

FEDERAL COURT OF AUSTRALIA

Freight Terminals Pty Ltd v State of Queensland [2015] FCA 995

Citation: Freight Terminals Pty Ltd v State of Queensland [2015] FCA 995

Parties: **FREIGHT TERMINALS PTY LTD v STATE OF QUEENSLAND**

File number: QUD 404 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 Perry Russell, Creevey Russell Lawyers

Solicitor for the Respondent: Ms Carrie Tobler, Crown Law

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

QUD 404 of 2014

**BETWEEN: FREIGHT TERMINALS PTY LTD
Applicant**

**AND: STATE OF QUEENSLAND
Respondent**

JUDGE: REEVES J

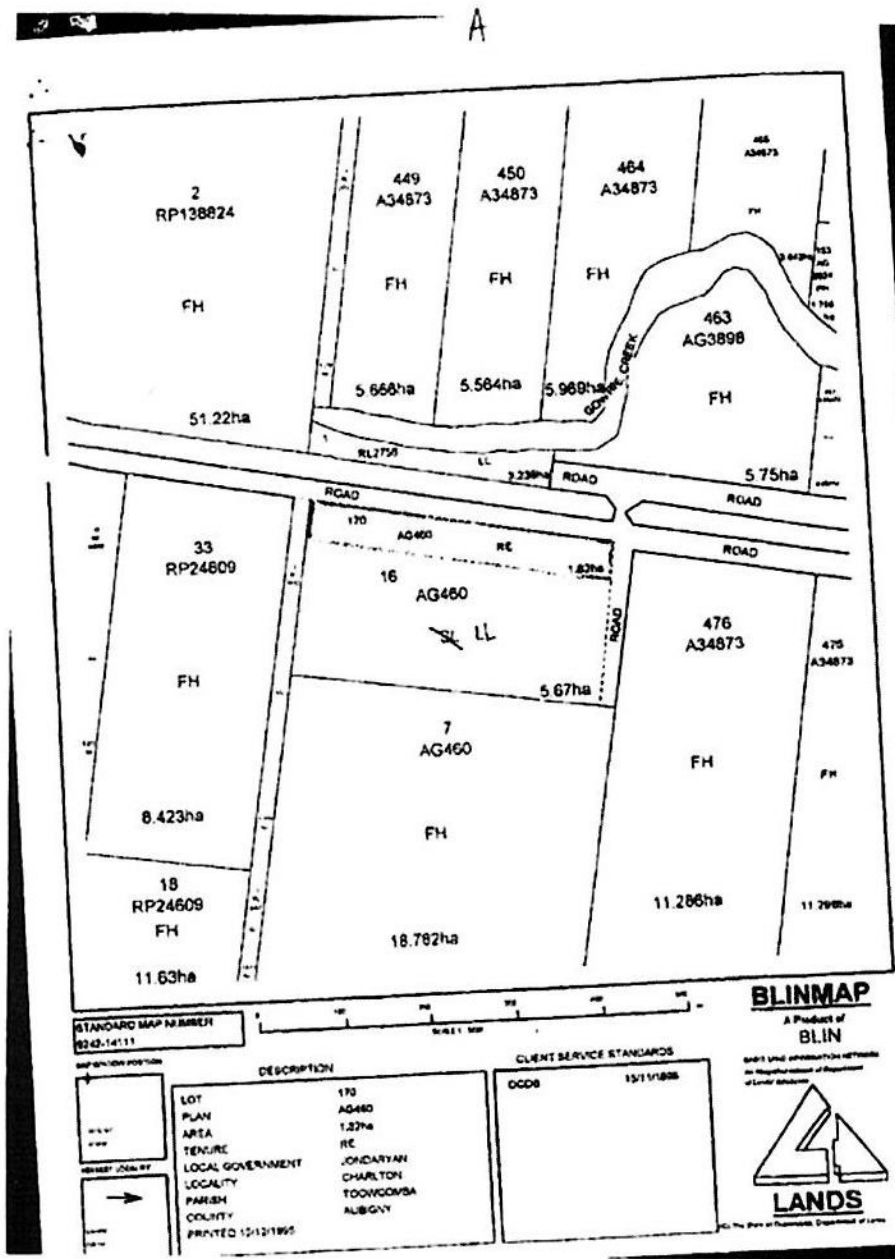
DATE OF ORDER: 21 AUGUST 2015

WHERE MADE: BRISBANE

THE COURT ORDERS THAT:

1. No native title exists in relation to Lot 170 on Crown Plan AG460, County of Aubigny, Parish of Toowoomba, as shown in the annexures to these orders marked "A" and "B".

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



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**BETWEEN: FREIGHT TERMINALS PTY LTD
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JUDGE: REEVES J

DATE: 21 AUGUST 2015

PLACE: BRISBANE

REASONS FOR JUDGMENT

1 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 Lot 170 on Crown Plan AG460, County of Aubigny, Parish of Toowoomba, comprising an area of 1.82 hectares.

2 I have read the submissions dated 1 July 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) that the applicant holds a non-native title interest in the whole of the subject land for the purpose 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 either been struck out or 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 Lot 170 on Crown Plan AG460, County of Aubigny, Parish of Toowoomba, as shown in the annexures to these reasons marked "A" and "B".

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