



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD3/2004; NTD6024/2000; NTD6008/2001;
NTD6013/2002; NTD6017/2002; NTD6033/2002
NNTT Number: DCD2007/002

Determination Name: [King v Northern Territory of Australia](#)

Date(s) of Effect: 26/09/2007

Determination Outcome: Native title exists in parts of the determination area

Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

Determination Date: 26/09/2007

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

The Top End (Default PBC/CLA) Aboriginal Corporation RNTBC was determined as the Prescribed Body Corporate for this determination on 13 April 2016.

REGISTERED NATIVE TITLE BODY CORPORATE:

Top End (Default PBC/CLA) Aboriginal Corporation RNTBC
Agent Body Corporate
45 Mitchell Street
DARWIN Northern Territory 0801

Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

4. The land and waters of the determination area comprise the whole or part of nine estates, which are held respectively by the members of the following nine estate groups:

- (a) the Marlinja (Collins) group;
- (b) the [Y]ljiparta (Kingston) group;
- (c) the Elliott (Gurungu/Kulumintini) group;

- (d) the Warranangku (Beetaloo) group;
- (e) the Kulaja (North Waterhole) group;
- (f) the Powell Creek (Walanpiri) group;
- (g) the Ngapurr (Nellis Waterhole) group;
- (h) the North Western group;
- (i) the Murrnji (Narlwan/Nyirrinji) group.

These persons, together with the Aboriginal people referred to in clause 6 hereof, are collectively referred to as 'the native title holders'.

5. Each of the estate groups referred to in clause 4 hereof includes persons who are members of the group by reason of:

- (a) patrilineal descent;
- (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
- (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

(These persons are collectively referred to as 'the estate group members'.)

6. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the determination area, subject to the rights and interests of the estate group members, such people being:

(a) members of the following Mudburra or Jingili estate groups from neighbouring estates:

- (i) the Tururrutpa (Hidden Valley) group;
 - (ii) the Powell Creek (Japurla-japurla/Yapa-yapa/Mali-mali group);
 - (iii) the Top Springs (Yingawunarri) group;
 - (iv) the Badpa (Daly Waters) group;
 - (v) the Bamarrjanja (Walanja) group;
 - (vi) the Kinbininggu (Peter's Hole), Abie Thomas and Major Taylor group;
- (b) spouses of the estate group members.

7. Each of the estate groups referred to in clause 6(a) hereof includes persons who are members of the group by reason of:

- (a) patrilineal descent;
- (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
- (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in terms of the determination set out below.
2. The native title is not to be held on trust.
3. An Aboriginal corporation whose name is to be provided within 12 months, or such further time as the Court may allow, is:

- (a) to be the prescribed body corporate for the purposes of subs 57(2) of the Native Title Act 1993 (Cth) ('the Act');
- (b) to perform the functions outlined in subs 57(3) of the Act after becoming a registered native title body corporate.

5. The parties have liberty to apply for the following purposes:

- (a) to establish the precise location and boundaries of the public works and adjacent land and waters identified in relation to any part or parts of the determination area referred to in Schedule D of this determination;
- (b) to establish the precise location of the boundaries of land on which the improvements referred to in Schedule D of this determination have been constructed and any adjacent land or waters the exclusive use of which is necessary for the enjoyment of the improvements; and
- (c) to establish whether any of the improvements referred to at Schedule D of this determination have been constructed unlawfully.

THE COURT DETERMINES THAT:

THE DETERMINATION AREA

1. The determination area is the land and waters described in Schedule A hereto and depicted on the map comprising Schedule B ('the determination area') (See Attachment 1).
2. Native title exists in those parts of the determination area identified in Schedule C being made up of:
 - (a) the areas of land and waters to which s 47B of the Act applies, and more particularly described in item 1(a) of Schedule C ('the exclusive areas');
 - (b) the remaining areas of land and waters, being the areas more particularly described in item 1(b) of Schedule C ('the non-exclusive areas')
3. Native title does not exist in those parts of the determination area identified in Schedule D.

THE NATIVE TITLE HOLDERS

4. The land and waters of the determination area comprise the whole or part of nine estates, which are held respectively by the members of the following nine estate groups:
 - (a) the Marlinja (Collins) group;
 - (b) the [Y]ljiparta (Kingston) group;
 - (c) the Elliott (Gurungu/Kulumintini) group;
 - (d) the Warranangku (Beetaloo) group;
 - (e) the Kulaja (North Waterhole) group;
 - (f) the Powell Creek (Walanpiri) group;
 - (g) the Ngapurr (Nellis Waterhole) group;
 - (h) the North Western group;
 - (i) the Murrnaji (Narlwan/Nyirrinji) group.

These persons, together with the Aboriginal people referred to in clause 6 hereof, are collectively referred to as 'the native title holders'.

5. Each of the estate groups referred to in clause 4 hereof includes persons who are members of the group by reason of:
 - (a) patrilineal descent;
 - (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
 - (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

(These persons are collectively referred to as 'the estate group members'.)

6. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the determination area, subject to the rights and interests of the estate group members, such people being:

(a) members of the following Mudburra or Jingili estate groups from neighbouring estates:

- (i) the Tururrutpa (Hidden Valley) group;
- (ii) the Powell Creek (Japurla-japurla/Yapa-yapa/Mali-mali group);
- (iii) the Top Springs (Yingawunarri) group;
- (iv) the Badpa (Daly Waters) group;
- (v) the Bamarrganja (Walanja) group;
- (vi) the Kinbininggu (Peter's Hole), Abie Thomas and Major Taylor group;

(b) spouses of the estate group members.

7. Each of the estate groups referred to in clause 6(a) hereof includes persons who are members of the group by reason of:

- (a) patrilineal descent;
- (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
- (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

THE NATIVE TITLE RIGHTS AND INTERESTS

8. In relation to the exclusive areas, the native title rights and interests that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, possession, occupation, use and enjoyment to the exclusion of all others.

9. In relation to the non-exclusive areas, the native title rights and interests in the estate group members that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, nonexclusive rights to use and enjoy those areas being:

- (a) the right to travel over, to move about and to have access to those areas;
- (b) the right to hunt and to fish on the land and waters of those areas;
- (c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;
- (d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease 1074 or Perpetual Pastoral Lease 947;
- (e) the right to live, to camp and for that purpose to erect shelters and other structures on those areas;
- (f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;
- (g) the right to conduct and to participate in the following activities on those areas:
 - (i) cultural activities;
 - (ii) cultural practices relating to birth and death, including burial rites;
 - (iii) ceremonies;
 - (iv) meetings;
 - (v) teaching the physical and spiritual attributes of sites and places on those areas that are of significance under their

traditional laws and customs;

(h) the right to maintain and to protect sites and places on those areas that are of significance under their traditional laws and customs;

(i) the right to share or exchange subsistence and other traditional resources obtained on or from those areas;

(j) the right to be accompanied on to those areas by persons who, though not native title holders, are:

(i) people required by traditional law and custom for the performance of ceremonies or cultural activities on the areas;

(ii) people who have rights in relation to the areas according to the traditional laws and customs acknowledged by the estate group members;

(iii) people required by the estate group members to assist in, observe, or record traditional activities on the areas;

(k) the right to conduct activities necessary to give effect to the rights referred to in (a) to (j) hereof.

These native title rights and interests do not confer on the estate group members possession, occupation, use and enjoyment of the non-exclusive areas, to the exclusion of all others.

10. In relation to the non-exclusive areas, the native title rights and interests of the native title holders referred to in clause 6 hereof that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, non-exclusive rights to use and enjoy those areas being;

(a) the right to travel over, to move about and to have access to those areas;

(b) the right to hunt and to fish on the land and waters of those areas;

(c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;

(d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease 1074 or Perpetual Pastoral Lease 947;

(e) the right to camp on those areas;

(f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;

(g) the right to conduct activities necessary to give effect to the rights referred to in (a) to (f) hereof.

These native title rights and interests do not confer on the native title holders referred to in clause 6 hereof possession, occupation, use and enjoyment of the non-exclusive areas, to the exclusion of all others.

OTHER INTERESTS IN THE DETERMINATION AREA

11. The nature and extent of other interests in relation to the determination area are the interests, created by the Crown or otherwise, as follows:

(a) in relation to NT Portions 851 and 908, the interests of the pastoral lease holder under Perpetual Pastoral Lease 1074;

(b) in relation to NT Portion 2093, the interests of the pastoral lease holder under Perpetual Pastoral Lease 947;

(c) in relation to NT Portions 4232, valid rights of use for commonage purposes;

(d) in relation to NT Portions 4273, 4274 and 5147, valid rights of use for the passage of travelling stock;

(e) in relation to the Town of Newcastle Waters, the interests of the holders of freehold or leasehold estates in Lots 1, 2, 6-16, 31 and 32;

(f) the interests of Telstra Corporation Limited, including:

(i) rights and interests as the owner or operator of telecommunications facilities installed within the determination area and as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);

(ii) rights and interests created pursuant to the Post and Telegraph Act 1901 (Cth), the Telecommunications Act 1975 (Cth), the Australian Telecommunications Corporation Act 1989 (Cth), the Telecommunications Act 1991 (Cth) and the Telecommunications Act 1997 (Cth), including those in respect of:

(A) the Newcastle Waters Optic Fibre Regenerator Site, comprising an area of approximately 1170m², located on NT Portion 4217;

(B) customer radio terminals installed in the determination area; and

(C) overhead and underground cabling installed in the determination area;

(iii) rights and interests under licences granted by landholders and pastoral lessees, including a licence from the holder of Perpetual Pastoral Lease 947 in respect of the Newcastle Waters Optic Fibre Regenerator Site located on NT Portion 4217;

(iv) rights to access NT Portion 1427 (the Newcastle Waters DRCS Radio Site) over NT Portion 2093 pursuant to the Access Easement created in CT Vol 101 Fol 55;

(v) rights to access NT Portion 4217 (the Newcastle Waters Optic Fibre Regenerator Site) over NT Portion 2093 and to maintain the existing access track;

(vi) rights to enter the determination area by employees, agents or contractors of Telstra Corporation Limited in the performance of their duties, to enable access to its telecommunication facilities in and in the vicinity of the determination area;

(g) the interests of NT Gas Pty Ltd:

(i) as the grantee of rights pursuant to easements in gross; and

(ii) as the holder of:

(A) Pipeline Licence No. 4 granted on 13 December 1985;

and

(B) Pipeline Licence No. 10 granted on 25 July 1989, under the Energy Pipelines Act (NT),

in connection with the gas pipelines the subject of those instruments;

(h) in relation to NT Portions 851, 908 and 2093, the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal people contained in the pastoral leases, identified in s 38(2)-(6) of the Pastoral Land Act 1992 (NT);

(i) the rights of Aboriginal persons (whether or not native title holders) by virtue of the Northern Territory Aboriginal Sacred Sites Act 1989 (NT);

(j) rights of access by an employee, servant, agent or instrumentality of the Northern Territory or Commonwealth, or other statutory authority, as required in the performance of statutory duties;

(k) the interests of persons to whom valid and validated rights and interests have been:

(i) granted by the Crown pursuant to statute or otherwise in the exercise of executive power; or

(ii) otherwise conferred by statute.

12. To the extent, if at all, that the exercise of the native title rights and interests referred to in clauses 8, 9 and 10 conflicts with the exercise of the rights and interests of the persons referred to in clause 11, the rights and interests of the persons referred to in clause 11 prevail over, but do not extinguish, the native title rights referred to in clauses 8, 9 and 10.

OTHER MATTERS

13. There are no native title rights and interests in:

(a) minerals (as defined in s 2 of the Minerals (Acquisition) Act (NT));

(b) petroleum (as defined in s 5 of the Petroleum Act (NT))

(c) prescribed substances (as defined in s 3 of the Atomic Energy (Control of Materials) Act 1946 (Cth) and/or s 5(1) of the Atomic Energy Act 1953 (Cth)),

in the determination area.

14. The native title rights and interests are subject to and exercisable in accordance with the valid laws of the Northern Territory of Australia and the Commonwealth of Australia.

15. In relation to the non-exclusive areas, the native title rights and interests are for the personal or communal needs of the native title holders which are of a domestic or subsistence nature and not for any commercial or business purpose.

SCHEDULE A

The determination area comprises the following areas of land:

- (i) NT Portion 2093, being land the subject of Perpetual Pastoral Lease 947;
- (ii) NT Portion 908, being land the subject of Perpetual Pastoral Lease 1074;
- (iii) NT Portion 851, being land the subject of Perpetual Pastoral Lease 1074, excluding therefrom the following area:

All that parcel of land in the Northern Territory of Australia containing an area of 1427 hectares more or less being part of NT Portion 851 and bounded by lines connecting in succession the Latitudes and Longitudes listed below.

Point	Latitude	Longitude
1	16°59' 59.888	132°24' 59.990
2	17°04' 59.887	132°24' 59.990
3	17°04' 59.725	132°24' 07.816
4	16°59' 59.960	132°24' 07.445

(iv) NT Portions 4273, 4274 and 5147, being land comprising parts of the Murrarji Stock Route, the Birdum Stock Route and the North-South Stock Route;

(v) the land within the Town of Newcastle Waters, as proclaimed by the Governor-General on 17 December 1963 and published in the Government Gazette on 9 January 1964;

(vi) NT Portion 797, being land the subject of Reserve No. 1153 which is reserved for the purposes of a garbage reserve; and

(vii) NT Portion 4232, being land the subject of Reserve No. 1791 which is reserved for the purposes of commonage.

SCHEDULE C

AREAS WHERE NATIVE TITLE EXISTS

Item 1(a) - the areas of land and waters in respect of which there are exclusive native title rights

Those areas within the boundaries of the Town of Newcastle Waters other than the areas identified in Schedule D.

Item 1(b) - the areas of land and waters in respect of which only the native title rights and interests in clauses 9 and 10 apply

(i) NT Portions 851, 908, 2093 and 4232.

(ii) NT Portions 4273, 4274 and 5147

SCHEDULE D

AREAS IN WHICH NATIVE TITLE HAS BEEN EXTINGUISHED

Native title rights and interests have been wholly extinguished in the following areas of land and waters:

1. In relation to the Town of Newcastle Waters, the land and waters comprising:

(a) Lots 2, 6-16, 31-32;

(b) Lots 1, 3, 4 and 5;

2. NT Portion 797 (Reserve 1153)

3. In relation to NT portions 851, 908 and 2093, those parts of those areas being:

(a) a homestead, house, sheds and buildings;

(b) the homestead and highway airstrips on NT Portion 2093.

(c) bores, turkey nests, squatters' tanks, constructed dams or other constructed stock watering points;

(d) stockyards

(e) trapyards

The areas described by (a)-(e) comprise land on which the improvements have been constructed prior to the date of this determination, and any adjacent land or waters the exclusive use of which is necessary for the enjoyment of the improvements.

4. Those areas covered by the following public works:

(a) Drovers Drive, which extends from the boundary of the Town of Newcastle Waters and NT Portion 2093 to the boundary of the Town of Newcastle Waters and NT Portion 3624, and which comprises a road reserve of 20.12 metres in width.

(b) Newcastle Waters Road, which extends from the Stuart Highway to Drovers Drive in the Town of Newcastle Waters, including the forks either side of Lot 31 (the most northerly being identified as Lot 35), and which comprises a road reserve of 100 metres in width (50 metres either side of the centreline);

(c) the four gravel pits associated with the Stuart Highway with the following GPS

co-ordinates:

i. (S 17.40018°, E 133.45266°), (S 17.39873°, E 133.45344°), (S17.39928°, E133.45452°), (S 17.40010°, E 133.45452°) located approximately 100 metres to the west of the Stuart Highway;

ii. (S17.21721°, E 133.47190°), (S 17.21734°, E 133.47155°), (S17.21809°, E133.47283°), (S 17.21778°, E 133.47155°) located approximately 160 metres to the west of the Stuart Highway;

iii. (S 17.31604°, E 133.43401°), (S 17.31580°, E 133.43305°), (S17.31485°, E133.43338°), (S 17.31542°, E 133.43403°) located approximately 1.07km to the east of the Stuart Highway; and

iv. (S 17.58957°, E 133.55507°), (S 17.59099°, E 133.55384°), (S17.59003°, E133.55270°), (S 17.58893°, E 133.55344°) located approximately 3.5km to the east of the Stuart Highway;

and their associated access tracks of between 10-15 metres in width from the Stuart Highway;

(d) underground water pipes running adjacent to Drovers Drive and across Lot 5, Town of Newcastle Waters and NT Portion 4232 to water supply compound No. 1 on NT Portion 4232, and adjacent land to a width of 3 metres (1.5 metres either side of the centre line);

(e) a 22kv and a 0.415kv overhead electricity line running adjacent to the formed area of Drovers Drive and from the end of the formed area of Drovers Drive to the north-western boundary of Lot 34, Town of Newcastle Waters, and adjacent land to a width of 10 metres (5 metres either side of the centre line);

(f) a 0.415kv overhead electricity line running from the formed area of Drovers Drive, across Lot 5, Town of Newcastle Waters to water supply compound No. 1 on NT Portion 4232, and adjacent land to a width of 8 metres (4 metres either side of the centre line);

(g) the bore (RN1896), tanks and infrastructure within water supply compound No. 1 on NT Portion 4232 and adjacent land being the entire fenced compound;

(h) the bore (RN27345) and infrastructure within water supply compound No. 2 on NT Portion 4232 and adjacent land being the entire fenced compound and the access track of approximately 5 metres width from Drovers Drive;

(i) the bore (RN24817) approximately 150 metres north of the Buchanan Highway, with the GPS co-ordinates of S 16.75604°, E 132.56446°, together with an access track of a width of approximately 5 metres from the Buchanan Highway to the bore;

(j) the bore (RN 588 - known as No. 11 Bore) approximately 1.7km south of the Buchanan Highway, with the GPS co-ordinates of S 16.77074°, E 132.56003°, together with an access track of a width of approximately 5 metres from the Buchanan Highway to the bore.

REGISTER ATTACHMENTS:

1. Attachment 1 - SCHEDULE B MAP OF DETERMINATION AREA, 1 page - A4, 26/09/2007

Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.