ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.

# QUEENSLAND RIFLE ASSOCIATION INC V STATE OF QUEENSLAND [2021] FCA 110

**Federal Court of Australia, O'Bryan J, 17 February 2021**

Grant of a lease for a rifle range conditional on negative native title declaration.

**Key words: Native Title, Australia, Non-claimant Application, Rifle Club, Sport, Lease**

1. The Pratten Rifle Club (the Club) is not a separate legal entity. It is based at the Pratten Rifle Range. It is located about 1 km west of Pratten, 30 km north west of Warwick and 22 km south west of Clifton in the Southern Downs region of Queensland.

2. The Club is situated on approximately 56.13 hectares (178 acres) of land that was leased to the Commonwealth of Australia by the State of Queensland on 13 May 1910 for the purposes of a rifle range.

3. From 1884, civilian rifle clubs were permitted to affiliate with the Queensland Rifle Association Inc. (the Association) which was established in 1861, and is the oldest sporting club in Queensland. The Club is affiliated with the Association.

4. In 1999, the Queensland Department of Natural Resources granted the "Pratten Branch" of the Queensland Rifle Association Inc a twenty year lease over the determination area for sporting and recreation purposes, being a target shooting range. In 2018 there was an offer to renew the lease over the determination area for a further 20 year term. The offer was conditional on, amongst other things, the filing of a non-claimant application in the Federal Court and the Court determining that native title did not exist over the determination area prior to the lease being renewed.

5. The application was filed under s 13(1) of the *Native Title Act 1993* (Cth) to determine whether or not native title existed in relation to a particular area of land or waters. The application was unopposed. An application for a negative determination does not involve any general inquiry into what native title rights and interests may have existed at the time of sovereignty, or effective sovereignty, nor any general inquiry into how those rights and interests may or may not have continued. The State of Queensland filed a notice that it did not oppose the application.

6. The application was granted.

## IMPLICATIONS

This case involved an issue that is seldom raised with nonprofit organisations. This case concerned a non-claimant application under the *Native Title Act* which is made by a person who holds a non-native title interest in an area of land and/or water. Such a person could be the Commonwealth, a State, or a person or organisation that holds a lease or licence (as in this case). The application is to determine whether native title exists in relation to the area of land and/or water covered by the application.

In this case the non-claimant application was unopposed, so it was not necessary for the organisation to obtain a determination of native title. This is because where a non-claimant application is unopposed, protection for doing any future act applies under section 24FA of the *Native Title Act*.

Non-claimant applications cannot be made in areas where it has already been determined that native title exists. If native title does exist, it can be found by conducting a search through the native title search page (see at: http://www.nntt.gov.au/searchRegApps/Pages/default.aspx ), or by requesting a search from the National Native Title Tribunal.

## VIEW THE CASE

This case may be viewed at http://www.austlii.edu.au/au/cases/cth/FCA/2021/110.html

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**Author:** McGregor-Lowndes, Myles & Hannah, Frances M.

**Email:** acpns@qut.edu.au

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