



NTCAT

Northern Territory
Civil and Administrative Tribunal

NORTHERN TERRITORY OF AUSTRALIA
Pastoral Land Act

FILE NO: 21646612

ORDER

IN THE CIVIL AND ADMINISTRATIVE TRIBUNAL
AT KATHERINE

BETWEEN

John Armstrong

APPLICANT

And

Northern Territory Pastoral Land Board

RESPONDENT

PRESIDING MEMBER: RICHARD BRUXNER, PRESIDENT
DATE GIVEN: 15 MAY 2017
HEARING TYPE: HEARING

NOTING THAT THE PARTIES ARE AGREED THAT THE FOLLOWING ORDER GIVES EFFECT TO THE TRIBUNAL'S DECISION IN THIS MATTER DATED 20 MARCH 2017, THE TRIBUNAL ORDERS THAT:

1. In place of Permit PLC16/9-A the applicant is granted a permit in terms of Permit PLC16/9-B, a copy of which is annexed to these orders.

DATED: 16 MAY 2017

BY THE TRIBUNAL

A handwritten signature in black ink, consisting of several overlapping loops.

DELEGATE OF REGISTRAR



ANNEXURE TO NTCAT ORDER MADE 15 MAY 2017

NORTHERN TERRITORY OF AUSTRALIA

Section 38(1)(h) – Pastoral Land Act (NT)

CONSENT TO CLEAR PASTORAL LAND

PERMIT NUMBER: PLC16/9-B

*This permit is granted in accordance with a decision of the Northern Territory Civil and Administrative Tribunal in proceeding number 21646612 dated 20 March 2017 (see *Armstrong v Northern Territory Pastoral Land Board* [2017] NTCAT 188) and consequential orders made in that proceeding on 15 May 2017 replacing permit PLC16/9-A with a permit in these terms.*

THERE BE GRANTED TO: John Francis Armstrong and each subsequent Pastoral Lessee from time to time of Pastoral Lease No 1195, being NT portion 5807 known as Banjo Station (“the **Permit Holders**”),

A PERMIT TO CLEAR PASTORAL LAND (“the **Permit**”), for the area within NT Portion 5807 which is more particularly depicted in the Endorsed Clearing Plan contained at Schedule 1 of this Permit, namely an area of approximately 6885 hectares of native vegetation for the purpose of planting improved pasture (“the **Clearing Activities**”),

COMMENCING: on 15 May 2017 and expiring on 30 June 2025 (“the **Term**”),

SUBJECT TO: the Schedule of Conditions contained at Schedule 2 of this Permit,

PROVIDED THAT:

The Permit Holders carry out and complete the Clearing Activities within the Term in two successive stages as follows:

- a) Commence the first stage of Clearing Activities of approximately 4471 hectares in relation to the paddocks named Princess Di, South Banjo and a portion of 3 Graces (approximately 150 hectares) (“the **First Stage**”) no later than 1 November 2017 and complete the First Stage by 30 June 2020, and
- b) Commence the second stage of Clearing Activities of approximately 2414 hectares in relation to the paddocks named Jim’s Block, Bombing Range and the remaining portion of 3 Graces (approximately 544 hectares) (“the **Second Stage**”) within 2 months before or after 1 November 2024 and complete the Second Stage by 30 June 2025.

The Permit Holders notify the Pastoral Land Board of the areas to be cleared in 3 Graces Paddock for each of the First Stage and Second Stage prior to the commencement of clearing activities in that paddock.

EXTENSION OF TERM OF PERMIT:

The Permit Holders may apply to the Pastoral Land Board for an extension of a date set out in the Permit.

The Pastoral Land Board may, in its absolute discretion, grant or reject the request, or grant the request subject to conditions.

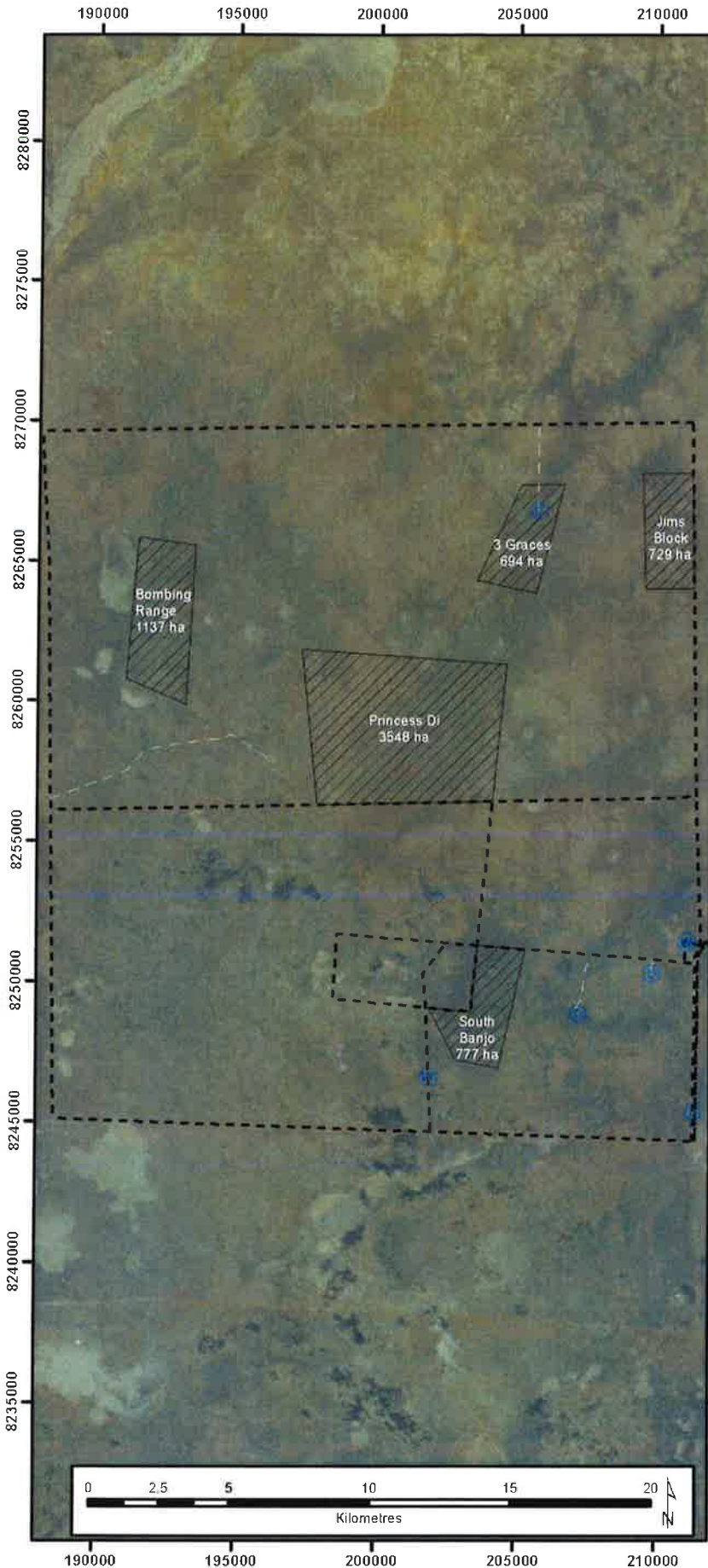
DEFINITIONS:

In this Permit:

“Original Application” means the document entitled “*Application to Clear Pastoral Land (s.38(1)(h) Pastoral Land Act)*” submitted 24 May 2016.

“Pastoral Lessee” or “Lessee” has the same meaning as in the *Pastoral Land Act*.

SCHEDULE 1 AREA OF LAND



**Drawing No. PLC16/9-A
BANJO STATION
CLEARING PLAN
NT Portion 5807 PPL 1195**

Total area approved for clearing = 6,885 ha

Map Grid of Australia (MGA) Zone 53
Universal Transverse Mercator Projection
Horizontal datum:
Geocentric Datum of Australia (GDA) 1994

Legend

- Approved clearing areas
- Bore or Well
- Dam or Weir
- Water Tank
- Fenceline
- Vehicle Track

Location within the Sturt Plateau Pastoral District



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Data source
Clearing Area: Based on data provided by applicant and modified by Rangeland Management Branch, DENR
Cadastre: Department of Infrastructure, Planning and Logistics (DIP/L) Property Infrastructure: DIP/L and DENR
Imagery: ESRI ArcGIS Online and data partners, including imagery from agencies supplied via the Content Sharing Program
CAUTION: Infrastructure displayed may not be current

For further information contact:
Pastoral Lease Administration Branch
Department of Environment and Natural Resources
3rd Floor, Goyder Centre, Palmerston, Northern Territory
Phone: (08) 8999 4667, Fax: (08) 8999 4403

Map details:
Map prepared by: Rangeland Monitoring Branch, DENR, Palmerston
Date: 19/11/2016
Plot File Reference: CLR_EJO_2016_Plan_01

This is the drawing referred to in Pastoral Land Clearing

Permit No: PLC16/9-A

Issued on: 15/11/2016

CHAIRMAN, PASTORAL LAND BOARD



SCHEDULE 2

SCHEDULE OF CONDITIONS

CONDITIONS PRECEDENT

1. Prior to the commencement of works an Erosion and Sediment Control Plan (ESCP) is to be submitted to and approved by the Department of Environment and Natural Resources (DENR), and an endorsed copy of the plan will form part of this permit. All works are to be undertaken in accordance with the endorsed ESCP, to the satisfaction of DENR. The plan should detail methods and treatments for minimising erosion and sediment loss from the site during both the clearing and establishment phases. Erosion and sediment control information is available on the DENR website at <http://lrm.nt.gov.au/soil/management>.
2. To avoid the spread of declared weed species, both within and off the property, a Weed Management Plan is to be developed prior to the commencement of works to the satisfaction of the DENR's Weed Management Branch. The proponent should contact the Weed Management Branch (Darwin office 08 8999 4567) for advice and support in the development of the plan.

CONDITIONS

3. Weed management and weed spread prevention activities must be employed throughout the clearing and pasture improvement phases of the proposed development to the satisfaction of DENR's Weed Management Branch. Ongoing herbicide treatment of weed species will be required on site until preferred species are established and maintained.
4. The clearing, clearing methods, pasture establishment, ongoing pasture and grazing management and ongoing environmental management (including erosion and sediment control) of cleared areas must be undertaken:
 - a. in accordance with the Original Application and all subsequent supporting material provided by John Armstrong and through his legal representative Graham Cole;
 - b. in accordance with the Endorsed Clearing Plan; and
 - c. to the satisfaction of the Pastoral Land Board.
5. The Permit Holder is required to ensure land management practices do not instigate erosion and to ensure that appropriate erosion and sediment control measures are employed throughout the development and establishment stages, including:
 - a. retention of buffer zones where appropriate and measures to address seasonal timing of works;
 - b. management of groundcover and minimisation of bare ground, crop layout and maintenance of natural sheet flow patterns;
 - c. avoidance or removal of soil windrows or other surface modifications that create concentrated flow paths for runoff; and
 - d. use of erosion controls on access tracks where appropriate.
6. The Permit Holder must notify the Director Pastoral Lease Administration and Board, DENR and the Pastoral Land Board before the commencement of each stage of clearing and on completion of the clearing as outlined in the Original Application and all subsequent supporting material provided by John Armstrong and through his legal representative Graham Cole.
7. The Permit Holder must take due care during clearing works and if any archaeological sites (Aboriginal or historic) are identified then works in the immediate area should cease and the Heritage Branch should be contacted for comment.

8. This Permit is subject to the Permit Holder's ongoing compliance with its obligations under the PPL.
9. Despite any term or condition of this Permit, the Permit Holder must at its own cost in all respects, comply with all laws, statutes and subordinate instruments, applicable to the clearing of pastoral land including but not limited to the following:
 - a. *Northern Territory Aboriginal Sacred Sites Act (NT)*;
 - b. *Territory Parks and Wildlife Conservation Act (NT)*;
 - c. *Weeds Management Act (NT)*;
 - d. *Bushfires Act (NT)*;
 - e. *Heritage Act (NT)*;
 - f. *Environmental Assessment Act (NT)*; and
 - g. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.
10. This Permit is at all times subject to existing rights, title and interests of all other persons (including any rights or interests registered on the certificate of title). The Permit Holder must comply with all terms and conditions of such existing rights, title and interests. The Permit Holder must not unreasonably or unduly interfere with, impede, restrict or limit the rights, title or interests of any person.
11. This Permit shall be revoked automatically upon the:
 - a. termination of the PL; or
 - b. surrender of the PL.
12. For the avoidance of doubt, a transfer of the PL does not revoke this Permit.
13. The Pastoral Land Board may immediately revoke this Permit by written notice to the Permit Holder if the Permit Holder breaches any condition of this Permit and fails to remedy the breach within ninety (90) days after receiving notice requiring it to do so.

NOTES

1. Under the *Northern Territory Aboriginal Sacred Sites Act* (NT), entry onto and carrying out of work on Aboriginal sacred sites is an offence unless the work is done in accordance with an Authority Certificate issued by the Aboriginal Areas Protection Authority (“**AAPA**”). The Permit Holder must ensure that all clearing complies with the requirements of that Act.
2. The Permit Holder is advised that there are statutory obligations under the *Weeds Management Act* (NT) to take all practical measures to manage weeds on the property. It is the responsibility of the Permit Holder to ensure that all clearing complies with the requirements of that Act. For advice on weed management please contact the Regional Weeds Officer, Department of Environment and Natural Resources (“**DENR**”) on telephone 8999 4567. The Permit Holder can also access information on the requirements of that Act on DENR’s website (<http://www.lrm.nt.gov.au/>)
3. Fire prevention measures are to be implemented in accordance with the requirements of the *Bushfires Act* (NT). A permit must be obtained before ignition of any felled timber in this area. It is the responsibility of the Permit Holder to ensure that all clearing complies with the requirements of that Act. Please contact the Regional Fire Control Officer of the DENR on telephone (08) 8976 0098. The Permit Holder can also access information on the requirements of that Act on DENR’s website (<http://www.lrm.nt.gov.au/>)
4. The *Heritage Act* (NT) protects archaeological places and objects, regardless of the level of documentation that the Department of Tourism and Culture (Heritage Branch) (“**DTC**”) has of such sites. It is an offence to undertake work on a heritage place or object without first obtaining the relevant approval under the Act. It is the responsibility of the Permit Holder to ensure that all clearing complies with the requirements of that Act. The Permit Holder can access information on the requirements of that Act on DTC’s website (<http://dlp.nt.gov.au/heritage/heritage-act>).
5. It is the responsibility of the Permit Holder to ensure that the proposal to clear pastoral land meets the requirements of the *Environmental Assessment Act* (NT). The Northern Territory Environment Protection Authority (“**NTEPA**”) administers that Act. The Permit Holder can access information on the requirements of that Act on NTEPA’s website (<http://www.ntepa.nt.gov.au/>).
3. It is the responsibility of the Permit Holder to ensure that the proposal to clear pastoral land meets the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). The Commonwealth Department of the Environment and Energy (“**DEE**”) administers that Act. The Permit Holder can access information on the requirements of that Act on DEE’s website (<http://www.environment.gov.au/epbc/index.html>).
7. Pursuant to section 119 of the *Pastoral Land Act*, a pastoral lessee who is dissatisfied with a decision of the Pastoral Land Board may appeal to the Pastoral Land Appeal Tribunal against the decision of the Board.