

# FEDERAL COURT OF AUSTRALIA

## Weber v State of Queensland [2015] FCA 996

Citation: Weber v State of Queensland [2015] FCA 996

Parties: **DAVID NOEL WEBER v STATE OF QUEENSLAND**

File number: QUD 405 of 2014

Judge: **REEVES J**

Date of judgment: 21 August 2015

Catchwords: **NATIVE TITLE** – non-claimant application under s 61(1) of the *Native Title Act 1993* (Cth) – where the applicant holds a non-native title interest in the subject land – where the notices required under s 66 of the Act have been given – where the application is unopposed – where there are no registered native title claims affecting the subject land – where there is no expressed interest in claiming native title in the subject land – determination that no native title exists on the subject land

Legislation: *Native Title Act 1993* (Cth)

Cases cited: *Blackwater Accommodation Village Pty Ltd v State of Queensland* [2011] FCA 355  
*Hillig as Administrator of Worimi Local Aboriginal Land Council v NSW Native Title Services Ltd* [2006] FCA 1184  
*Kanak v Minister of Land & Water Conservation* (2000) 106 FCR 31; [2000] FCA 1105

Date of hearing: 21 August 2015

Place: Brisbane

Division: GENERAL DIVISION

Category: Catchwords

Number of paragraphs: 4

Solicitor for the Applicant: Mr P Russell, Creevey Russell Lawyers

Solicitor for the Respondent: Ms C Tobler, Crown Law

**IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY  
GENERAL DIVISION**

**QUD 405 of 2014**

**BETWEEN:            DAVID NOEL WEBER  
Applicant**

**AND:                 STATE OF QUEENSLAND  
Respondent**

**JUDGE:              REEVES J**

**DATE OF ORDER:   21 AUGUST 2015**

**WHERE MADE:       BRISBANE**

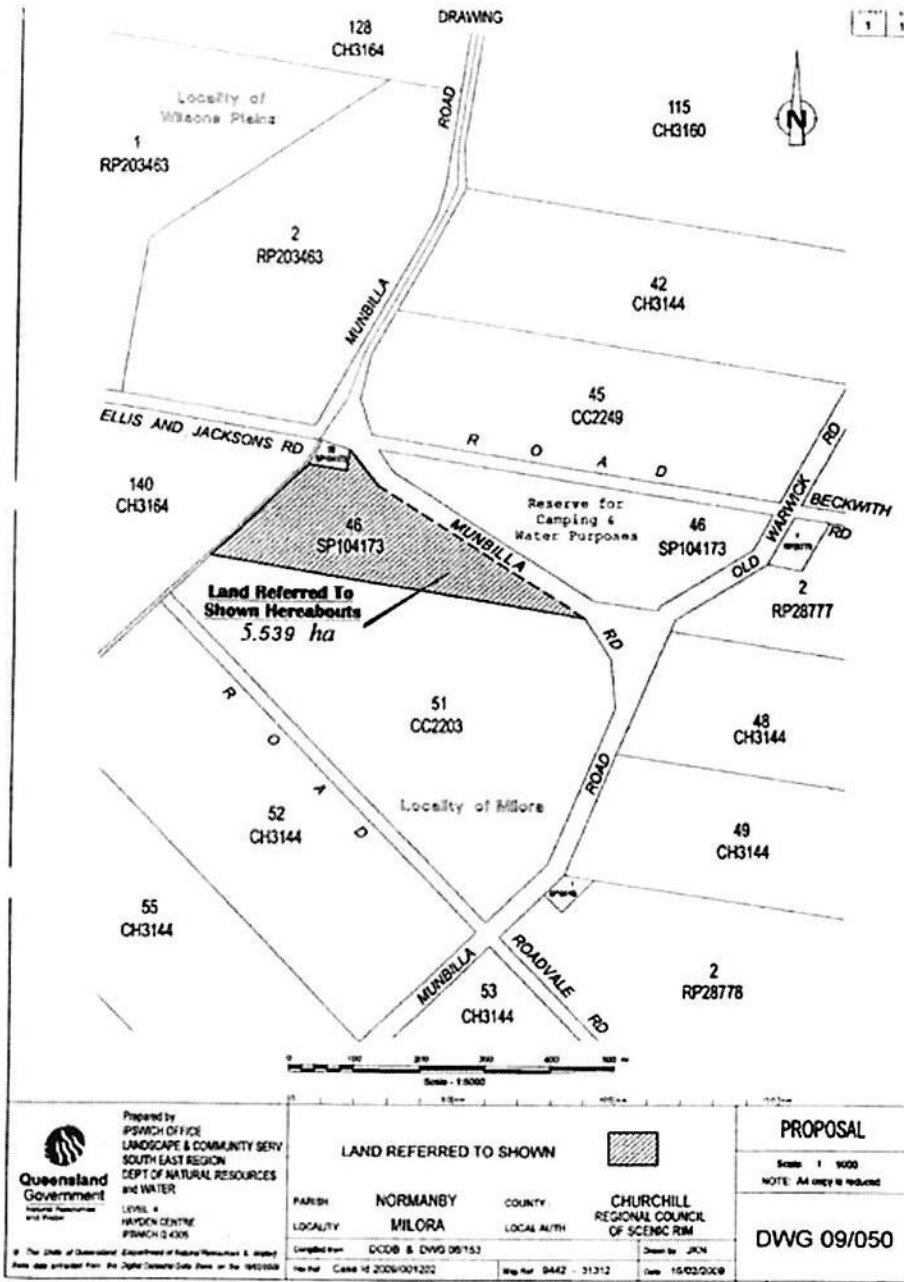
**THE COURT ORDERS THAT:**

1. No native title exists in relation to that part of Lot 46 on Survey Plan 104173, County of Churchill, Parish of Normanby, as shown as the hatched area in the annexure to these orders marked "A".

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

AustLII AustLII AustLII

### Annexure A



stLIIA

AustLII AustLII AustLII AustLII

stLII AustLII AustLII AustLII

**IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY  
GENERAL DIVISION**

**QUD 405 of 2014**

**BETWEEN:**            **DAVID NOEL WEBER**  
                              **Applicant**

**AND:**                 **STATE OF QUEENSLAND**  
                              **Respondent**

**JUDGE:**              **REEVES J**

**DATE:**               **21 AUGUST 2015**

**PLACE:**              **BRISBANE**

**REASONS FOR JUDGMENT**

1            In this matter, the applicant has applied under s 61(1) of the *Native Title Act 1993* (Cth) (the Act) for a determination that no native title exists on a part of Lot 46 on Survey Plan 104173, County of Churchill, Parish of Normanby, comprising an area of 5.539 hectares. I note the error in the original native title determination application which refers to Lot 45 and the fact that error has been remedied in the process of advancing this application.

2            I have read the submissions dated 19 June 2015 made on behalf of the applicant and the affidavit and other materials referred to therein, including the previous decisions of this Court: see *Kanak v Minister of Land & Water Conservation* (2000) 106 FCR 31, [2000] FCA 1105; *Blackwater Accommodation Village Pty Ltd v State of Queensland* [2011] FCA 355; and *Hillig as Administrator of Worimi Local Aboriginal Land Council v NSW Native Title Services Ltd* [2006] FCA 1184. Having done so, I am satisfied of the following matters:

- (a) the applicant holds a non-native title interest in the whole of the subject land for the purposes of ss 61(1) and 253 of the Act;
- (b) the notices required by s 66 of the Act have been duly given;
- (c) the application is unopposed;
- (d) there are no registered native title claims affecting the subject land, and the two that previously existed have been discontinued; and
- (e) no one has expressed an interest in claiming native title in relation to the subject land.

3 I am, therefore, satisfied that the Court has power under s 86G of the Act to make the  
order sought.

4 Accordingly, I order that no native title exists in relation to that part of Lot 46 on  
Survey Plan 104173, County of Churchill, Parish of Normanby, as shown as the attached area  
in the annexure to these reasons marked "A".

I certify that the preceding four (4)  
numbered paragraphs are a true copy  
of the Reasons for Judgment herein  
of the Honourable Justice Reeves.

Associate:

Dated: 9 September 2015