



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: D9/2022  
File Title: Harvey & Ors v. Minister for Primary Industry and Resources  
Registry: Darwin  
Document filed: Appellants' Chronology  
Filing party: Appellants  
Date filed: 03 Feb 2023

#### Important Information

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IN THE HIGH COURT OF AUSTRALIA  
DARWIN REGISTRY

BETWEEN:

**David Harvey**

First Appellant

**Thomas Simon**

Second Appellant

**Top End (Default PBC/CLA) Aboriginal Corporation RNTBC ICN 7848**

Third Appellant

and

**Minister for Primary Industry and Resources**

First Respondent

**Northern Territory of Australia**

Second Respondent

**Mount Isa Mines Limited ACN 009 661 447**

Third Respondent

10

### APPELLANTS' CHRONOLOGY

#### Part I: Certification

This chronology is in a form suitable for publication on the internet.

#### Part II: Chronology of principal events

No	Date	Event	Ref
1.	5 January 1993	Mineral leases MLN 1121 to 1126 granted to Mount Isa Mines Limited in accordance with the <i>McArthur River Project Agreement Ratification Act 1992</i> (NT) establishing the McArthur River Project for the mining, processing and storage of ore containing zinc, lead or silver, and the transportation of concentrate produced from the ore. MLN 1121 to 1125 provide for the mining, processing, treatment and concentration of ore at McArthur River. MLN 1126 provides for receiving, handling, storage and removal of concentrate at Bing Bong.	FC [13]–[18] CAB 108–12; map attached to TJ CAB 86 AFM 55–151 Lease instruments
2.	28 May 2009	Native title claim in <i>Friday v Northern Territory</i> (NTD5/2009) is registered under Pt 7 of the <i>Native Title Act 1993</i> (Cth) (the NTA). The claim is over the McArthur River	TJ [7] CAB 10 AFM 159–168 Extract

No	Date	Event	Ref
		pastoral lease area, including the land part of MLN 1126 and the whole of the ML 29881 area (see entry 8 March 2013).	from NNTT Register
3.	8 March 2013	Application by Mount Isa Mines Limited for the grant of a mineral lease (ML 29881) under the <i>Mineral Titles Act 2010</i> (NT) (the <b>MTA</b> ) for the “associated purpose in conjunction with mining” of “[I]oading facility for the export of Zinc/Lead/Silver concentrates”. The application is accompanied by a summary of works stating that the swing basin and navigation channel require regular dredging, the dredged material has been deposited in a spoil area on the southern boundary of MLN 1126, which has reached its capacity, and works proposed will include the construction of a new dredge spoil area similar in size and design to the existing area.	FC [19] CAB 112 AFM 170–200 Application
4.	26 November 2015	A determination of native title is made in <i>Ngajapa v Northern Territory</i> [2015] FCA 1249 and registered under Pt 8 of NTA. Native title is determined to exist in relation to the McArthur River pastoral lease area, including the land part of MLN 1126 and the whole of the ML 29881 area. Top End (Default PBC/CLA) Aboriginal Corporation (the <b>PBC</b> ) is the registered native title body corporate.	FC [1] CAB 106 AFM 15–23 Native Title Register
5.	13 July 2016	Public notification of application for grant of mineral lease pursuant to s 71 of the MTA summarising “the particular infrastructure or activities ancillary to mining” as “storage of dredge spoils waste rock” and “surface water management”. The stated purpose of the grant is to authorise the holder to conduct activities in the title area for ancillary purposes to support mining operations under another mineral lease granted to the title holder.	FC [23] CAB 114 AFM 202 Public notice
6.	18 July 2016	Future act notices to the PBC and to the Northern Land Council (the <b>NLC</b> ) as the relevant NTA representative body. Notices refer to the proposed future act for the grant of a mineral lease for ancillary purposes to construct, use, repair and maintain a dredge spoil storage area to support mining activities.	FC [24] CAB 114 AFM 204–216 Future act notices

No	Date	Event	Ref
7.	3 August 2016	NLC seeks confirmation from the Department of Mines and Energy that the Northern Territory intends to apply s 24MD(6B) of the NTA to the proposed future act.	AFM 25 Letter 3 August 2016
8.	7 September 2016	NLC requests Director Mineral Titles that the application for ML 29881 not be granted without giving the NLC at least 21 days' notice of intention to grant.	TJ [33] CAB 22 AFM 218 Letter 7 September 2016
9.	12 September 2016	Director Mineral Titles agrees to provide the NLC with 21 days' notice of any decision to grant ML 29881.	FC [26] CAB 115 AFM 220 Letter 12 September 2016
10.	16 September 2016	The PBC and native title holders provide an objection to the proposed grant of ML 29881 in response to the 18 July 2016 notification.	TJ [35] CAB 22–23 AFM 222–5 Objection letter
11.	24 October 2019	Director Mineral Titles advises the NLC that all legislative requirements for ML 29881 have been satisfied and a notice of intention to grant will be issued.	FC [28] CAB 116 AFM 238 Letter 24 October 2019
12.	15 November 2019	PBC and native title holders refer their objection to the Northern Territory Civil and Administrative Tribunal for hearing in accordance with s 24MD(6B) of the NTA.	TJ [46] CAB 30 AFM 29–41 NTCAT Application
13.	19 November 2019	Federal Court proceeding commenced by originating application.	FC [29] CAB 116
14.	24–25 November 2020	Hearing before the Federal Court (Reeves J).	CAB 7
15.	13 July 2021	Judgment and orders of the Federal Court dismissing the amended originating application: <i>Friday v Minister for Primary Industry and Resources</i> [2021] FCA 794.	CAB 5 CAB 88

No	Date	Event	Ref
16.	28 July 2021	Notice of appeal filed (amended by supplementary notice 23 August 2021 but amended ground not pressed in view of amended notice of contention).	CAB 90 AFM 266–7 transcript
17.	20 August 2021	Notice of contention filed (amended 12 October 2021).	CAB 96
18.	9 November 2021	Hearing before the Full Court of the Federal Court (Jagot, Charlesworth and O’Bryan JJ).	CAB 103
19.	29 April 2022	Judgment and orders of the Full Court dismissing the appeal: <i>Harvey v Minister for Primary Industry and Resources</i> [2022] FCAFC 66; (2022) 291 FCR 263.	CB 101 CB 163
20.	16 May 2022	Cost order by the Full Court that each party bear its own costs.	CB 165
21.	16 December 2022	Application for special leave to appeal granted by High Court (Gageler, Steward and Gleeson JJ).	CAB 188
22.	22 December 2022	Notice of appeal filed in the High Court.	CAB 190

Dated: 3 February 2023




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