HIGH COURT OF AUSTRALIA

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Details of Filing

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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

APPELLANTS' SUBMISSIONS

Part I: Certification

1. These submissions are in a form suitable for publication on the internet.

Part II: Issues

2. Is the grant of a mineral lease under s 40(1)(b)(i) of the *Mineral Titles Act 2010* (NT) (the **MTA**), which gives the title holder the right to conduct activities (construct infrastructure) in the title area that are ancillary to mining conducted under another mineral lease granted to the title holder, the creation of a right to mine for the sole purpose of the construction of an infrastructure facility associated with mining within s 24MD(6B)(b) of the *Native Title Act 1993* (Cth) (the **NTA**)? Is the *infrastructure facility* definition in s 253 of the NTA exhaustive so as to deprive the term of an ordinary meaning it might otherwise be taken to have?

Part III: Section 78B notice

3. Notice under s 78B of the *Judiciary Act 1903* (Cth) is not required.

Part IV: Citations

4. The reasons for judgment below are:

(1) Full Court: *Harvey v Minister for Primary Industry and Resources* [2022] FCAFC 66; (2022) 291 FCR 263; (2022) 401 ALR 578 (**FC**).

(2) Primary judge: *Friday v Minister for Primary Industry and Resources* [2021] FCA 794 (**TJ**).

Part V: Facts

5. The First and Second Appellants are common law holders of native title to the area covered by the McArthur River pastoral lease. The Third Appellant is the prescribed body corporate determined to act as their agent: FC [1] **CAB 106**; **AFM 15**.

6. The Third Respondent, Mount Isa Mines Limited (**MIM**), operates the McArthur River Project, established by the *McArthur River **Project** Agreement Ratification **Act** 1992* (NT), for the mining, processing and storage of ore containing zinc, lead or silver, and the transportation of concentrate produced from the ore. The Project is conducted on mineral leases MLN 1121 to 1125 where the mine is situated at McArthur River, and on mineral lease MLN 1126 where the port is situated at Bing Bong: FC [13]–[18] **CAB 108–12**; map attached to TJ **CAB 86** .

7. The Appellants seek to prevent the First Respondent, the Northern Territory **Minister** for Primary Industry and Resources, from granting mineral lease ML 29881 to MIM which, if granted, would cover an area adjoining MLN 1126: FC [3] **CAB 106**; map attached to future act notice: **AFM 209**. The grant of ML 29881 would be a *future act* within the meaning of the NTA that *affects* native title (ss 227, 233): FC [4] **CAB 107**. The Appellants contend that the procedural consequences in s 24MD(6B) apply to the grant of ML 29881 (compliance with the NTA being a preliminary to grant by s 74(2) of the MTA): FC [8] **CAB 107**.

8. MIM uses the MLN 1126 lease area for a loading facility where concentrate trucked from the mine is stored and loaded onto a barge and transhipped to ocean going vessels for export: FC [3] **CAB 106**. MLN 1126 clause 4 (**AFM 139**) provides that MIM may use the lease area for the purposes of:

> *(a) receiving, handling, storage and removal of Concentrate and other material and such other purposes in connection with and necessarily incidental to the Mining and the development, construction and operation of the McArthur River Project;*
>
> *(b) the dredging of a channel and swing basin for a barge loading facility;*
>
> ...

> *(f) the cutting and construction of water races, drains, dams and roads for use in connection with the McArthur River Project;*
>
> *…*
>
> *(j) such other purposes necessarily incidental to or in connection with paragraphs [(a) to (i)]…, including the management, protection and rehabilitation of the Environment.*[1]

9. The application for the grant of ML 29881 (**AFM 171**) states the "associated purpose in conjunction with mining" as "[l]oading facility for the export of Zinc/ Lead/ Silver concentrates". The summary of works (**AFM 185**) states that concentrates are transhipped through the Bing Bong loading facility, 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 spoil area and will include engineered internal and external walls and internal and external drains to carry sea water to the existing drainage channel and back out to sea.*

10. The future act notices (**AFM 206, 212**) summarise "the particular infrastructure or activities ancillary to mining" as "storage of dredge spoils waste rock" and "surface water management". The public notification (**AFM 202**) states that the grant is to authorise the holder to "construct, use, repair and maintain a dredge spoils area to support mining operations".

11. The Full Court refers to the dredge spoil operations as the Dredge Spoil Emplacement Area or **DSEA**: FC [18(c)] **CAB 111–2**.[2]

12. On 24 October 2019, a delegate of the Minister advised 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**. On 15 November 2019, the Appellants referred their objection to ML 29881 to the Civil and Administrative Tribunal (**NTCAT**): **AFM 29**. On 19 November 2019, they commenced the Federal Court proceeding, contending that if the grant of ML 29881 is authorised by s 40(1)(b)(ii) of the MTA, it is the creation of a right to mine for the sole purpose of the construction of an infrastructure facility associated with mining within s 24MD(6B)(b) of the NTA.

13. In that respect, s 40(1) of the MTA provides that:

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1 MLN 1126 clause 1 (**AFM 136**) defines *Concentrate* to mean concentrate produced from the ore containing zinc, lead or silver and *Environment* as having the meaning in the (former) *Mining Act 1980* (NT), that is, the physical factors existing in an area, including coastal waters and water (s 4(1)).

2 Referring to the affidavit evidence of Steven Rooney (**AFM 255**) on the current operations.

> *A mineral lease is a mineral title that gives the title holder:*
> *(a) the right to occupy the title area specified in the ML; and*
> *(b) the exclusive right to:*
> *(i) conduct mining for minerals in the title area and other activities specified in section 44(1) and (2); or*
> *(ii) conduct activities in the title area that are ancillary to mining conducted under another ML granted to the title holder (for example, operating a treatment plant); or*
> *(iii) conduct tourist fossicking in the title area and the activity specified in section 44(3).*

ML refers to a mineral lease (s 11(1)) and *mining* is defined as the extraction of minerals by certain methods (s 12). Section 44(1) provides that an ML that gives the title holder the right to conduct mining (i.e. an ML within s 40(1)(b)(i)) also gives the title holder the right to conduct other specified activities, such as the refining of minerals, the treatment of tailings, and the storage of waste in the title area, and the removal of minerals from the title area.

14. The trial judge held that ML 29881 is ancillary to mining conducted under MLN 1121–MLN 1125 and within s 40(1)(b)(ii) of the MTA (TJ [96] **CAB 53–4**) as:

> *... the proposed ancillary activities to be conducted under MLA 29881, if granted, involved enlarging the Dredge Spoil Deposition Area to facilitate the transportation of zinc, lead and silver concentrates from the McArthur River Mine. Specifically to allow for the continued use of that area to deposit the dredge spoil produced as a result of the dredging that is required of the swing basin and navigation channel that provide access to the Bing Bong Loading Facility used to tranship those materials to ocean-going vessels ... it ... corresponds to the description of the kind of activities which are ancillary to mining on another mineral lease described in s 40(1)(b)(ii)....*

15. The trial judge considered that ML 29881 is the creation of a right to mine for the sole purpose of the construction of works associated with mining for the purposes of s 24MD(6B)(b) of the NTA, but that the *infrastructure facility* definition in s 253 is exhaustive and that the DSEA is not within par (f) or (g) (not addressing whether it was an infrastructure facility in ordinary usage): TJ [118]–[142] **CAB 63–70**.[3]

16. The Full Court rejected an appeal that the infrastructure facility definition is inclusive, alternatively, that pars (f) and (g) of the definition were engaged, and accepted a notice of contention that ML 29881, if granted, is not the creation a right to mine within s 24MD(6B)(b) of the NTA: FC [8]–[10] **CAB 107–8**.

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[3] Contra TJ [127], [136] **CAB 66**, **68** it was not common ground that the word "includes" in the infrastructure facility definition should be read as "means and includes": see FC [64] **CAB 130**.

Part VI: Argument

A. Central points

17. Section 26(1)(c)(i) of the NTA identifies an exception to the right of native title holders to negotiate the conferral of mining rights where the future act is "a right to mine … for the sole purpose of the construction of an infrastructure facility … associated with mining", in which case the alternative right to an independent hearing under s 24MD(6B) will be engaged.

18. The Appellants' argument centres on two points. *First*, the Full Court erred in deconstructing what is a composite phrase into two elements and interpreting the words "right to mine" divorced from the larger expression, with a gloss unsupported by the statutory text and context: FC [97], [127]–[132] **CAB 137**, **149–51**. *Second*, the Full Court erred in holding that the *infrastructure facility* definition is exhaustive, despite its use of "includes", without regard to the substantive enactment, with the anomalous result that various things that would plainly be within the ordinary meaning of an "infrastructure facility … associated with mining" are left out of the definition: FC [157] **CAB 159**.

19. It is necessary first to detail the statutory provisions.

B. Applicable statutory provisions

20. The object of the NTA to establish the ways in which future dealings affecting native title may proceed (s 3(b)), as part of the Act's protection of native title (ss 3(a), 10–11), is given effect by Part 2 Division 3, which provides that to the extent a future act affects native title, it will be valid if covered by certain provisions, and invalid if not: s 24AA(2).[4] In the case of acts covered by s 24IC (permissible lease etc renewals that create a right to mine) and s 24MD (mining and compulsory acquisition acts that pass the freehold test), it is also necessary to satisfy the "right to negotiate" provided by Subdivision P: ss 24AA(5), 25(1).

21. Section 26(1) provides that Subdivision P applies to a future act if Subdivision M (which deals with acts that pass the freehold test) applies to the act, the act is done by a government party, and the act is, relevantly, by s 26(1)(c)(i):

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[4] Basically, a *future act* is an act occurring, in the case of a non-legislative act, after 1 January 1994, that is not a *past act*, which *affects* native title because it extinguishes or is inconsistent with the continued existence, enjoyment or exercise of the native title rights: ss 227-228, 233.

> *the creation of a right to mine, whether by the grant of a mining lease or otherwise, except one created for the sole purpose of the construction of an infrastructure facility (see section 253) associated with mining ...*

A note to s 26(1)(c)(i) reads:

> *Rights to mine created for the sole purpose of the construction of an infrastructure facility associated with mining are dealt with in subsection 24MD(6B).*

Section 26(1)(c)(iii)(B) has a similar exception and note where the purpose of a compulsory acquisition is to provide an infrastructure facility.

22. Section 24MB(1) provides that Subdivision M applies to a future act if it is a non-legislative act that could be done if the native title holders instead held *ordinary title* (generally, a freehold estate: s 253) to the land or waters concerned and a law makes provision for the protection of sites of significance in the area to which the act relates.

23. Section 24MD deals with the validity of the act, the effects of the act on native title, the payment of compensation for the act, and the procedural rights in relation to the act. Section 24MD(6) provides that in the case of any future act to which Subdivision M applies, other than an act to which Subdivision P applies or certain excluded exploration or mining acts under ss 26A–26C, the consequences in sub-ss (6A) and (6B) apply. Section 24MD(6A) provides that native title parties have the same procedural rights as they would have in relation to the act on the assumption they instead held an ordinary (freehold) title. Section 24MD(6B)(b) provides that other procedures apply if the act is:

> *the creation or variation of a right to mine for the sole purpose of the construction of an infrastructure facility (see section 253) associated with mining*

The other procedures provide for notification and objection, consultation about minimising the act's impacts on native title, the independent determination of any objection, and compliance with a determination upholding an objection, subject to a public interest override: s 24MD(6B)(c)–(g).

24. Part 15 contains definitions of expressions used in the NTA (s 9) listed in s 222, with Division 4 containing sundry definitions, including those in s 253. Some are prefaced with "is", "means" or "meaning", some with "includes", and relevantly:

> ***infrastructure facility*** *includes any of the following:*
> *(a) a road, railway, bridge or other transport facility;*
> *(b) a jetty or port;*
> *(c) an airport or landing strip;*
> *(d) an electricity generation, transmission or distribution facility;*

(e) a storage, distribution … facility for… oil or gas … ;

(f) a storage or transportation facility for…mineral or…mineral concentrate;

(g) a dam, pipeline, channel or other water management, distribution or reticulation facility;

(h) a cable, antenna, tower or other communication facility;

(i) any other thing that is similar to any or all of the things mentioned in paragraphs (a) to (h) and that the Commonwealth Minister determines, by legislative instrument, to be an infrastructure facility for the purposes of this paragraph.[5]

***mine** includes:*

(a) explore or prospect for things that may be mined…

(b) extract petroleum or gas…

(c) quarry; …

The term *mining lease* is defined in s 245(1) as a lease that "permits the lessee to use the land or waters covered by the lease solely or primarily for mining".[6]

C. The Full Court's reasoning

25. The Full Court found that the sole purpose of the rights conferred by ML 29881 is the construction of the DSEA, that the DSEA is an infrastructure facility within the ordinary meaning of that term, and that there was no dispute that the DSEA is associated with mining: FC [135]–[136], [162] **CAB 151–2**, **161**.[7] The Full Court held, however, that ML 29881 is not the creation of a "right to mine" and that the DSEA is not an "infrastructure facility" as defined. On the "right to mine" point, the Full Court reasoned (FC [97] **CAB 137**) that:

> *… s 24MD(6B)(b) defines a future act that satisfies two elements: (i) the future act must be the creation or variation of a right to mine, and (ii) the sole purpose of the creation or variation must be the construction of an infrastructure facility associated with mining. We disagree with the primary judge's conclusion that, if the relevant act meets the sole purpose test, involves an infrastructure facility as defined in s 253 and is associated with mining, the act is treated as the creation or variation of a right to mine* [citing TJ [131] **CAB 67**]

26. The Full Court held that a "right to mine" in the NTA "refers to a future act that confers a right to engage in mining activities, … typically … the exploration for and extraction of a mineral (or petroleum or gas) from the ground, and encompasses rights necessary

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5 No determination has been made pursuant to par (i).

6 A mining lease may be "dissected" into separate leases in respect of (a) the area covered by a city, town or private residences and other buildings and works and (b) the remaining area, so that (a) is a category A extinguishing past act and (b) is a category C non-extinguishing past act: ss 229(3)(b), 231, 245(2)-(3).

7 On amendment of the notice of contention (**CAB 96**) removing any issue about the DSEA being associated with mining, a related supplemental ground of appeal (**CAB 90**) on whether ML 29881 is ancillary to mining under the MTA fell away: FC transcript pp.7.19-8.21 **AFM 266–7**.

for its meaningful exercise". The rights necessary for its meaningful exercise "will typically include activities of the kind referred to in s 44(1) of the [MTA]", such as treating minerals "in the title area", the storage of material "in the title area", and the removal of minerals "from the title area" that will be "directly associated with and form part of the mining activity on a given parcel of land": FC [127] **CAB 149**. On that construction, ML 29881 did not engage s 24MD(6B)(b) of the NTA because it authorises activities on separate land, notwithstanding they are ancillary to mining on other land, and is concerned with the shipment of ore mined on that other land, not the mining of ore, which is not encompassed by the ordinary meaning of mining:
10 FC [130]–[132] **CAB 150–1**.

27. In contrast, the trial judge, applying ***Banjima*** *People v Western Australia (No 2)* (2013) 305 ALR 1 (Barker J), held that the composite (or compendious) phrase, "a right to mine for the sole purpose of the construction of an infrastructure facility … associated with mining", indicates that *mine* is broader than the inclusive definition in s 253. The composite phrase is used to identify an exception to which s 24MD(6B)(b) applies. *Banjima* thus held that a miscellaneous licence under s 91 of the *Mining Act 1978* (WA) for a rail line to transport ore from mine to port would not engage the right to negotiate under s 26(1)(c)(i) but would engage s 24MD(6B)(b): (2013) 305 ALR 1 at [983]–[985]; TJ [130] **CAB 67**.

20 28. In relation to the "infrastructure facility" point, the Full Court held that the definition of the term in s 253 is exhaustive and that the DSEA is not within par (f) or (g) of the definition: FC [142]–[161] **CAB 154–61**. Their Honours acknowledged (at [157] **CAB 159**) that this involves a departure from *South Australia v* ***Slipper*** (2004) 136 FCR 259 where it was considered (*obiter*) that the term as appearing in the chapeau of the definition has an ordinary meaning which is then expanded by the matters listed in the paragraphs of the definition. According to *Slipper*, the term "infrastructure facility" appearing in the chapeau is "used to describe a subordinate part of a particular undertaking or a facility intended to serve or support a particular undertaking": (2004) 136 FCR 259 [78]–[84] (Branson J; Finn and Finkelstein JJ agreeing).

30 29. The conclusion of the trial judge on the "right to mine" point, and the conclusion in *Slipper* on the "infrastructure facility" point, should be preferred.

D. The words "right to mine" form part of a composite phrase

30. *First*, the text used in s 24MD(6B)(b) and s 26(1)(c)(i) functions as a composite, single test, not as separate elements:[8] contra FC [97] **CAB 137**. The meaning of a composite phrase is not merely the sum of each of its constituent parts.[9] As Lord Halsbury LC observed in *Mersey Docks and Harbour Board v Henderson*:[10]

> *It certainly is not a satisfactory mode of arriving at the meaning of a compound phrase to sever it into its several parts and to construe it by the separate meaning of each such parts when severed.*

This applies equally to a phrase where the parts are inter-dependent.[11] Gordon J put it this way in *Sea Shepherd Australia Ltd v Commissioner of Taxation*: [12]

> *The task is not to pull apart a provision, or composite phrase within a provision, into its constituent words, select one meaning, divorced from the context in which it appears, and then reassemble the provision.*

31. The Full Court's approach is an atomised analysis,[13] taking the words "right to mine" divorced from the larger expression in which they appear, and applying a concept of "mining" borrowed from a different statutory setting: FC [125]–[127] **CAB 147–9** and see §[36]. The trial judge was correct to reject the submission that "there are two limbs to the phrase" and to agree with Barker J that "the subject phrase should be read compendiously": TJ [130] **CAB 67**.[14] The trial judge's interpretation (and *Banjima*) appreciates that the meaning of words and phrases is influenced by the immediate context in which they are used. To ignore the totality is to invite error.[15] As Lord Hoffman said in *R v Brown*, "[t]he unit of communication by means of language is the sentence and not the parts of which it is composed."[16]

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8 *Commissioner of Taxation v BHP Billiton* (2019) 263 FCR 334 at [85] (Thawley J) referring to ***Sea Shepherd*** *Australia Ltd v Commissioner of Taxation* (2013) 212 FCR 252 at [34] (Gordon J).

9 *Exxon Corporation v Exxon Insurance Ltd* [1982] Ch 119 at 144 (Oliver J) quoted in *Collector of Customs v* ***Agfa-Gevaert*** (1996) 186 CLR 389 at 400 (the Court); generally, Pearce, *Statutory Interpretation* (9th Ed) at [4.13]; Herzfeld and Prince, *Interpretation* (2020) at [2.210]; *Bennion on Statutory Interpretation* (5th Ed) at 1193-7.

10 (1888) 13 App Cas 595 at 599-600, quoted *Lorimer v Smail* (1911) 12 CLR 504 at 510 (Barton J).

11 *Lorimer v Smail* (1911) 12 CLR 504 at 510 (Barton J).

12 (2013) 212 FCR 252 at [34] (Gordon J); see also *XYZ v Commonwealth* (2006) 227 CLR 532 at [19] (Gleeson CJ); *Lloyd v Commissioner of Taxation* (1955) 93 CLR 645 at 660 (Dixon J).

13 The language of Gordon J in *Sea Shepherd* (2013) 212 FCR 252 at [35].

14 *Banjima* (2013) 305 ALR 1 at [1054]; for a compendious reading of phrases, see *Comptroller-General of Customs v Zappia* (2018) 265 CLR 416 at [32] (Kiefel CJ, Bell, Gageler and Gordon JJ) "possession, custody or control"; *Story v National Companies and Securities Commission* (1988) 13 NSWLR 661 at 672 (Young J) "efficiently, honestly and fairly".

15 *Applicant A v Minister for Immigration* (1997) 190 CLR 225 at 256 (McHugh J); *Dinov v Allianz Australia Insurance Ltd* (2017) 96 NSWLR 98 at [6] (Meagher JA).

16 Quoted in *Agfa-Gevaert* (1996) 186 CLR 389 at 397 (the Court).

32. *Second*, the meaning of the word *mine* is by no means fixed and is readily controlled by context and subject matter.[17] Its primary meaning, unaffected by context, is taken to refer to underground workings, but the word has been indefinite in its application.[18] The definition of *mine* in the NTA (s 253) is not exhaustive and is wider than what might be thought to be the ordinary meaning of that term in referring to exploring and prospecting, extracting petroleum, gas or water, and quarrying.[19] As each word in a phrase may modify the meaning of the others,[20] the natural significance of the totality of the text used in s 24MD(6B)(b) and s 26(1)(c)(i) is that a "right to mine" includes the conferral of rights for "the construction of an infrastructure facility … associated with mining". If, however, that is the "sole purpose" of the future act, then the **mining infrastructure exception** is engaged — the right to negotiate in Subdivision P does not apply and the right to an independent hearing under s 24MD(6B) instead applies.

33. *Third*, the Full Court's criticism that a reference in *Banjima* to s 24MD(6B)(b) "standing alone" conveys that "right to mine" in s 24MD(6B)(b) and s 26(1)(c) may bear a different meaning in each provision (FC [101]–[104] **CAB 138–40**) does not fairly represent the substance of *Banjima*. Barker J referred to s 24MD(6B)(b) as "standing alone" in the sense that apart from the exception covered by that section, in other contexts, such as the right to negotiate the conferral of a "right to mine" (s 26(1)(c)(i)) and the grant of a "mining lease" as a category C past act (ss 231, 245), the focus of the inclusive definition of "mine" is the physical, primary acts of winning a mineral from the ground, rather than activities associated with mining. Barker J accepted that the phrase used in s 24MD(6B)(b) draws a distinction between "mining" simpliciter and activities "associated with mining", confirming that a more confined meaning of "mining" is used in "mining lease".[21] As the trial judge said, an act within s 24MD(6B)(b) is "treated as the creation of a right to mine of that exceptional kind to which the rights prescribed by s 24MD(6B) attach": TJ [131] **CAB 67**.

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17 *TEC Desert Pty Ltd v Commissioner of State Revenue (WA)* (2010) 241 CLR 576 at [13] (the Court) referring to *NSW Associated **Blue-Metal Quarries** Ltd v Commissioner of Taxation* (1956) 94 CLR 509 at 522 (Dixon CJ, Williams and Taylor JJ); see also *Deputy Commissioner of Taxation v Stronach* (1936) 55 CLR 305 at 313 (Dixon CJ) the "expression 'mining' is a familiar source of difficulty".

18 *Blue-Metal Quarries* (1956) 94 CLR 509 at 522 (Dixon CJ, Williams and Taylor JJ).

19 *Native Title Bill 1993 Explanatory Memorandum* Part B p.104.

20 *Bennion on Statutory Interpretation* (5th Ed) at 1193-4.

21 (2013) 305 ALR 1 at [977]-[982], [1048], [1053]-[1056].

34. *Fourth*, the connecting words in s 24MD(6B)(b) and s 26(1)(c)(i), "associated with mining", are to be read with the aid of the *infrastructure facility* definition woven into the fabric of the substantive enactment.[22] The incorporation of the definition treats certain things as having that association, including a road, jetty, port etc. There is no warrant for the gloss that a "right to mine" in the NTA's mining infrastructure exception encompasses activities that "will be directly associated with and form part of the mining activity on a given parcel of land": FC [127] **CAB 149**. The connection is one combined in purpose, consistent with the interpretation of *infrastructure facility* in *Slipper* as describing a subordinate part of an undertaking: see Part VI.F below.[23] The things listed in the definition are within a broader compass of activities associated with mining that may not "form part of the mining activity", or may be convenient rather than "necessary" for mining (FC [127] **CAB 149**), wider than the Full Court's conception of the "ordinary meaning of mining" applied at FC [132] **CAB 151**.

35. *Fifth,* the Full Court's approach does not cohere with the statutory structure that: (1) an act that permits both mining and the construction of an infrastructure facility associated with mining (e.g. MLN 1121–MLN 1125) triggers the right to negotiate in Subdivision P and; (2) an act that permits only the construction of an infrastructure facility associated with mining (e.g. MLN 1126/ML 29881) triggers the right to be heard in s 24MD(6B). As the trial judge said:

> *… focusing on the constituent phrase 'creation … of a right to mine' leads inevitably to the paradoxical result of destroying the exception that underpins that section's very existence. That, all the more so, when it is clear from the Explanatory Memorandum above*[24] *and s 26(1)(c)(i) itself that a grant to construct an infrastructure facility associated with mining was deliberately excluded from Subdivision P by the 1998 amendments.* [TJ [132] **CAB 67–8** emphasis added]

36. *Sixth*, the Full Court glosses the statutory text with conditions of direct association, proximity or remoteness, and necessary operational integration, taken from revenue cases dealing with terms such as "mining operations": FC [125]–[127], [130]–[132] **CAB 147–51**. In that very different statutory setting, (deductible) "mining operations"

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22 *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue (NT)* (2009) 239 CLR 27 at [40], [45] (Hayne, Heydon, Crennan and Kiefel JJ).

23 (2004) 136 FCR 259 at [84]; also, *Kia Australia v Chief Executive Officer of Customs* (1998) 86 FCR 473 at 480-1 (Finkelstein J) a person "associated with" is to join in common purpose or combine; *Deal v Father Pius Kodakkathanath* (2016) 258 CLR 281 at [36]-[38] (French CJ, Kiefel, Bell and Nettle JJ) "associated with" is to combine in terms of circumstances or in terms of classification.

24 TJ [111]-[113] **CAB 59-60** quoting *Native Title Amendment Bill 1997 [No.2]: Supplementary Explanatory Memorandum* pp.19, 23.

might end when a saleable mineral is produced.[25] Here, however, the statutory concern is with the effects of high impact acts upon native title, where large mining projects are common, illustrated by the McArthur River Project extending to a port, roads and electricity supply: *Project Act*, Schedule, clauses 1, 8, 10, 11.[26]

37. *Seventh*, it is immaterial that native title parties *might* have freehold equivalent procedural rights under State or Territory law supplied by s 24MD(6A): cf FC [129] **CAB 150**. Here, the difference is between the act being conditioned by an independent determination by the NTCAT about its impact upon native title or being left in the discretion of the Territory Minister.[27] The evident purpose of s 24MD(6B) is to ensure that an act's impact on native title rights is addressed (see also *Native Title Amendment Bill 1997 [No.2]: Supplementary Explanatory Memorandum* p.19 quoted at TJ [111] **CAB 59**). An interpretive safeguard of the statutory right to an independent hearing should be favoured where, as the Full Court acknowledged, the words in s 24MD(6B)(b) "to express the legislative intention present a range of possible meanings": FC [96] **CAB 137**.[28] It is, or at least until now was, well-established by Federal Court authority that Division 3 is not to be construed narrowly.[29] The right to an independent hearing in s 24MD(6B) is an element of the protection of native title by Division 3 that weighs in favour of a constructional choice, available on the text.[30]

E. Further points on the Full Court's construction of "right to mine"

38. For those reasons, the Full Court's dissection of the mining infrastructure exception into two separate elements led the Court into error by failing to read the words "right to mine" informed by the wider composite phrase. Some further points may be made.

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25 FC [125] **CAB 147–8** referring to *Parker v Commissioner of Taxation* (1953) 90 CLR 489 exemption for income derived from working a mining property; *Commissioner of Taxation v Broken Hill Pty Co Ltd* (1969) 120 CLR 240 deductions for capital expenditure in mining operations producing assessable income; *Director of Customs v Dampier Salt (Operations) Pty Ltd* (1996) 67 FCR 108 rebate of excise duty on diesel for use in mining operations. Special concessions to the mining industry provoke whether an activity is part of an operation producing an end saleable product: see the review of authority in *Robe River Mining Co Pty Ltd v Commissioner of Taxation* (1990) 21 ATR 1068 at 1077 (Lee J) and Hockley, "Mining Operations for Sales Tax Purposes" (1988) *Australian Tax Review* 237 at 241.

26 The NTA contemplates multiple future acts within a project: see ss 29(9), 42A.

27 See MTA ss 78, 161 and *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction for Native Title Matters) Act 2014* (NT) s 4.

28 *Buck v Comcare* (1996) 66 FCR 359 at 364-5 (Finn J); *Australian Postal Corporation v Forgie* (2003) 130 FCR 279 at [64]-[68] (Black CJ, Merkel and Stone JJ).

29 *Smith v Western Australia* (2001) 108 FCR 442 at [23] (French J), approved in *FMG Pilbara Pty Ltd v Cox* (2009) 175 FCR 141 at [18] (Spender, Sundberg and McKerracher JJ).

30 ***Tjungarrayi*** *v Western Australia* (2019) 269 CLR 150 at [44]-[45] (Gageler J) explaining *Northern Territory v Alyawarr* (2005) 145 FCR 442 at [187] (Wilcox, French and Weinberg JJ).

39. *First*, the Full Court's account of what is encompassed by a "right to mine" (FC [127] **CAB 149**) simply restates the effect of a mining lease *stricto sensu*: FC [124] **CAB 147** referring to ss 40(1)(b)(i) and 44 of the MTA, and *Western Australia v Ward* (2002) 213 CLR 1 at [308]. This jars with the NTA's structure that a grant of a mining lease within s 40(1)(b)(i) of the MTA that confers rights to extract minerals and to conduct the activities in s 44 would engage the right to negotiate, subject to the infrastructure exception; likewise, *Mining Act 1978* (WA) ss 71, 85 considered in *Ward* at [308].

40. *Second,* the Full Court "assumed that the legislature had in mind rights of the kind able to be conferred under s 40(1)(b)(i) of the [MTA]" that gives the holder of a lease the right to conduct mining for minerals and which, by s 44, includes activities such as the processing of minerals in the title area that may require infrastructure: FC [124] **CAB 147**. Equally, the legislature can be taken to have known that other mining tenements, like that within par (ii) of s 40(1)(b) of the MTA (and similar tenements referenced at §[43]), confer rights to provide infrastructure facilities outside the title area of a mining lease: contra FC [124], [127] **CAB 147**, **149** "in the title area" and "from the title area". This is indicated by the NTA's definition of infrastructure facility referring to a road, railway, jetty, port, airport etc. It is confirmed by the *Native Title Amendment Bill 1997 [No.2]: Supplementary Explanatory Memorandum* (pp.19, 23 quoted at TJ [111]–[113] **CAB 59–60**) which, as the trial judge noted, "makes … clear that s 24MD(6B)(b) was intended to provide protection for the rights of native title holders where the infrastructure facility concerned was, while not involving mining *per se*, associated with it": TJ [133] **CAB 68**.

41. *Third*, the legislative history does not at all confirm the Full Court's deconstruction of the NTA's mining infrastructure exception into two elements: cf FC [107] **CAB 141**. One supposition is that the 1993 explanatory material "does not greatly assist in affixing a meaning to the phrase 'right to mine', merely referring to mining interests": FC [111] **CAB 142**. To the contrary, the references to a future act that is a "mining interest" or a "mining lease" indicate that a "right to mine" may not be confined to mining *per se*, which is consistent with the non-exhaustive definition of *mine*: *Native Title Bill 1993 Explanatory Memorandum* Part A p.5; Part B pp.17, 21, 25, 29, 104.[31]

[31] See also *Mabo: Outline of Proposed Legislation on Native Title* (September 1993) pp.11, 14-5 "mining tenements". The paper is considered as part of the NTA's legislative history in *Tjungarrayi* (2019) 269 CLR 150 at [96] (Nettle J).

There was certainly no settled understanding of what is a "right to mine" before the 1998 amendments. In one case, a pipeline licence to carry gas to consumers was not a right to mine within former s 26(2)(a).[32] In another, a water, road, powerline and pipeline licence was a right to mine.[33] That is part of the mischief addressed by the 1998 amendments to remove from the right to negotiate "the grant of a mining lease that permits the construction of an infrastructure facility associated with mining": *Native Title Amendment Bill 1997 [No.2]: Supplementary Explanatory Memorandum* p.23 quoted FC [115] **CAB 144**.

42. *Fourth*, it is unsatisfactory, and likely to produce inconvenience, to reason that the application of the NTA's mining infrastructure exception is "fact specific" and "will always turn on the nature of the activities authorised" by the tenement: FC [127], [131] **CAB 148–51**. This factual proviso introduces uncertainty into the operation of the NTA's provisions which dovetail State and Territory mining laws. If the grant is for the sole purpose of constructing an infrastructure facility associated with mining, no further factual inquiry beyond that characterisation is called for by the statutory text: see TJ [131] **CAB 67** contra FC [97] **CAB 137**.

43. *Fifth*, the Full Court's interpretation produces inconvenient and improbable consequences that are not lightly to be imputed to the legislature where an alternative construction is open.[34] The NTA defines the area within which State and Territory laws operate with respect to native title by prescribing what acts are, to the extent they affect native title, valid or invalid.[35] The design of the future act regime is for "native title to be accommodated into the national land management system": *Native Title Bill 1993 Explanatory Memorandum* Part A p.5 quoted at FC [109] **CAB 141**.[36] The NTA intersects with State and Territory mining laws that have long provided for three kinds of mining tenements: investigatory (exploration), production (extraction) and ancillary

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32 *Smith v Tenneco Energy Queensland Pty Ltd* (1996) 66 FCR 1 at 5 (Drummond J).

33 *Re Tjupan Peoples* (1996) 134 FLR 462 at 466, 473 (O'Neil M) distinguishing *Smith*.

34 *Agfa-Gevaert* (1996) 186 CLR 389 at 401 (the Court); *Tjungarrayi* (2019) 269 CLR 150 at [106] (Nettle J) referring to *Cooper Brookes (Wollongong) Pty Ltd v Federal Commissioner of Taxation* (1981) 147 CLR 297 at 320-1 (Mason and Wilson JJ); *CIC Insurance Ltd v Bankstown Football Club Ltd* (1997) 187 CLR 384 at 408 (Brennan CJ, Dawson, Toohey and Gummow JJ)).

35 *Western Australia v Commonwealth (Native Title Act Case)* (1995) 183 CLR 373 at 468-72 (Mason CJ, Brennan, Deane, Toohey, Gaudron and McHugh JJ).

36 See also, Second Reading, House of Representatives, *Parliamentary Debates*, 16 November 1993 pp.2880-3 (Prime Minister).

(infrastructure).[37] The "sole purpose" criterion is whether the construction of an infrastructure facility is "associated with mining", not whether it is "necessary for [the] meaningful exercise" of a right to extract minerals (FC [127] **CAB 149**), which is the concept of a mining lease *stricto sensu*: see §[39]. State and Territory mining laws provide for a myriad of (convenient) infrastructure uses "ancillary", "associated" or "connected" with mining.[38] The language in the NTA, operating across jurisdictions, should be construed flexibly to accommodate linguistic variations.[39] It is proper, in view of that intersection, to construe the NTA in a way that secures harmony of operation.[40] While those laws cannot control the interpretation of the NTA, they show
10 that it would be incongruous to construe a "right to mine" for the purposes of the mining infrastructure exception in the manner at FC [127], [130]–[132] **CAB 149–51**.[41]

F. The "infrastructure" facility point

44. The conclusion reached in *Slipper* on the "infrastructure facility" point should be preferred to the result in this case for several reasons.

45. *First,* in the drafting of the definitions in Part 15, care has been taken in the use of "is", "means", "meaning" and "includes".[42] The provision in par (i) of the infrastructure

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37 *Hunt on Mining Law of Western Australia* (5th Ed) at 333; Forbes and Lang, *Australian Mining and Petroleum Laws* (2nd Ed) at [502], [763]-[770]; also, *Wade v New South Wales Rutile Mining Co Pty Ltd* (1969) 121 CLR 177 at 193 (Windeyer J) leases for ancillary purposes over private land (a "defiance of principle") traced to ss 37-38 of the *Mining on Private Land Act 1894* (NSW).

38 *Mining Act 1992* (NSW) ss 51, 63, 73, Schedule 7 (definition "ancillary mining activity" prescribed per *Mining Regulation 2016* (NSW) reg 7) mining lease for ancillary mining activity; *Mineral Resources (Sustainable Development) Act 1990* (Vic) ss 4(1) (definition "infrastructure mining licence"), 14-15 infrastructure mining licence solely for the construction of infrastructure used for the purpose of mining under another mining licence; *Mineral Resources Act 1989* (Qld) s 234(1)(b) mining lease for purposes, other than mining, associated with, arising from or promoting the activity of mining; s 316 mining lease for transportation associated with or arising from activities under another mining lease; *Mining Act 1978* (WA) ss 86-87 general purpose lease for purposes directly connected with mining operations; s 91 miscellaneous licence for prescribed purposes (*Mining Regulations 1981* (WA) reg 42B) directly connected with mining; *Mining Act 1971* (SA) ss 6(1) (definition "ancillary operations"), 48 miscellaneous purposes licence for ancillary operations; *Mineral Resources Development Act 1995* (Tas) s 106 lease to enable work associated with mining on other land to be carried out; *Mineral Titles Act 2010* (NT) s 41(1)(b)(i) mineral lease for activities ancillary to mining; s 84 access authority to construct infrastructure associated with activities under a mineral title.

39 Cf *Firebird Global Master Fund II Ltd v Republic of Nauru* (2014) 89 NSWLR 477 at [245] (Basten JA) re "proceeding", "initiating process" in *Foreign States Immunities Act 1985* (Cth).

40 Cf in cases of co-operative legislative schemes of two or more legislatures, *Abdi v Release on Licence Board* (1987) 10 NSWLR 294 at 295 (Kirby P); *Hore v Albury Radio Taxis Co-op Society Ltd* (2002) 56 NSWLR 210 at [39] (Campbell J).

41 Cf *Federal Commissioner of Taxation v Henderson* (1943) 68 CLR 29 at 44 (Latham CJ) that definitions of "mine" in State mining laws showed that it would be inconsistent with the use of those terms to hold that the sluicing and treatment of tailings were "mining operations" within s 78 of the *Income Tax Assessment Act 1936* (Cth).

42 *Federal Commissioner of Taxation v St Hubert's Island Pty Ltd* (1978) 138 CLR 210 at 216 (Stephen J).

facility definition to add things similar to that listed in pars (a) to (h) by legislative instrument does not detract from the correctness of the view in *Slipper* that the term as appearing in the chapeau has an ordinary meaning expanded by the paragraphs. On the *Slipper* interpretation, particular infrastructure might not be within the ordinary meaning of an "infrastructure facility" as something that supports a particular undertaking, nor might it be one of the specific things listed in pars (a) to (h), in which case, par (i) enables it to be declared as an infrastructure facility: *Slipper* [83] contra FC [147], [150] **CAB 156–7**.

46. *Second,* on the *Slipper* construction, the definition is not one by which each of the listed things is necessarily within the ordinary meaning of infrastructure facility to suggest that "includes" should be read as "means and includes: cf FC [147] **CAB 156**.[43] In *Slipper*, the compulsory acquisition to establish a national radioactive waste repository would not provide an infrastructure facility that engaged s 26(1)(c)(iii)(B) because the repository was not an infrastructure facility in ordinary usage, as it was not a subordinate part of some other undertaking, nor was it within the list of facilities in pars (a) to (h) that do not depend upon the thing listed being a part of an undertaking.[44]

47. *Third,* in any event, merely because a definition is expressed to "include" one or more items that would fall within the ordinary meaning of the defined term does not demonstrate that the definition is exclusive.[45] Reading "includes" as "means and includes" should not be adopted where, as here, there is a careful use of "means" and "includes" in the various definitions in Part 15.[46] The approach produces uncertainty and departs from the ordinary, popular and natural sense of the word "includes".[47] The

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43 ***YZ Finance*** *Co Pty Ltd v Cummings* (1964) 109 CLR 395 at 399 (McTiernan J), 401 (Kitto J), considered at FC [150] **CAB 157**.

44 (2004) 136 FCR 259 at [79], [84]. Nothing turns on adopting the *Macquarie Dictionary* meaning of "infrastructure" (FC [147] **CAB 156**) as meaning 1 is not materially different from the meaning in the *Oxford English Dictionary* adopted in *Slipper*: see text (2004) 136 FCR 259 at [80]-[81].

45 Pearce, *Statutory Interpretation* (9th Ed) at [6.7] and Annexure item 6.7 *'Test' in Dilworth's case* collecting *Federal Commissioner of Taxation v St Hubert's Island Pty Ltd* (1978) 138 CLR 210 at 216 (Stephen J); *Cohns Industries Pty Ltd v Deputy Federal Commissioner of Taxation* (1979) 24 ALR 658 (Vic Full Ct); *MacFarlane v Burke; Ex parte Burke* [1983] 2 Qd R 584 at 589 (Connolly J); *R v Novakovic* (2007) 17 VR 21 at [6] (Nettle JA).

46 Cf *BHP Billiton Iron Ore Pty Ltd v National Competition Council* (2008) 236 CLR 145 at [32] (the Court) that a definition that X "means" Y and "includes" A to F indicates an exhaustive explanation of the content of the term and "conveys the idea both of enlargement and exclusion" and may also make plain that otherwise doubtful cases do fall within its scope.

47 The approach is traced to *Dilworth v Commissioner of Stamps* [1899] AC 99 at 106 (Lord Watson), cited in *YZ Finance* (1964) 109 CLR 395 at 398, that the word "include" is "susceptible of another construction ... if the context of the Act is sufficient to shew that it was not merely employed for the

better view is that the specific inclusions do not imply an exhaustive intention, but rather extend the ordinary meaning of the term.[48]

48. *Fourth*, the term *infrastructure facility* is used only in s 24MD(6B)(a)–(b) and in s 26(1)(c)(i) and (iii)(B). In the case of s 24MD(6B)(b) and s 26(1)(c)(i), the issue is whether an act is for the "sole purpose" of the construction of an infrastructure facility "associated with mining". The Full Court construed the definition without reading it as part of the substantive enactment.[49] As noted at §[34], the connection (association) is one combined in purpose, which strengthens the functionality of *Slipper's* acceptance that the definition encompasses the ordinary meaning of *infrastructure facility*.

10 49. *Fifth*, the anomaly of the Full Court's approach is highlighted by their Honours' view that a "right to mine" includes activities like processing and treating minerals in a title area: FC [127] **CAB 149**. These things are not listed in pars (a) to (h) of the infrastructure facility definition. The odd result is that while the definition is to be treated as exclusive, various things that would be within the ordinary meaning of an infrastructure facility "associated with mining" would be left out of the definition.[50] Take, for example, the prescription of purposes for which a miscellaneous licence under s 91 of the *Mining Act 1978* (WA) may be granted in connection with mining by reg 42B of *Mining Regulations 1981* (WA). Many are not covered by pars (a) to (h) of the NTA's definition of an infrastructure facility: e.g. minesite accommodation and
20 administration facilities: reg 42B(q), (w).[51]

50. *Sixth*, the approach in *Slipper* is confirmed by the extrinsic material that the "term has its ordinary meaning but also includes a number of listed facilities", referring to its ordinary meaning as a facility for providing services or supporting major developments: *Native Title Amendment Bill 1997: Explanatory Memorandum* at [19.7]–[19.8] quoted at FC [65] **CAB 130**. The Full Court disregarded the material

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purpose of adding to the natural significance of the words or expressions defined". Pearce, *Statutory Interpretation* (9th Ed) at [6.7] refers to this as "one of those blithe statements that are so often made in relation to the interpretation of statutes but which achieve very little in the way of practical assistance". The caution was endorsed in *Cranbrook School v Woolhara Municipal Council* (2006) 66 NSWLR 379 at [88]-[89] (Basten JA); also [41]-[45] (McColl JA).

48 *R v Novakovic* (2007) 17 VR 21 at [5] (Nettle JA) referring to *Corporate Affairs Commission (SA) v Australian Central Credit Union* (1985) 157 CLR 201 at 206-7 (Mason ACJ, Wilson, Deane and Dawson JJ).

49 Cf *Kelly v The Queen* (2004) 218 CLR 216 at [103] (McHugh J).

50 Cf *Cohns Industries Pty Ltd v Deputy Federal Commissioner of Taxation* (1979) 24 ALR 658 at 661 (Vic Full Ct).

51 Similarly, *Mining Regulation 2016* (NSW) reg 7 activities prescribed as "ancillary mining activity".

because it accompanied the amendment to s 26 on compulsory acquisitions whereas the amendment on mining rights was added during passage of the Bill: FC [155] **CAB 158**. That affords no reason to suppose that the view in the Explanatory Memorandum does not hold good for the amendment adopting the defined term.

51. *Seventh,* even if the listing in pars (a) to (h) of the definition were exhaustive, the Full Court (and trial judge) wrongly construed each of par (f) and (g) independently of the composition of s 24MD(6B)(b): TJ [140]–[141] **CAB 69–70**; FC [158]–[160] **CAB 160**. The substantive enactment is whether, relevantly, ML 29881 permits the construction of a "transportation facility for … mineral concentrate" (par (f)), or of a "dam, pipeline, channel" (par (g)), that is "associated with mining". The judgments below neglect the words of connection that, when read with the finding at TJ [96] **CAB 53** on the purpose of ML 29881, demonstrate that the DSEA is within each limb. FC [159] dismisses par (f) on the basis that the DSEA itself, as a physical structure, does not store ore concentrate, but the trial judge's finding is that enlarging the current operations on MLN 1126 is required to tranship concentrates ancillary to mining. FC [160] dismisses par (g) on the supposition it covers a facility, the "function … of which is water management", but the test is whether there is "dam, pipeline, channel or other water management ... facility" that is "associated with mining". What ML 29881 would authorise is akin to the purpose of MLN 1126 to construct "drains, dams … for use in connection with the McArthur River Project".

G. Conclusion on the NTA's mining infrastructure exception

52. As noted, the Full Court found that the sole purpose of the rights conferred by ML 29881 is the construction of the DSEA, that the DSEA is an infrastructure facility within the ordinary meaning of that term, and there was no dispute that the DSEA is associated with mining: FC [135]–[136], [162] **CAB 151–2**, **161**. The trial judge found that the works under ML 29881 are ancillary to mining conducted under MLN 1121– MLN 1125 by "enlarging the [DSEA] to facilitate the transportation of … concentrates from the McArthur River Mine": TJ [96] **CAB 53**. This aligns ML 29881 with MLN 1126. The further grant widens the area of existing operations to provide, in ordinary usage, an infrastructure facility that serves the McArthur River Project for the mining, processing and storage of ore and the transportation of concentrate (alternatively, par (f) or (g) of the definition would be engaged: see §[51]).

53. On those findings, the grant of ML 29881 is the "creation … of a right to mine for the sole purpose of the construction of an infrastructure facility … associated with mining" within s 24MD(6B)(b) of the NTA.

Part VII: Orders

54. The Appellants seek the orders set out in the notice of appeal: **CAB 190**.

Part VIII: Time estimate

55. The Appellants estimate that 1.5 hours will be required for oral argument in chief.

Dated: 3 February 2023

Sturt Glacken
T: (03) 9225 8171
E: glacken@vicbar.com.au

Rudi Kruse
T: (03) 9225 6182
E: kruse@vicbar.com.au

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ANNEXURE

Pursuant to paragraph 3 of Practice Direction No. 1 of 2019, the particular statutes and statutory instruments referred to in the Appellants' submissions are as follows:

No	Description	Version	Provisions
1.	*Native Title Act 1993* (Cth)	Current (Compilation No 47, 25 September 2021 to present)	Sections 3–4, 9–11, 24AA, 24IC, 24MB–MD, 25–26, 26A–26C, 29, 42A, 222, 227–229, 231, 233, 245, 253
2.	*McArthur River Project Agreement Ratification Act 1992* (NT)	Current (4 May 2007)	Schedule clauses 1, 8, 10, 11
3.	*Mineral Titles Act 2010* (NT)	Current (1 July 2021)	Sections 11–12, 40, 44, 74, 78, 84, 161
4.	*Mining Act 1980* (NT)	As in force 1 March 2011	Section 4(1)
5.	*Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction for Native Title Matters) Act 2014* (NT)	Current (1 January 2015)	Section 4
6.	*Mining Act 1992* (NSW)	Current (13 January 2023)	Sections 51, 63, 73, Schedule 7
7.	*Mining Regulation 2016* (NSW)	Current (13 January 2023)	Regulation 7
8.	*Mineral Resources (Sustainable Development) Act 1990* (Vic)	Current (1 July 2021)	Sections 4(1), 14-15
9.	*Mineral Resources Act 1989* (Qld)	Current (21 November 2022)	Sections 234(1)(b), 316
10.	*Mining Act 1978* (WA)	Current (2 November 2022)	Sections 71, 85, 86–87, 91
11.	*Mining Regulations 1981* (WA)	Current (17 December 2022)	Regulation 42B
12.	*Mining Act 1971* (SA)	Current (25 February 2021)	Sections 6(1), 48
13.	*Mineral Resources Development Act 1995* (Tas)	Current (1 July 2019)	Section 106