



TIPPERARY GROUP OF STATIONS Pty Ltd

As agent for Branir and Booloomani Partnership.

ABN: 89 151 704 147

Private Mail Bag 39
Winnellie NT. 0822

5th February 2018

By email: AboriginalLandCommissioner@network.pmc.gov.au

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801
Attn: The Hon John Mansfield AM QC

Re: Review of detriment issues - Lower Daly Land Claim No. 68

Dear Commissioner Mansfield

Thank you for your letter of 5 January 2018 inviting the Tipperary Group of Stations (**TGS**) to participate in a review of detriment issues on behalf of the Litchfield Station pastoral lease for the Lower Daly Land Claim No. 68 (**Land Claim**), as contained in the Aboriginal Land Commissioner's Report of April 2003 (**2003 Report**).

TGS purchased Litchfield Station in approximately 2016. I am the General Manager for TGS and authorised to speak on its behalf. It is my understanding that no submissions were made on behalf of or by the owners of Litchfield Station for the 2003 Report and, as a result, the Land Commissioner at that time inferred that the pastoral interests did not and do not perceive that their interests would be detrimentally affected by a grant of title.

TGS in its current entity, did not own Litchfield Station at that time so obviously could not have made submissions for the 2003 Report. TGS, however, does believe there are detriments, and the inference of no detriment should no longer be made. Because no pastoral interest submissions were previously made, we also ask for three additional weeks in which additional information on the detriments identified below.

No negotiations or agreement on detriment. First, before I discuss detriment, your correspondence also invited TGS to comment on current relationships with the claimants and/or local Aboriginal communities in the area. While there has been communication between TGS and the Lower Daly/Port Keats Aboriginal Land Trust (**Land Trust**) on other matters, there are no active or ongoing negotiations between TGS and the Land Trust or the Northern Land Council regarding mitigation of detriment to Litchfield Station should the land claim be granted.

Need for new construction and maintenance of fence lines. If the Land Claim area becomes Aboriginal land there will be a need to prevent the movement of livestock into that area. It is thus reasonable to believe that new fence lines will need to be installed along the Eastern side of the Daly River at the border of the Land Claim area to prevent that movement. This represents a significant detriment for Litchfield Station.

Moreover, as a practical matter, the cost of construction and maintenance of a fence would be borne by TGS. We do not believe that the Land Trust has the ability to contribute to either the construction or the maintenance and repair of fences lines based on our experiences elsewhere. TGS already provide a substantial amount of weed abatement along the common boundary between the land trust administering Nauiyu, for which it does not receive compensation commensurate to its expenses.

We are currently estimating costs for the potential additional fencing and estimated annual maintenance and repair costs. We will have this information for you within the additional three weeks we have asked for in which to respond.

Recreational access to Daly River. Recreational fishing and boating are significant amenities at Litchfield Station. Loss of access to the river for these activities would be a significant detriment and harm to the quality of life at Litchfield Station.

Tourism and commercial access to Daly River. TGS is in the planning stages for tourism at Litchfield Station, something that already occurs along with pastoral uses on its other leaseholds. Infrastructure at Litchfield Station is already available, including accommodations and an all-weather airstrip. Tourism opportunities include recreational fishing and wildlife/birding ecotourism, opportunities that would be lost without access to the river.

The Daly River is also accessed from Litchfield Station for the harvest of crocodile eggs, for which TGS receives royalties. A loss of this income would be a detriment.

Biosecurity. Another detriment would be potentially adverse impacts to Litchfield Station's biosecurity controls. TGS is required to maintain strict biosecurity protocols for livestock on Litchfield Station. Extending the boundary of Aboriginal Land to the border of Litchfield Station could compromise biosecurity efforts by increasing access to Litchfield Station. We will provide more in-depth information for you on this matter within the additional three weeks we have asked for in which to respond.

Given the lack of any detriment to pastoral interests identified in the 2003 Report and the detriment to TGS and Litchfield Station that now been identified, I respectfully request three additional weeks in order to provide additional information for your consideration. I propose to provide such additional information by close of business on Monday, 26 February 2018.

Thank you for your consideration in this matter.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'D Connolly', written in black ink.

David Connolly
General Manager



TIPPERARY GROUP OF STATIONS Pty Ltd

As agent for Branir and Booloomani Partnership.

ABN: 89 151 704 147

**Private Mail Bag 39
Winnellie NT. 0822**

Telephone: (08) 8978-2433

8 March 2018

By email: AboriginalLandCommissioner@network.pmc.gov.au
elena.zola@network.pmc.gov.au

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801
Attn: The Hon John Mansfield AM QC

Re: Review of detriment issues - Lower Daly Land Claim No. 68

Dear Commissioner Mansfield

Thank you for the extension of time given by your 9 February 2018 correspondence. This letter follows-up on fencing and biosecurity issues I raised earlier and responds to your questions regarding prior knowledge of the land claim.

Knowledge of the land claim

First, in regard to your questions regarding TGS awareness of the Lower Daly Land Claim, there is an error in my letter of 5 February 2018 for which I apologise. TGS did not become an owner of Litchfield Station in 2016; rather, it became agent for the new owners in 2016. The Booloomani Unit Trust became part owner of the station at that time. TGS, of which I am General Manager, is currently the agent for the Branir and Booloomani partnership that owns Litchfield.

I commenced employment with TGS in 2015 and the new partnership employed TGS to act as its agent in 2016. I had no knowledge of the Lower Daly Land Claim at that time. I also had no knowledge at the time Booloomani entered the partnership even though I was involved in the sale, and I was not privy to what Booloomani may or may not have known with respect to the land claim. The first I learned of the land claim was through your invitation to TGS to participate in a review of detriment issues dated 5 January 2018.

Need for new construction and maintenance of fence lines

Cattle on Litchfield Station currently wander onto the adjacent bank of the Daly River to graze as part of our Pastoral Lease. My understanding is that Litchfield Station employees would not be able to retrieve them from the bank if the land claim is granted unless permission is given by the land trust; to do otherwise would violate both the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Aboriginal Land Act (NT)*. Because of this we would need to fence along the eastern/northern side of the Daly River at the boundary of the land claim in order to prevent cattle from entering the claimed land.

I estimate the cost of new fencing to be approximately \$4500 per kilometre. In my experience, routine maintenance and repair currently costs about another \$1100 per kilometre per year. Additionally, after significant flood events like we have experienced this year fencing generally cannot be repaired. New fencing is required. There is approximately 40 kilometres of station property along the Daly River, meaning new fencing as a result of a grant of the land claim could run as high as \$180,000 with maintenance and repair running a minimum of another \$44,000 per year.

As I noted in my letter of 5 February, we do not believe the Lower Daly/Port Keats Land Trust is, or will be, in a position to assist with fencing or maintenance costs along what would be our common border if the land claim is granted. These new and on-going costs will represent a detriment to Litchfield Station and our business.

There is another detriment associated with fencing. There are large numbers of crocodiles along the stretch of the Daly River shared with Litchfield Station. This would create an additional safety risk for station employees and contractors having to build, maintain, and repair that fencing.

Biosecurity

The Australian Government has declared that stock owners must be responsible for the Biosecurity of their land and livestock. Indeed we have had to create, document and implement extensive Biosecurity plans for our businesses.

Fencing along the boundary of Litchfield Station and the land claim area has biosecurity implications that potentially create additional detriment.

As one example, the spread of invasive weeds such as cane grass and mimosa poses a significant biosecurity threat to Litchfield Station. They are invasive woody plants that crowd out native species and are of poor nutritional value for grazing stock. Unchecked infestation can negatively impact the carrying capacity of the land. TGS already spends over \$250,000 for cane grass and mimosa control at Litchfield Station annually. Indeed these invasive species are categorised by the Weeds Management Branch as category A and B type weeds which must be either eradicated or controlled and managed.

The grant of the land claim will make our ability to control invasive weeds like cane grass and mimosa more difficult. Weed control is somewhat more difficult and expensive along fences. Our current weed management plan includes control efforts on the river bank. That would have to cease or be sharply curtailed if the land claim is granted, making our weed control efforts less effective in fact useless.

A grant of the land claim would also work a detriment to TGS biosecurity efforts to control feral pigs and wild buffalo. TGS does humane culling of feral pigs and wild buffalo to preserve the floodplain and prevent fouling of water holes, and to minimise the spread of disease that can be passed from those animals to cattle. Feral pigs and wild buffalo do cross into the inter-tidal zone and TGS does some of its culling in that area. Anything that impedes the ability of TGS to cull in the inter-tidal zone poses an additional detriment to the health of our livestock and the biosecurity of Litchfield Station.

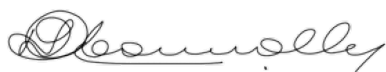
The potential for increased access to Litchfield Station from the claimed land may also pose an additional biosecurity risk. The basis for this is my reasoned belief that access by persons unknown from the bank of the Daly River onto Litchfield Station will increase in the land claim if granted; if someone 'owns' land they are more likely to want to access it, even if rights of access already exist. That, in turn, will result in increased access onto the station and increased biosecurity threats.

Persons who are on the station property without our knowledge can pose a biosecurity threat to our operations by leaving internal gates open, cutting fences, mixing mobs and exposing livestock to unknown risks, setting fires, and inadvertently spreading invasive weeds. Our biosecurity plan, which is based upon our pastoral industry's minimum best practices, requires visitors onto the station to have permission prior to entry. This allows us to identify persons who pose higher biosecurity risks and communicate with them about station procedures to minimise risk.

I understand that native title rights allow access on to the station. At the behest of and in consultation with the Daly River community, TGS has been able to successfully institute a voluntary station visitor permitting program, administered by the Daly River community itself, which reduces the biosecurity risks at Litchfield Station and the neighbouring Tipperary pastoral leasehold.

Once again, I thank you for your consideration in this matter.

Yours faithfully,



David Robert Connolly

General Manager

Tipperary Group of Stations



TIPPERARY GROUP OF STATIONS Pty Ltd

As agent for Branir and Booloomani Partnership.

ABN: 89 151 704 147

**Private Mail Bag 39
Winnellie NT. 0822**

Telephone: (08) 8978-2433

By email: AboriginalLandCommissioner@network.pmc.gov.au
elena.zola@network.pmc.gov.au

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801
Attn: The Hon John Mansfield AM QC

Re: Reply to NLC submissions - Lower Daly Land Claim No. 68

Dear Commissioner Mansfield

Thank you for the opportunity to respond to NLC's submission. I offer the following responses and comments tied to the relevant paragraphs of NLC's submission.

NLC submission [59]

NLC's claim that Tipperary Group of Stations Pty Ltd (**TGS**) did not raise any issue of future diversification for non-pastoral use is a false statement. Please refer to the first page of my correspondence to you of 5 February 2018:

Tourism and commercial access to Daly River. TGS is in the planning stages for tourism at Litchfield Station, something that already occurs along with pastoral uses on its other leaseholds. Infrastructure at Litchfield Station is already available, including accommodations and an all-weather airstrip. Tourism opportunities include recreational fishing and wildlife/birding ecotourism, opportunities that would be lost without access to the river.

The Daly River is also accessed from Litchfield Station for the harvest of crocodile eggs, for which TGS receives royalties. A loss of this income would be a detriment.

TGS has undertaken capital investment in anticipation of applying for a non-pastoral use permit pursuant to the *Pastoral Land Act* for tourism-based activity on Litchfield Station. Anything that would hinder the tourism-based opportunities identified in my 5 February 2018 correspondence would be a detriment.

NLC submission [61]

NLC's dismissive attitude towards TGS weed management is unfortunate. I first point out that, contrary to NLC's submission, I believe I was quite clear in my 8 March correspondence that weed management activities have

taken place in the claim area; 'Our current weed management plan includes control efforts on the river bank. That would have to cease or be sharply curtailed if the land claim is granted, making our weed control efforts less effective in fact useless'.

The submission also seems to suggest that because a pastoral lease holder has no legal responsibility for weed management on Crown land adjacent to the leasehold, there would be no detriment if the lease holder could not undertake weed management on the river bank. Nothing could be further from the truth. Invasive weeds have no respect for property boundaries. Control efforts on the riverbank for species like mimosa are critical to reducing the spread further into the floodplain portion of the pastoral leasehold.

NLC submission [62]

I have not been contacted by the NLC or any other representative of the claimants so I have no way of determining the truthfulness of the statement, or even what 'details being agreed' were provided by NLC. I understand that you would like my response as to whether a license over the bank to Litchfield Station reflecting TGS' current usage of the area, like that suggested by the NLC, is a workable and reasonable arrangement, but without having an actual proposal in front of me and without knowing what NLC has suggested to the claimants I can do no more than provide general comment.

The potential features in [62] do not themselves seem unreasonable, but they are limited in ways that include the following (and these bullet points are neither exhaustive nor exclusive):

- It only addresses 'pastoral activities presently undertaken in the claim area – access for mustering (replacing s.27 *Livestock Act*), repair and maintenance of fencing (if any). It does not address other pastoral activities that may occur in the future.
- Given NLC's submission regarding TGS weed control adjacent to its property, it is not clear what NLC means by 'assume obligations to comply with the *Weeds Management Act*'.
- There is no provision made for non-pastoral uses, current or future.

I also have a question; even though the list provides a feature that the license would be fully transferable on the sale/transfer of the pastoral lease without further consent (but on notice to the Land Trust)', would Ministerial consent still be required?

Finally, I have an observation. It appears that what NLC is doing is trying to replicate the status quo. If that truly is the case, then there is no need for change, and the area should remain unalienated Crown Land.

NLC submission [64]

NLC's submission confuses legal access with practical reality. My 8 March correspondence did not suggest that a legal right of access would increase if the Land Claim is granted. As I pointed out, if someone 'owns' the bed and bank of the river they are more likely to want to access it, even if legal rights of access already exist. That, in turn, will result in increased access onto Litchfield Station and the increased biosecurity threats identified my 8 March

Once again, thank you for your consideration in this matter.

Yours faithfully,

David Connolly

General Manager