



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD7/2010
NNTT Number: DCD2011/005

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

Date(s) of Effect: 31/05/2011

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: 31/05/2011

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

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

ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):

Top End (Default PBC/CLA) Aboriginal Corporation

Note: details of the Corporation name change can be found on the Office of the Registrar of Indigenous Corporations website 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 four estates, which are held respectively by the members of the following four estate groups:

(a) the Miriuwung-Damberal group;

- (b) the Miriuwung-Nyawam Nyawam group;
- (c) the Miriuwung-Gudim group;
- (d) the Ngarinyman-Nyiwanawam 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 estate groups from neighbouring estates;
- (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 and depicted on the map comprising Schedule B.
2. Native title exists in those parts of the Determination Area identified in Schedule C.
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 four estates, which are held respectively by the members of the following four estate groups:

- (a) the Miriuwung-Damberal group;
- (b) the Miriuwung-Nyawam Nyawam group;
- (c) the Miriuwung-Gudim group;
- (d) the Ngarinyman-Nyiwanawam 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 estate groups from neighbouring estates;
- (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. 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 parts of the Determination Area identified in Schedule C 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 1114;
- (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 Determination Area, to the exclusion of all others.

9. 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 parts of the Determination Area identified in Schedule C 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 1114;
- (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 Determination Area, to the exclusion of all others.

OTHER INTERESTS IN THE DETERMINATION AREA

10. 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 2675 and 4003, the interests of the Baines River Cattle Company Pty Ltd under Perpetual Pastoral Lease 1114;
- (b) in relation to NT portion 4003, valid rights of use for the passage of travelling stock;
- (c) the rights and interests of Telstra Corporation Limited:
 - (i) as the owner or operator of telecommunications facilities within the Determination Area;
 - (ii) 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 rights:
 - (A) to inspect land;
 - (B) to install and operate telecommunications facilities; and
 - (C) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities; and
 - (iii) for its employees, agents or contractors to access its telecommunications facilities in, and in the vicinity of, the Determination Area, in the performance of their duties;

(iv) under any license, access agreement or easement relating to its telecommunications facilities in the Determination Area; and

(v) in relation to its freehold estate in NT Portions 3245, 3246 and 3739;

(d) in relation to NT portions 2675 and 4003, the interest of the Baines River Cattle Company Pty Ltd under registered covenant in gross No. 699276 dated 7 May 2009;

(e) in relation to NT portions 2675 and 4003, the interest of the Territory Parks and Wildlife Commission under registered covenant in gross No. 699276 dated 7 May 2009;

(f) in relation to NT portions 2675 and 4003, the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal peoples contained in the pastoral lease, identified in ss 38(2) ' (6) of the Pastoral Land Act 1992 (NT);

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

(h) 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;

(i) 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;

(j) the following interests granted under the Mining Act (NT), depicted in Schedule E;

(i) Authorisation Title No. 27908 granted on 1 December 2010;

(ii) Exploration Licence Title No. 27420 granted on 15 April 2010;

(iii) Exploration Licence Title No. 24729 granted on 27 February 2006;

(iv) Extractive Mineral Permit Title No. 27074 granted on 1 July 2009;

(v) Extractive Mineral Permit Title No. 24491 granted on 22 November 2005.

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

OTHER MATTERS

12. 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.

13. 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.

14. 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:

1. NT portions 2675 and 4003, being land the subject of Perpetual Pastoral Lease 1114;
2. NT portion 4003, being land comprising part of Weaner Crossing to Western Australia Stock Route;
3. NT portions 3245, 3246 and 3739, being land the subject of grants of estates in fee simple to Telstra Corporation Limited.

SCHEDULE B

MAP OF DETERMINATION AREA

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

SCHEDULE C

AREAS WHERE NATIVE TITLE EXISTS

The areas of land and waters in respect of which the native title rights and interests in clauses 8 and 9 apply are:

1. NT portions 2675 and 4003, being land the subject of Perpetual Pastoral Lease 1114, except those parts thereof referred to in Schedule D;
2. NT portion 4003, being land comprising parts of the Weaner Crossing to Western Australia Stock Route, except those parts thereof referred to in Schedule D.

SCHEDULE D

AREAS WHERE NATIVE TITLE DOES NOT EXIST

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

1. NT portions 3245, 3246 and 3739 being land the subject of freehold estates granted to Telstra Corporation Limited;
2. Those parts of the Determination Area covered by public works (including adjacent land or waters as defined in s 251D of the Act) which were constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date, including but not limited to:
 - (a) public roads, whether rural roads, arterial roads or national highways;
 - (b) community and pastoral access roads which are not otherwise public roads;
 - (c) gravel pits adjacent to the roads referred to at paragraphs (a) and (b) hereof used to maintain those roads;
 - (d) access roads or tracks to the public works referred to in this clause;
 - (e) Government bores and associated infrastructure including bores used for the establishment, operation or maintenance of public and other roads;
 - (f) river and rain gauges;
 - (g) transmission and distribution water pipes and associated infrastructure;
 - (h) sewer pipes, sewer pump stations and associated infrastructure; and
 - (i) electricity transmission lines, towers, poles and associated infrastructure;
3. In relation to NT portion 2675 and 4003, those parts of the Determination Area covered by pastoral improvements including but not limited to:
 - (a) a homestead, house, sheds and buildings including:
 - (i) Building at Cave bore located 21km Northwest of homestead; and
 - (ii) Homestead complex;
 - (b) bores including:
 - (i) 3 Mile bore located 5km North of homestead;

- (ii) 50/73 bore located 19km North of homestead;
 - (iii) Aerodrome bore located 7km Northwest of homestead;
 - (iv) Allisons bore located 16km North Northwest of homestead;
 - (v) Ballinger bore located 5km Southeast of homestead;
 - (vi) Blackfellow Creek bore located 26km East Southeast of homestead;
 - (vii) Boundary bore located 11.5km South Southwest of homestead;
 - (viii) Campbells bore located 23km North of homestead;
 - (ix) Cave bore located 21km Northwest of homestead;
 - (x) Checkpoint bore located 29km West Northwest of homestead;
 - (xi) Christmas bore located 28km West Southwest of homestead;
 - (xii) Donkey Gap bore located 25km West of homestead;
 - (xiii) Emu Spring bore located 9km Southeast of homestead;
 - (xiv) Fish Creek bore located 22km East of homestead;
 - (xv) Glenarra bore located 19km West Southwest of homestead;
 - (xvi) Homestead bore located within the homestead complex;
 - (xvii) Hungry Billabong Yard bore 20km North Northwest of homestead;
 - (xviii) Hungry bore located 15km North of homestead;
 - (xix) Hungry South bore located 11.5km North of homestead;
 - (xx) Keep bore located 6km South Southeast of homestead;
 - (xxi) Landsdowne bore located 20km East Northeast of homestead;
 - (xxii) Matilda bore located 21km Southwest of homestead;
 - (xxiii) Mill Paddock bore located 1km Southwest of homestead;
 - (xxiv) Mitchells bore located 18km Northwest of homestead;
 - (xxv) Moriarty bore located 9km West Southwest of homestead;
 - (xxvi) Mud Spring bore located 8km Southwest of homestead;
 - (xxvii) Old Newry bore located 28km Southwest of homestead;
 - (xxviii) Quart Pot bore located 11km Northeast of homestead;
 - (xxix) Rest Stop bore located 33km Northeast of homestead;
 - (xxx) Scotts bore located 14km Northeast of homestead; and
 - (xxxi) Wildcat bore located 27km East of homestead;
- (c) turkey nests including:
- (i) Carters nest located 9km North of homestead;
 - (ii) Changeover nest located 24km Northeast of homestead;
 - (iii) Connors nest located 10km Northeast of homestead;
 - (iv) Landsdowne nest located 20km East Northeast of homestead;

- (v) Mill Paddock nest located 1km Southwest of homestead; and
- (vi) South of Mitchells Bore nest located 20km West Northwest of homestead;
- (d) squatter tanks including:
 - (i) Boab Yard tank located 14km Northeast of homestead; and
 - (ii) Doherty tank located 18km East of homestead;
- (e) constructed dams and/or constructed watering points including Saddle Creek dam located 24km East Northeast of homestead;
- (f) stockyards including:
 - (i) Aerodrome yard located 7km Northwest of homestead;
 - (ii) Alligator yard located 22km Northeast of homestead;
 - (iii) Boab yard located 14km Northeast of homestead;
 - (iv) Glenarra yard located 19km West Southwest of homestead;
 - (v) Homestead yard located within homestead complex;
 - (vi) Hungry Billabong yard located 20km North Northwest of homestead;
 - (vii) Packsaddle yard located 32km Northeast of homestead; and
 - (viii) Saddle Creek yard located 24km East Northeast of homestead;
- (g) highway airstrips and trapyards including:
 - (i) Homestead Blacksoil airstrip located within homestead complex; and
 - (ii) Homestead main airstrip located 6km West Southwest of homestead.

The areas described by 3(a) ' (g) 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.

SCHEDULE E

MAP OF INTERESTS GRANTED UNDER THE MINING ACT (NT)

(see NNTR Attachment 2: 'Schedule E - Map of interests granted under the Mining Act (NT)')

REGISTER ATTACHMENTS:

1. Attachment 1 - Schedule B Map of Determination Area, 1 page - A4, 31/05/2011
2. Attachment 2 - Schedule E Map of interests granted under the Mining Act (NT), 1 page - A4, 31/05/2011

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.