



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD6046/2001
NNTT Number: DCD2009/001

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

Date(s) of Effect: 31/07/2009

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: 31/07/2009

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 part of Mudburra-Jingili country, which is held by the members of the Elliott (Gurungu/Kulumintini) estate group.

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

5. The Elliott (Gurungu/Kulumintini) estate group 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 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 14 Mudburra or Jingili estate groups from neighbouring estates:

(i) the Marlinja (Collins) group;

(ii) the [Y]ljiparta (Kingston) group;

(iii) the Warranangku (Beetaloo) group;

(iv) the Kulaja (North Waterhole) group;

(v) the Powell Creek (Walanpiri) group;

(vi) the Ngapurr (Nellis Waterhole) group;

(vii) the North Western group;

(viii) the Murrnji (Narlwan/Nyirrinji) group;

(ix) the Tururrutpa (Hidden Valley) group;

(x) the Powell Creek (Japurla-japurla / Yapa-yapa / Mali-mali) group;

(xi) the Top Springs (Yingawunarri) group;

(xii) the Badpa (Daly Waters) group;

(xiii) the Bamarrnganja (Walanja) group;

(xiv) the Kinbininggu (Peter's Hole), Abie Thomas and Major Taylor group; and

(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 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").

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"); and

(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 part of Mudburra-Jingili country, which is held by the members of the Elliott (Gurungu/Kulumintini) estate group.

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

5. The Elliott (Gurungu/Kulumintini) estate group 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 14 Mudburra or Jingili estate groups from neighbouring estates:

(i) the Marlinja (Collins) group;

(ii) the [Y]ljiparta (Kingston) group;

(iii) the Warranangku (Beetaloo) group;

(iv) the Kulaja (North Waterhole) group;

(v) the Powell Creek (Walanpiri) group;

(vi) the Ngapurr (Nellis Waterhole) group;

(vii) the North Western group;

(viii) the Murrnji (Narlwan/Nyirrinji) group;

(ix) the Tururrutpa (Hidden Valley) group;

(x) the Powell Creek (Japurla-japurla / Yapa-yapa / Mali-mali) group;

(xi) the Top Springs (Yingawunarri) group;

(xii) the Badpa (Daly Waters) group;

(xiii) the Bamarrnganja (Walanja) group;

(xiv) the Kinbinnggu (Peter's Hole), Abie Thomas and Major Taylor group; and

(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 of 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, 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,
- (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;

(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 Lot 39, the interests of the Elliott District Community Government Council under Building Lease No. 361;

(b) in relation to Lot 137, the interests of NT Gas Pty Ltd as the holder of Pipeline Licence No. 10 granted on 25 July 1989 under the Energy Pipelines Act (NT) in connection with the gas pipeline the subject of that instrument;

(c) in relation to NT Portion 774, valid rights of use for the passage of travelling stock;

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

(e) 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;

(f) 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

DESCRIPTION OF DETERMINATION AREA

The determination area comprises the following areas of land:

(a) 27 lots within the Town of Elliott (as proclaimed by the Governor-General on 2 August 1950 and published in the Commonwealth of Australia Gazette CG46 on 10 August 1954; Corrigendum published in the Northern Territory Government Gazette G50 on 20 December 1989), namely:

- (i) Lot 39
- (ii) Lot 59
- (iii) Lot 60
- (iv) Lot 61
- (v) Lot 81
- (vi) Lot 82
- (vii) Lot 85
- (viii) Lot 86
- (ix) Lot 87
- (x) Lot 88
- (xi) Lot 89
- (xii) Lot 90
- (xiii) Lot 92
- (xiv) Lot 96
- (xv) Lot 97
- (xvi) Lot 98
- (xvii) Lot 101
- (xviii) Lot 115
- (xix) Lot 117
- (xx) Lot 118
- (xxi) Lot 121
- (xxii) Lot 122
- (xxiii) Lot 136
- (xxiv) Lot 137
- (xxv) Lot 138
- (xxvi) Lot 140
- (xxvii) Lot 142

(b) NT Portion 774, being land the subject of Reserve No. 1323 which is reserved pursuant to s103 of the Crown Lands Ordinance 1931-1940 (NT) for the purposes of a travelling stock reserve; and

(c) NT Portion 920.

In the event of an inconsistency between the written description provided above and the map at Schedule B, the written description shall prevail.

SCHEDULE B

MAP OF DETERMINATION AREA

(See NNTR Attachment 1: 'Schedule B- Map of Determination Area')

SCHEDULE C

AREAS WHERE NATIVE TITLE EXISTS

ITEM 1(A) - THE AREAS OF LAND AND WATERS IN RESPECT OF WHICH THE EXCLUSIVE NATIVE TITLE RIGHTS AND INTERESTS IN CLAUSE 8 APPLY

(a) The following lots within the Town of Elliott:

- (i) Lot 59
 - (ii) Lot 60
 - (iii) Lot 61
 - (iv) Lot 81
 - (v) Lot 82
 - (vi) Lot 85
 - (vii) Lot 86
 - (viii) Lot 87
 - (ix) Lot 88
 - (x) Lot 89
 - (xi) Lot 90
 - (xii) Lot 92
 - (xiii) Lot 96
 - (xiv) Lot 97
 - (xv) Lot 101
 - (xvi) Lot 115
 - (xvii) Lot 117
 - (xviii) Lot 118
 - (xix) Lot 121
 - (xx) Lot 122
 - (xxi) Lot 136
 - (xxii) That part of Lot 137 not covered by public works or Pipeline Licence 10
 - (xxiii) Lot 138
 - (xxiv) That part of Lot 140 not covered by public works
 - (xxv) Lot 142
- (b) NT Portion 920.

ITEM 1(B) - THE AREAS OF LAND AND WATERS IN RESPECT OF WHICH THE NON-EXCLUSIVE NATIVE TITLE RIGHTS AND INTERESTS IN CLAUSES 9 AND 10 APPLY

1. That part of Lot 137, Town of Elliott, covered by Pipeline Licence 10
2. NT Portion 774

SCHEDULE D

AREAS WHERE NATIVE TITLE DOES NOT EXIST

1. Lot 39, Town of Elliott

2. Those parts of Lot 137, Town of Elliott covered by:

(a) three 150mm underground water mains (pipes):

(i) one running along part of the north western boundary of Lot 137 from NT Portion 920 to the Stuart Highway; and

(ii) two running across the eastern half of Lot 137 from Lot 139 to Bray Street, along the southern boundaries of Lot 123, McRae Street and Lots 45 and 44,

and adjacent land to a width of 3 metres (1.5 metres on either side of the centre line) in respect of each water main;

(b) one .415v overhead electricity line running across the north eastern part of Lot 137 from Lot 139 to McRae Street, and adjacent land to a width of 3 metres (1.5 metres on either side of the centre line); and

(c) one 11kv overhead electricity line running across the north eastern part of Lot 137, from Lot 139 to McRae Street, and adjacent land to a width of 10 metres (5 metres on either side of the centre line).

3. Part of Lot 140, including the whole of Lot 98, covered by works constructed for the purposes of the No. 7 Australian Personnel / World War II Military Staging Camp on the eastern part of Lot 140 from the north-easterly prolongation of the south-eastern boundary of Lot 113 to the south-eastern boundary of Lot 140.

The areas where native title has been extinguished are depicted on the map of the determination area at Schedule B.

REGISTER ATTACHMENTS:

1. Attachment 1 - SCHEDULE B MAP OF DETERMINATION AREA, 1 page - A4, 31/07/2009

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.