the public.

3. For the purpose of Order 2 the Protected Tracks means the following tracks in the Western Tasmania Aboriginal Cultural Landscape:

   (a) Track 501 from Johnson's Head south to Interview River;

   (b) Track 503 from Track 501 east to Interview Mine;

   (c) Track 601 from Interview River south to Pieman River.

9 The primary judge, having concluded that the Tasmanian Aboriginal Centre had established its case for relief, made a declaration. Her Honour (at [299] of her reasons) accepted a submission on behalf of the Secretary that nothing more than a declaration was required because, subject to his right of appeal, the Secretary would abide by the law as declared by the Court. It was for this reason that her Honour, in paragraph 1 of the orders made 1 March 2016, discharged the interlocutory injunction.

10 As noted above, the parties agree that, in light of the reasons of this Court dated 16 September 2016, the declaration and paragraph 1 of the orders of the primary judge made 1 March 2016 should be set aside. However, if the declaration is to be set aside, there is a need for some form of undertaking or order to preserve the *status quo* for a period of time. This is because the Secretary seeks time in which to consider referring the matter to the Commonwealth Minister pursuant to s 68 of the EPBC Act. If the Secretary decides to refer the matter to the Commonwealth Minister, it appears that a further hearing in the proceeding would be unnecessary. On the other hand, if the Secretary decides not to refer the matter to the Commonwealth Minister and to proceed with the proposed action, a further hearing before the primary judge would be required.

11 The Secretary, in his minutes of proposed orders as amended by subsequent email, proposes that he give the following undertaking:

> The Court notes the appellant's undertaking that prior to taking any action to implement conditions attached to any designation that the appellant may make under regulation 18 of the *National Parks and Reserved Land Regulations 2009* (Tas) in relation to tracks 501, 503 or 601 in the Western Tasmania Aboriginal Cultural Landscape, or to carry out works in and around the tracks to facilitate recreational vehicles to be driven on the tracks, the appellant will either:
>
> (a) refer the proposed action to the Commonwealth Minister for the Environment and Energy under section 68 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); or
>
> (b) if the appellant decides not to refer the proposed action to the Commonwealth Minister under section 68 of that Act, give the respondent 30 days' written notice of the appellant's intention to take the action.

12 The Secretary's proposed orders do not include any order for the further hearing and determination of the matter. The Secretary, in his short submissions as to disposition and costs, submits that he should now be permitted to consider the question of referral and, depending on the result of that consideration, refer the matter to the Commonwealth Minister, or seek further relief from the Court, or do nothing. No date is put forward by which a decision would be made.

13 The Tasmanian Aboriginal Centre submits that, pending either referral or remitter, the *status quo* should be preserved; this may be done either by an undertaking from the Secretary in broadly similar terms to the interlocutory injunction or by this Court making orders to preserve the *status quo*; mere notice of any proposed action (without referral) does not provide interim protection, nor does it provide final relief; notice may be given many years hence and, by such time, remitter to the primary judge may be futile. If no such undertaking is forthcoming, the Tasmanian Aboriginal Centre seeks an order that, in lieu of paragraph 1 of the orders made 1 March 2016, it be ordered that:

> Until further order, unless there has been a referral of the proposed action to the Minister under s 68 of the EPBC Act, the Appellant must not take any action to implement conditions attached to a designation in relation to tracks 501 (south of Sea Devil Rivulet), 503 or 601 in the [Western Tasmania Aboriginal Cultural Landscape], or to carry out works in and around the tracks to facilitate recreational vehicles to be driven on the tracks.

14 The Tasmanian Aboriginal Centre also seeks an order:

> If by 30 March 2017, no referral is made under s 68 of the EPBC Act, the Respondent has liberty to apply for the proceeding to be remitted to the trial judge to be determined according to law.

15 In our view, the preferable course in the circumstances is to accept the undertaking proffered by the Secretary and to make an order remitting the matter to the primary judge for any necessary further hearing and determination. We think the Secretary's undertaking sufficiently preserves the *status quo* for the present time. In the event that the Secretary gives notice as referred to in paragraph (b) of the undertaking, the Tasmanian Aboriginal Centre can apply for an interlocutory injunction. While it may be accepted that the Secretary should have a period of time to consider whether or not to refer the matter to the Commonwealth Minister, we do not think this should be open-ended; there is a need to bring finality to the proceeding one way or the other. We think it best to remit the proceeding to the primary judge as this will enable these matters to be dealt with flexibly as the need arises. For example, it may be that it is common ground that the Secretary should have until 30 March

2017 to consider his position and that no further steps in the proceeding need take place until that time. But even if that is the current position, should the circumstances change, this can be raised with, and dealt with by, the primary judge.

16 Accordingly, we will note the Secretary's undertaking and order that the matter be remitted to the primary judge for any necessary further hearing and determination.

Costs of the appeal

17 The Secretary seeks an order that the Tasmanian Aboriginal Centre pay his costs of the appeal. He submits that where an appeal succeeds, the Court will, in the ordinary course, order the respondent to pay the appellant's costs of the appeal.

18 The Tasmanian Aboriginal Centre seeks an order that the Secretary pay its costs of the appeal. The Centre submits that the Secretary has failed in his central contention, namely that the track opening project was beyond the reach of the indigenous heritage protections in the EPBC Act. In the alternative, the Centre submits that it should receive a portion of its costs of the appeal, reflecting its success on certain issues.

19 Section 43(3)(e) of the *Federal Court of Australia Act 1976* (Cth) provides that an award of costs may be made in favour of, or against, a party whether or not that party is successful in the proceedings. In *Queensland North Australia Pty Ltd v Takeovers Panel (No 2)* (2015) 236 FCR 370, Dowsett, Middleton and Gilmour JJ, after referring to *Ruddock v Vadarlis (No 2)* (2001) 115 FCR 229 and *State of Victoria v Sportsbet Pty Ltd (No 2)* [2012] FCAFC 174, said at [11] that these decisions treat the success or failure of the relevant party as being the starting point in consideration of the question of costs, but contemplate at least three distinct categories of situation in which a successful party might be deprived of costs, or even ordered to pay the costs of the other side. These were identified as follows:

> One such category is where the applicant has been only partially successful in that it has not obtained all of the relief sought. The second category is where a party has succeeded in obtaining the relief sought, but has not succeeded on all bases (factual or legal) upon which it sought such relief. Of course, it is possible that a particular outcome will fall into both categories. A third category involves consideration of the successful party's conduct of the case.

20 After referring to the decision of Finkelstein and Gordon JJ in *Bowen Investments Pty Ltd v Tabcorp Holdings Ltd (No 2)* [2008] FCAFC 107, Dowsett, Middleton and Gilmour JJ in *Queensland North Australia Pty Ltd* said at [18]:

> [Section 43] does not mention costs following the event. In *Ruddock, Bowen*

> *Investments* and *Sportsbet*, the Court proceeded on the basis that ordinarily, the successful party may reasonably expect to receive its costs, whether that outcome be described as costs following the "event" or otherwise. The question of costs is within the Court's discretion. As we have said, relevant factors include the extent of a party's success, the extent of its success or failure on individual issues and its conduct of the proceedings.

21 In the present case, each side has enjoyed a significant measure of success, as is apparent from the summary of our conclusions at [6] of the reasons dated 16 September 2016. The Secretary has succeeded in his contentions regarding the construction of s 524(2) and "National Heritage values". The Tasmanian Aboriginal Centre has succeeded in its contentions that the primary judge was correct to characterise the Secretary's activities or proposed activities (apart from the proposed designation and attaching of conditions) as an "action" or "actions" within the meaning of the EPBC Act.

22 In these circumstances, we think a fair reflection of the measure of success of each side is achieved by an order that each side bear its own costs of the appeal. As noted in [97] of the reasons dated 16 September 2016, the intervener accepted that he should pay the costs of the Tasmanian Aboriginal Centre of the second hearing day (on the basis that the additional hearing time resulted from the intervention). This is reflected in the agreed form of orders, referred to above. Accordingly, in relation to the costs of the appeal, we will make orders that:

(a) the appellant bear his own costs;

(b) the intervener bear his own costs;

(c) the intervener pay the respondent's reasonable costs of:

  (i) considering and responding to the intervener's submissions;

  (ii) the second hearing day,

  on a party and party basis provided that such costs are sufficiently particularised;

(d) the respondent otherwise bear its own costs.

Certificate under Federal Proceedings (Costs) Act

23 The Tasmanian Aboriginal Centre seeks a certificate under s 6(1) of the *Federal Proceedings (Costs) Act 1981* (Cth). Section 6 relevantly provides:

> **6 Costs certificates for respondents—Federal appeals**
>
> (1) Subject to this Act, where a Federal appeal succeeds on a question of law, the

court that heard the appeal may, on the application of a respondent to the appeal, grant to the respondent a costs certificate in respect of the appeal.

...

(3) The certificate that may be granted under subsection (1) and (2) by a court to a respondent to a Federal appeal is a certificate stating that, in the opinion of the court, it would be appropriate for the Attorney-General to authorise a payment under this Act to the respondent in respect of:

(a) the costs incurred by the respondent in relation to the appeal; and

(b) any costs incurred by an appellant in relation to the appeal that have been, or are required to be, paid by the respondent to the appellant in pursuance of an order of the court, not being costs to which a costs certificate granted under section 7 relates.

24 The appeal in the present case falls within the meaning of "Federal appeal" in s 3(1) of the Act, being an appeal to the Full Court of the Federal Court from a judgment of the Federal Court constituted by a single judge. The appeal succeeded on a question of law. It follows that the prerequisites for the grant of a costs certificate referred to in s 6(1) are present. The maximum amount that can be paid under such a certificate is $6,000: see *Federal Proceedings (Costs) Regulations 1991* (Cth), reg 4.

25 In *Bullock v The Federated Furnishing Trades Society of Australasia (No 2)* (1985) 5 FCR 476, Smithers, Sweeney and Woodward JJ said (at 477) that the discretion of the Court under s 6(1) is unfettered once the respondent shows that the grant of a certificate is within the power of the Court, although it must of course be exercised judicially and on proper grounds. Their Honours also said that there is no presumption in favour of the grant of a certificate once the prerequisites are satisfied; the unsuccessful respondent must satisfy the Court that it is appropriate in all the circumstances for a certificate to be granted, and the circumstances which could properly influence that decision are many and various. Their Honours (at 477-478) quoted from the judgment of the Full Court of the Supreme Court of Western Australia in *Richards v Faulls Pty Ltd* [1971] WAR 129, in which the Full Court said in relation to similar legislation that the power conferred on the Court "is a discretion to grant; it is not a discretion to refuse". These passages of the judgment in *Bullock* were cited with approval in *Anti-Doping Rule Violation Panel v XZTT (No 2)* [2013] FCAFC 135 at [33]-[34] by North, Cowdroy and McKerracher JJ. See also *Sims v Chong (No 2)* [2015] FCAFC 163 at [7] per Mansfield, Siopis and Rares JJ. A factor which may favour the grant of a certificate is the circumstance that the judgment has wider relevance, beyond the outcome of the particular case: see, eg, *Minister for Immigration and Citizenship v SZNVW (No 3)* [2010] FCAFC 102 at [3]-[4] per Keane CJ, Emmett and Perram JJ.

26 It appears from the terms of s 6(3) that the absence of a costs order against an unsuccessful respondent to an appeal is not intended to be an insuperable obstacle to the grant of a costs certificate: see *Secretary, Department of Families, Housing, Community Services and Indigenous Affairs v Mouratidis* (2012) 200 FCR 464 at [45] per Gray J (Reeves J agreeing); see also at [125] and [128] per Flick J. Thus, it is open to grant a costs certificate to a respondent in respect of the costs incurred by the respondent in relation to an appeal, where the costs order is that each party bear its own costs.

27 Section 14 of the *Federal Proceedings (Costs) Act* provides that a court is not empowered to grant a costs certificate to (among others) a body corporate that has a paid up capital of $200,000 or more; or a body corporate that is not such a body corporate, but is related to such a body corporate (s 14(1)(f) and (g)).

28 In the present case, subject to one matter, we think it is appropriate to grant a costs certificate to the Tasmanian Aboriginal Centre in respect of the costs it incurred in relation to the appeal. The case raised questions of law which have wider importance beyond the outcome of the particular case. There was no disentitling conduct by the Tasmanian Aboriginal Centre. The fact that the costs order that we propose is to the effect that each party bear its own costs is not a reason not to grant a certificate. The one qualification is that there is no evidence before the Court that the Tasmanian Aboriginal Centre is not a body corporate within the meaning of s 14(1)(f) or (g) of the *Federal Proceedings (Costs) Act.* We therefore propose to condition the grant of the certificate on the provision of confirmation by affidavit that the Centre is not such a body corporate.

29 Accordingly, we will order that, subject to the respondent providing confirmation by affidavit that it is not a body corporate within s 14(1)(f) or (g) of the *Federal Proceedings (Costs) Act*, the respondent be granted a certificate to the effect that in the opinion of the Court it would be appropriate for the Attorney-General to authorise a payment under the *Federal Proceedings (Costs) Act* to the respondent in respect of the costs incurred by the respondent in relation to the appeal.

I certify that the preceding twenty-nine (29) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Chief Justice Allsop and Justices

Griffiths and Moshinsky.

Associate:

Dated: 12 October 2016