



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD9/2010
NNTT Number: DCD2011/007

Determination Name: [Simon 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 three estates, which are held respectively by the members of the following three estate groups:

(a) the Gajerrong-Wadanybang group;

(b) the Gajerrong-Gurrbijim group;

(c) the Gajerrong-Djarradjarrany 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 three estates, which are held respectively by the members of the following three estate groups:

(a) the Gajerrong-Wadanybang group;

(b) the Gajerrong-Gurrbijim group;

(c) the Gajerrong-Djarradjarrany group.

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

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(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 1062;

(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 1062;

(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 3222 and 798, the interests of Legune Land Pty Ltd (ACN 092 818 810) under Perpetual Pastoral Lease 1062;

(b) in relation to NT portions 3222 and 798, 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);

(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;

(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;
- (g) the following interests granted under the Mining Act (NT), depicted in Schedule E;
 - (i) Authorisation Title No. 26581 granted on 1 August 2008;
 - (ii) Authorisation Title No. 24518 granted on 25 August 2005;
 - (iii) Exploration Licence Title No. 25646 granted on 23 August 2007;
 - (iv) Exploration Licence Title No. 24395 granted on 16 August 2005;
 - (v) Exploration Licence Title No. 25470 granted 5 March 2007.

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 3222 and 798, being land the subject of Perpetual Pastoral Lease 1062.

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 3222 and 798, being land the subject of Perpetual Pastoral Lease 1062, 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. 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;

2. In relation to NT portions 3222 and 798, those parts of the Determination Area covered by pastoral improvements including but not limited to:

- (a) a homestead, house, sheds and buildings including the homestead complex;
- (b) bores including:
 - (i) 2 Goes bore located 31km West Southwest of homestead;
 - (ii) Algies bore located 38km West Southwest of homestead;
 - (iii) Archie's bore located 26km Southwest of homestead;
 - (iv) Bevan's bore located 34km West Southwest of homestead;
 - (v) Bottle Tree bore located 8km Northeast of homestead;
 - (vi) Buffalo Hills bore located 10km North of homestead;
 - (vii) Bundaberg bore located 13km Southwest of homestead;
 - (viii) Flappers Hill bore located 6 km Northwest of homestead;
 - (ix) Lindens bore located 22km Southwest of homestead;
 - (x) Long Grass bore located 40km Southwest of homestead;
 - (xi) Main Road bore located 39km Southwest of homestead;
 - (xii) Nelson's Point bore located 19km West of homestead;
 - (xiii) Osmond's bore located 23km West Southwest of homestead;
 - (xiv) Rainbow bore located 8km Northeast of homestead;
 - (xv) Snows bore located 33km Southwest of homestead;
 - (xvi)) Steele's bore located 12km North Northeast of homestead;
 - (xvii) Sweetwater bores located 8km North of homestead; and
 - (xviii) Tony's bore located 9km Northeast of homestead;
- (c) turkey nests including:

(i) Turkey nest bore located in the corner of Lindens, Blueys Pocket and Spring Paddocks 14 km Southwest of homestead; and turkey nests located at the following bores;

(ii) 2 Goes bore;

(iii) Archie's bore;

(iv) Bevan's bore;

(v) Bundaberg bore;

(vi) Denise's bore;

(vii) Flappers bore;

(viii) Long Grass bore;

(ix) Nelson's Point bore;

(x) Osmond's bore;

(xi) Red Rock bore;

(xii) Salt Paddock bore;

(xiii) Snows bore;

(xiv) Steeles bore;

(xv) Sweetwater bore; and

(xvi) Weaner bore;

(d) squatter tanks including:

(i) Bottletree tank located 8km Northwest of homestead;

(ii) Lindens tanks located 22km Southwest of homestead; and

(iii) Old Station tank located 29km Southwest of homestead;

(e) constructed dams and/or constructed watering points including Saddle Creek dam located 24km East Northeast of homestead;

(i) Aerodrome dam located 2km Southwest of homestead;

(ii) Alligator Springs waterhole located 12km Southwest of homestead;

(iii) Dam located in corner of Stud paddock and Weaner 3km Northeast of homestead;

(iv) Forsythe Creek dam located 1.2km West of homestead;

(v) Horse paddock dam located 2km east of homestead;

(vi) Main Road dam located 39km Southwest of homestead;

(vii) Napp Springs located 17km Southwest of homestead;

(viii) Stud Paddock dam located 3.5km North Northeast of homestead;

and

(ix) Weaner dam located 7.5km East of homestead;

(f) stockyards including:

(i) Bundaberg yard located 13km Southwest of homestead;

- (ii) Champagne yard located 2km East Northeast of homestead;
- (iii) Green Swamp yard located 39km Southwest of homestead;
- (iv) Nelson's yard located 19km West of homestead;
- (v) Scrap Metal yard located 500m East of homestead; and
- (vi) Snows yard located 33km Southwest of homestead;
- (g) highway airstrips and trapyards including the airstrip located 1km West 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.