

Native Title on Cattle Country

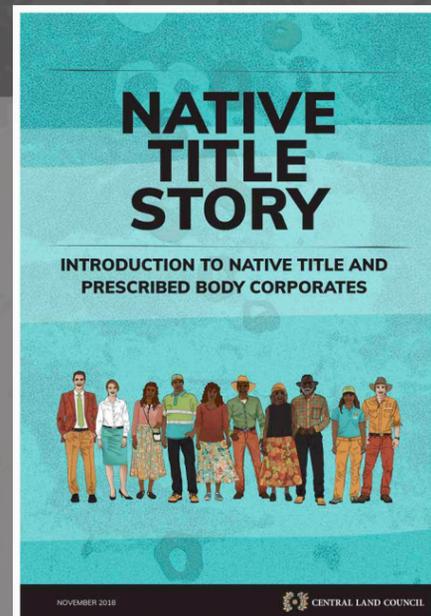


The Central Land Council (CLC) has made information booklets to help native title holders understand native title and prescribed body corporate (PBC) business.

Native Title Story: Introduction to native title and prescribed bodies corporate

November 2018

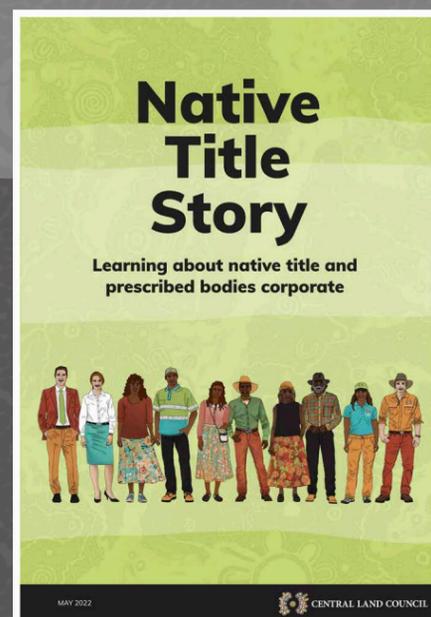
Some rules have changed, so we do not use this book anymore.



In March 2021, the government changed some of the rules in the Native Title Act so CLC made changes to the Native Title Story.

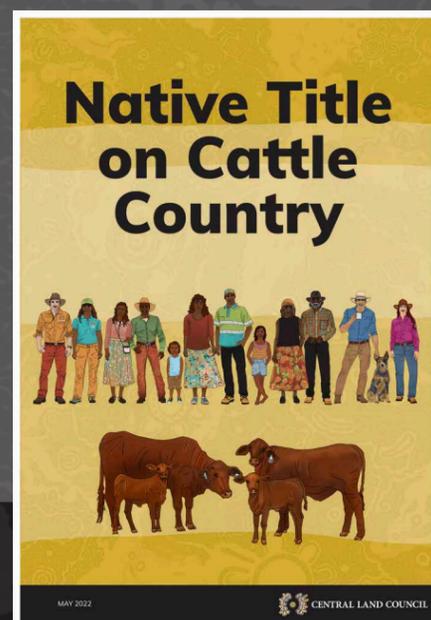
Native Title Story: Learning about native title and prescribed bodies corporate

May 2022



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Learning about native title

Some hard words about native title and cattle country

native title

More than 250 years ago, England took over Australia with their own law, called Terra Nullius. Terra Nullius says that Australia belongs to no one. In 1992 the High Court of Australia said that law was wrong. Native title recognises the traditional laws of Aboriginal and Torres Strait Islander people who have always been on this land.

native title determination

A judge, from the Federal Court, makes a decision about a native title claim. When all people involved with the country, like the station owner, mining company and the government, agree about the claim, then the Federal Court judge can make a native title consent determination.

At the native title determination ceremony, the judge gives you a paper. The paper says that Australian law recognises your traditional laws on country.

native title holder

A person who is connected to their traditional country by their traditional law. The person is part of a group that belongs to country that has native title.

pastoral lease

This is a cattle station.

The cattle station has a lease over Crown land. Crown land is owned by the government. To lease is another word for rent.

pastoral land

This is station land. Pastoral land is used for grazing cattle.

pastoralist

This is the station owner or the station manager. The owner and the manager make the business decisions about the cattle station.

cattlemen

These are all the men and women that work on a station. These are the owner, the manager, and the workers.

rights

These are what the laws say you have or can do.

Act

This is like a rule book made by the government. It explains what you can and cannot do. For example, the Native Title Act has the rules and laws about native title.

trespassing

This is when you go somewhere you are not allowed to.



Native title on pastoral leases

When your native title is on a pastoral lease, it can be hard to understand what you can and cannot do. There are a lot of different rules and laws for different people on the same land.

These 3 laws give different people different rights on the same country.

1. Sacred Sites Act



2. Pastoral Land Act



3. Native Title Act



You belong on the pastoral station. These 3 laws in the Northern Territory say that you can go on your country.

Sacred sites on cattle country

Sacred sites are the boss for everyone

Most of these laws are in the Sacred Sites Act and the Aboriginal Land Rights Act. These Acts say it doesn't matter who owns or uses the land, they have to leave the sacred sites alone. Anyone who does not follow the rules for a sacred site can get a fine or go to jail.

There are 4 important rules

1. People who are not traditional owners, are not allowed to go on sacred sites. That means cattlemen are not allowed to go on sacred sites, even on a pastoral lease.
2. No one is allowed to damage sacred sites. That means cattlemen are not allowed to damage sacred sites, even on a pastoral lease.
3. The Sacred Sites Act and the Aboriginal Land Rights Act are the laws that give you a right to go to your sacred sites any time.
4. You can let other people go to your sacred sites. But these other people have to talk to the station manager first. They have to talk to the station manager about their plans. The station manager can tell that other person which way they have to travel to the sacred site.



If you see damage to your sacred sites, tell CLC.



Native title rights

Your native title rights are everything you need to have a really good visit to country. Your native title determination says which native title rights you have. Here are some things most people can do with native title.



You can do these things with your native title rights:



You can go on country.



You can camp on country.



You can get water from soakages, waterholes and rivers.



You can make a campfire.



You can hunt and fish native and feral animals.



You can get bush tucker, wood, ochre and other natural resources.

You can give people a present from the country.



You can look after and protect sacred sites and important places.



There are some things you cannot do:



You cannot stop people from coming on your country.



You cannot camp close to the homestead.

Most of the time, you cannot build new houses or make new outstations.



You cannot get water from bores or dams.



You cannot light fires to clear country or hunt.



You cannot hunt cattle or other animals that belong to someone.



Sometimes, you cannot sell things from country for big money.



You can do these things with your native title rights:



You can talk about a project, like mining, and try to make an agreement.



You can say how other Aboriginal people can use your country.



You can teach, hold meetings, ceremonies and funerals on country.

You can put someone's grave on country if you get approval from the Northern Territory Government.



You can take anyone to your country to help you with cultural activities and research.



There are some things you cannot do:

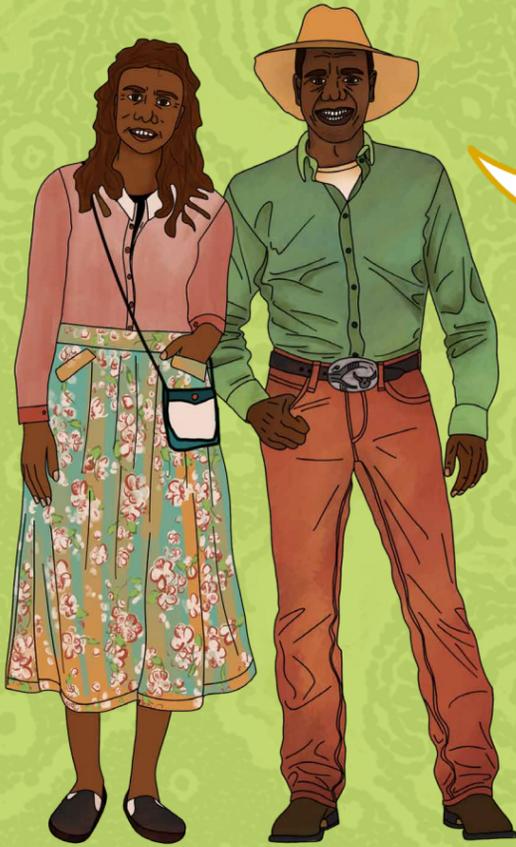


You cannot stop or veto a project, like mining.

Sometimes you can use other laws to try stopping projects from happening on country.



Pastoralists on land that has native title



Can the cattlemen stop us from going to country?

No. The cattlemen cannot lock you out or stop you from going to country. But they can tell you not to go to places where they are working. For example, when they are mustering, they can tell you not to go to that area.



I have to run my cattle business. So, I need to do things to the country to help my cattle grow strong.

I also have to follow the native title rules.

The cattlemen have to let native title holders use their rights fully and freely.

If someone stops you from going on your country, and they do not have a good reason, it is a crime. This is in the Pastoral Land Act.

No one is allowed to take your car, gun or other things from you. If you need help, talk to the police or CLC.



“We need to talk more – them to us and us to them. They should talk with PBC members and native title holders.”

Native title holder, PBC Camp 2021



Pastoralist rights

The government owns the cattle station. The government lease the land to the station owner. The station owner has the right to use the land to run a cattle business.



Cattlemen can do these things:

Cattlemen can have animals running around.

Cattlemen can build fences, airstrips, roads, bores, tanks and yards.

Cattlemen can build other things that they need for their cattle business.

Cattlemen can grow grass for the cattle to eat.

Cattlemen can make sure that no one steals the cattle or tools.

Cattlemen need to stop diseases and weeds coming onto the station.



There are some things cattlemen cannot do:

Cattlemen cannot let their animals damage sacred sites.

Cattlemen cannot stop you from going to your country.

Cattlemen cannot build things if it will damage your sacred sites.

Cattlemen cannot build things on your sacred sites.

Cattlemen can take water from the land for their cattle and for using at home. Cattlemen can only take water from the country for other reasons if they have special permission from the government. The government has to let you say what you think before they give that special permission.

Cattlemen cannot lock native title holders out.

Cattlemen can only clear native grass if they have special permission from the government.

Cattlemen need special permission from the government to do business that is not cattle business. The government has to let you say what you think before they give that special permission.

Which is stronger – native title rights or pastoral rights?

Pastoral rights are stronger.

Your rights come after the rights of the cattlemen. You can use the country, but you cannot get in the way of the cattle business.

Here are some examples.



You can do these things:



You should not do these things:



You can shoot kangaroos on your country.



You should not shoot kangaroos in the middle of a muster.



You can camp on country.



You should not camp close to the homestead or cattle yards.



You can open the gate to go to country.



You should not leave the gate open.



You can hold ceremony.



You should not hold ceremony close to the homestead and keep the cattlemen awake at night.

You still belong on that country.

You are not trespassing on your native title country.



You and the cattlemen both have to use your rights reasonably

Reasonably means being straight and fair with each other.

It means:



Native title holders and cattlemen should try to do these things:

Look after each other's rights.

Talk and fix problems together.

Build a good relationship.



Native title holders and cattlemen should not do these things:

Do not steal from cattlemen or mess up the country.

Do not do things to make life harder for the other person.

Do not get cheeky.

If you are straight and fair with each other, it will be easier to fix problems together.

If you cannot work things out together, you can ask CLC for help. CLC can tell the Northern Territory Government that the cattlemen are doing the wrong thing under whitefella law. The Northern Territory Government can fine the cattlemen. If the cattlemen do not pay the fine, a judge will think about both sides of the story to decide what is right.



Native title rights and water

Native title holder rights

If there is water on the land, like in a rock hole, spring or river, you can take that water.



You can take this water.



Pastoralist rights

The cattlemen are allowed to put in new bores for cattle. But they cannot take water away from sacred sites. Damaging sacred sites is a crime.

If the cattlemen have built something to take the water, like a bore, tank, or dam, they own that water now. You cannot take that water away.



You cannot take any of this water.

If someone wants to put in bores for other reasons, like to grow plants or food, then they need special permission from the government. The government has to talk to native title holders about this.

If the government wants to give permission but taking that water will cause big problems for your country, you can ask CLC for help.

Native title rights and cattle

Can I kill cattle?



no

Do not kill cattle that belongs to someone else.

Do not kill cattle if it has a brand, earmark or tag in its ear. This cattle belongs to someone.

Do not kill clean skins. The rule is whoever owns the mother owns the young ones.



yes

You can kill cattle that are proper feral. Cattle are feral when they do not have an owner.

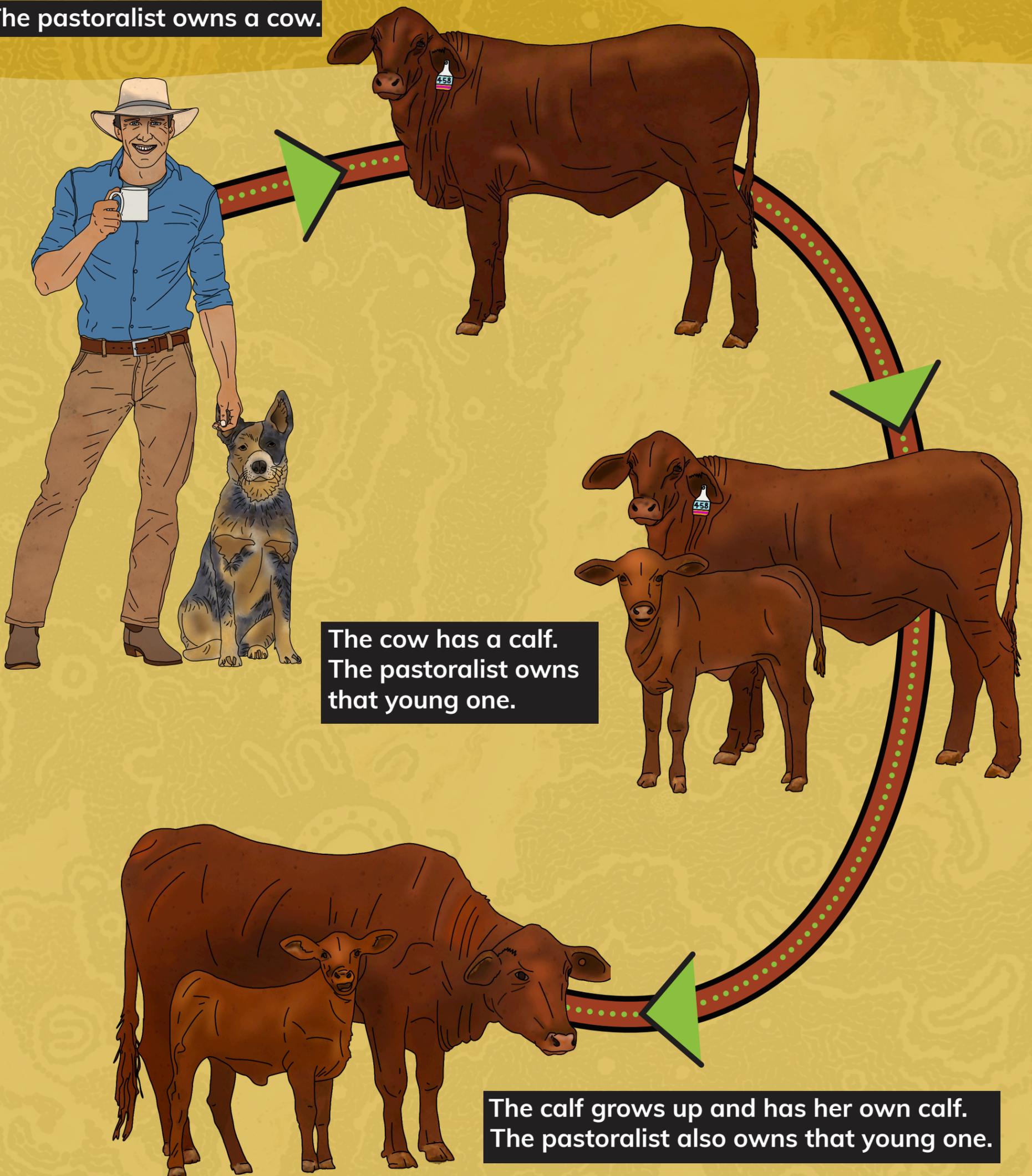
You can kill your own cattle.

It does not matter if the cattle are on the station or not. You can get into big trouble if you take cattle that does not belong to you.



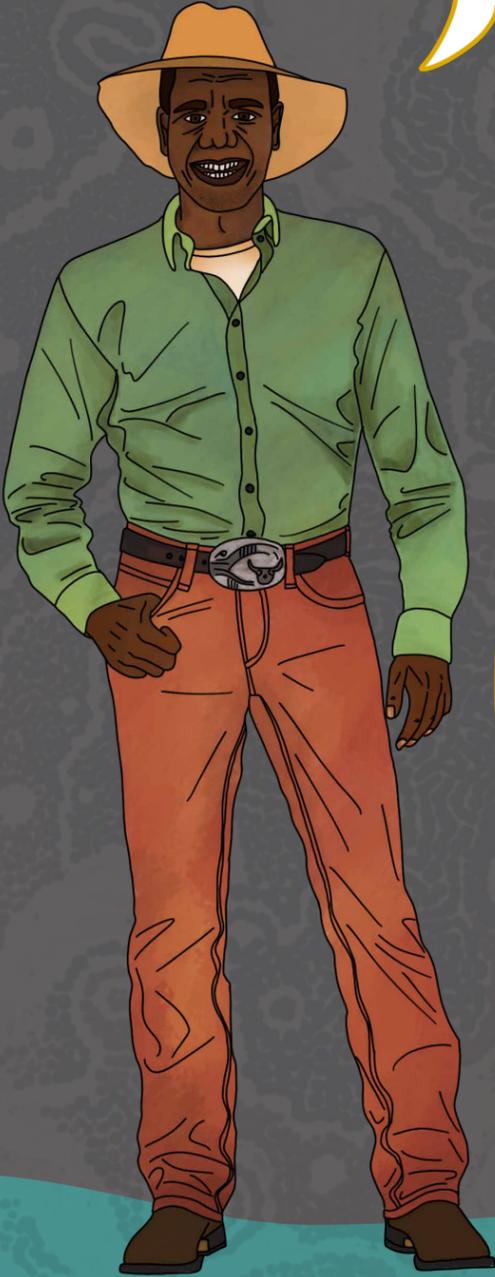
Whoever owns the mother, owns the young ones

The pastoralist owns a cow.



If the station owner has cattle and there are some young ones with no tags, those young ones belong to the station owner. Leave those ones alone.

What if the country next to the pastoral lease has Aboriginal land rights?



If cattle damage sacred sites or water holes, can I kill it?

Do not kill the cattle.

Be reasonable. You can talk to the station manager about how to fix the problem. You can ask the station manager about compensation.

If that does not work, you can ask CLC for help. Damaging a sacred site is a crime. CLC can talk to the Aboriginal Areas Protection Authority (AAPA). AAPA can charge the station manager. CLC can also ask the station manager for compensation.

If it is feral cattle that damaged the site, you cannot sue because there is no owner. But you can kill feral cattle.



Native title rights, fences and gates



The cattlemen sometimes lock the gates. There are sometimes good reasons why the cattlemen need to lock the gates, like:

- people leaving the gates open and cattle are getting out
- cattle or tools going missing from the station
- cattlemen need to lock the gates because of the rules for organic farming.



Is it reasonable for the station manager to lock all the gates?

If the gates are only there to keep you out, it is not reasonable. You have your rights in the 3 laws:

- Sacred Sites Act
- Pastoral Land Act
- Native Title Act



What to do when you are standing at a locked gate

You need to decide what is reasonable and what is not. That gate and fence belong to the station owner and you should not damage them.



This is reasonable

- You can get through the fence without damaging it.
- You can ask the cattlemen to unlock the gate.



This is not reasonable

- You cannot take the gate off and leave it flat on the ground.
- You cannot cut the locks on the gate.



You have to think about these ones.

- Can you lay a fence down and stand it back up again?
- Can you find another way in?

What can native title holders do when the gates are always locked?

- You can try to talk to the station manager. You can ask your PBC for help. The PBC can also ask CLC for help.
- If you can talk good way to the station manager and the station manager can talk good way to you, maybe you can fix the problem together.
- If the station manager does not want to talk good way to you, your PBC can ask CLC for other ways to fix the problem, like talking to the government.



Other things to talk about with the station manager

Using the station roads

All the roads on the station are for you to use as well as the cattlemen. The cattlemen cannot block a road unless they have a good reason.

Road spikes

Road spikes are very dangerous and people could get stuck with no spare tyres. The cattlemen cannot put road spikes up to stop you driving to your country.

Fences

Cattlemen can fence off areas of the station. But they need to put a gate in for you. You can talk to the cattlemen about why they fenced off an area.

You can talk to the station manager about fencing off your important places.

Broken fences

The cattlemen have to look after fences so their animals cannot damage your sacred sites. You can ask the cattlemen to fix the fences. But they can ask you to pay some of the costs.



Visitors to country

You can take visitors to country, but there are some rules.

Native Title Act

Your native title rights say that you are allowed to take visitors to your country. The kinds of visitors you can take to your country are:

- people who you need for your cultural activities under traditional law
- people who have the right to be there under your law
- people who help you record cultural activities.

Sacred Sites Act

You also have a right under the Sacred Sites Act to let other people go to your sacred sites. This right is different to your native title rights. You or your visitors have to tell the station manager first. The station manager can tell you or your visitors which way to go through the station.

Pastoral Act

Visitors cannot camp on the station unless they have permission from the station manager.



The cattlemen pointed a gun at me and my visitors and would not let us on country. What can I do?

The cattlemen are breaking two laws: the Native Title Act and criminal law. You are not trespassing and they have no right to point a gun at you.

Call the police and CLC.





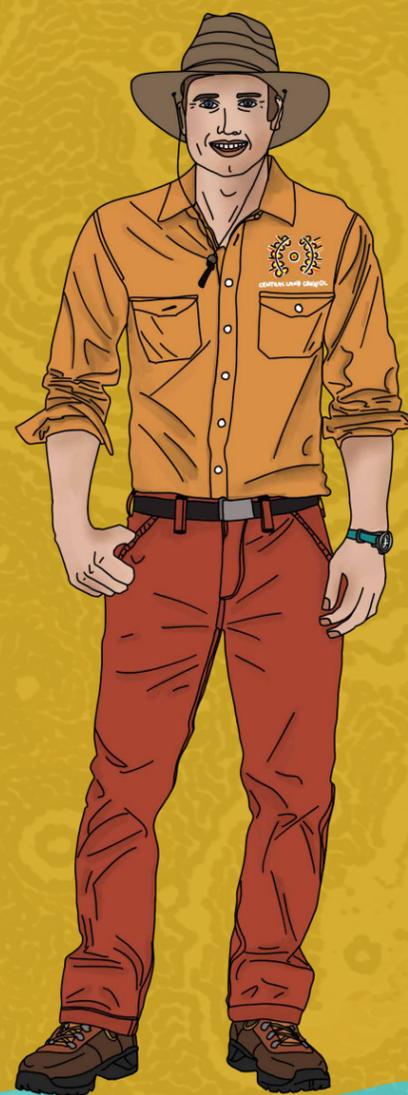
Can the cattlemen bring people to our country without talking to us?

Yes. But only for the cattle business and they can have family and friends visit.



What are my rights for getting to country? Can I use quad bikes, helicopters, or walk?

You can get to your country whatever way you want.



Native title, mining and pastoral leases

What are the rights for when there is mining and native title on a pastoral lease?

The government owns the pastoral lease. They give 3 different groups of people rights over that part of the station:

1. mining company
2. cattlemen
3. native title holders

Mining rights are the strongest.

Pastoral rights are stronger than native title rights.

1. Mining



2. Pastoral



3. Native title



This means that most of the time, you can still go on country, go hunting or camping and use those areas. But, you cannot make trouble for the cattle business or the mine business.

What if I have an Indigenous land use agreement (ILUA) with the mining company?



If you have an ILUA with the mining company, then the ILUA has rules about what you can and cannot do on the mining land.

Most of the time, the mining company agrees that native title holders can go to places that are not being used for mining work.

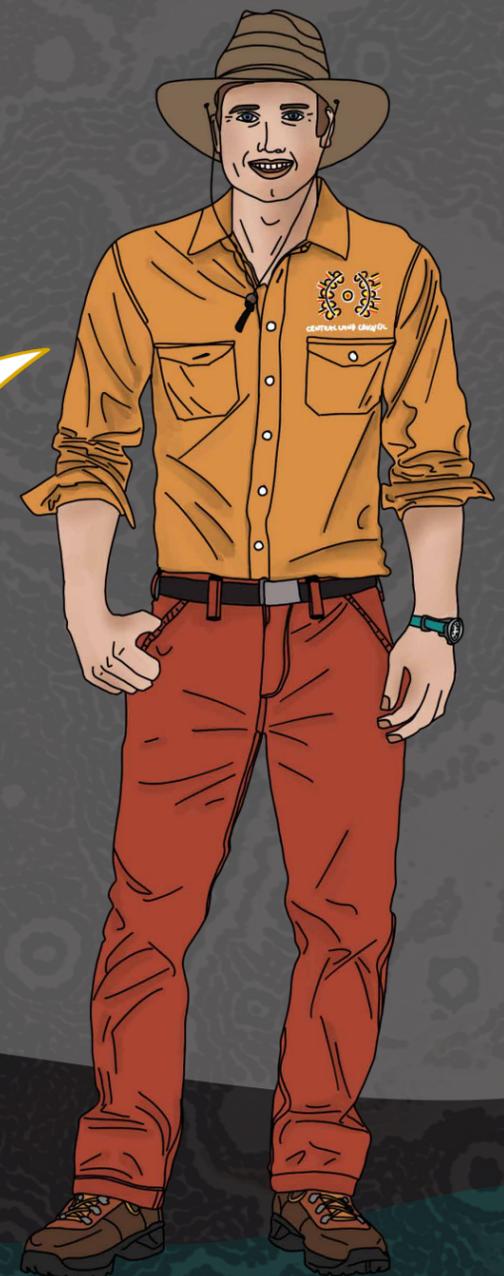
Do not go into areas that are fenced off. The mining people put up the big fences to keep people and animals safe.

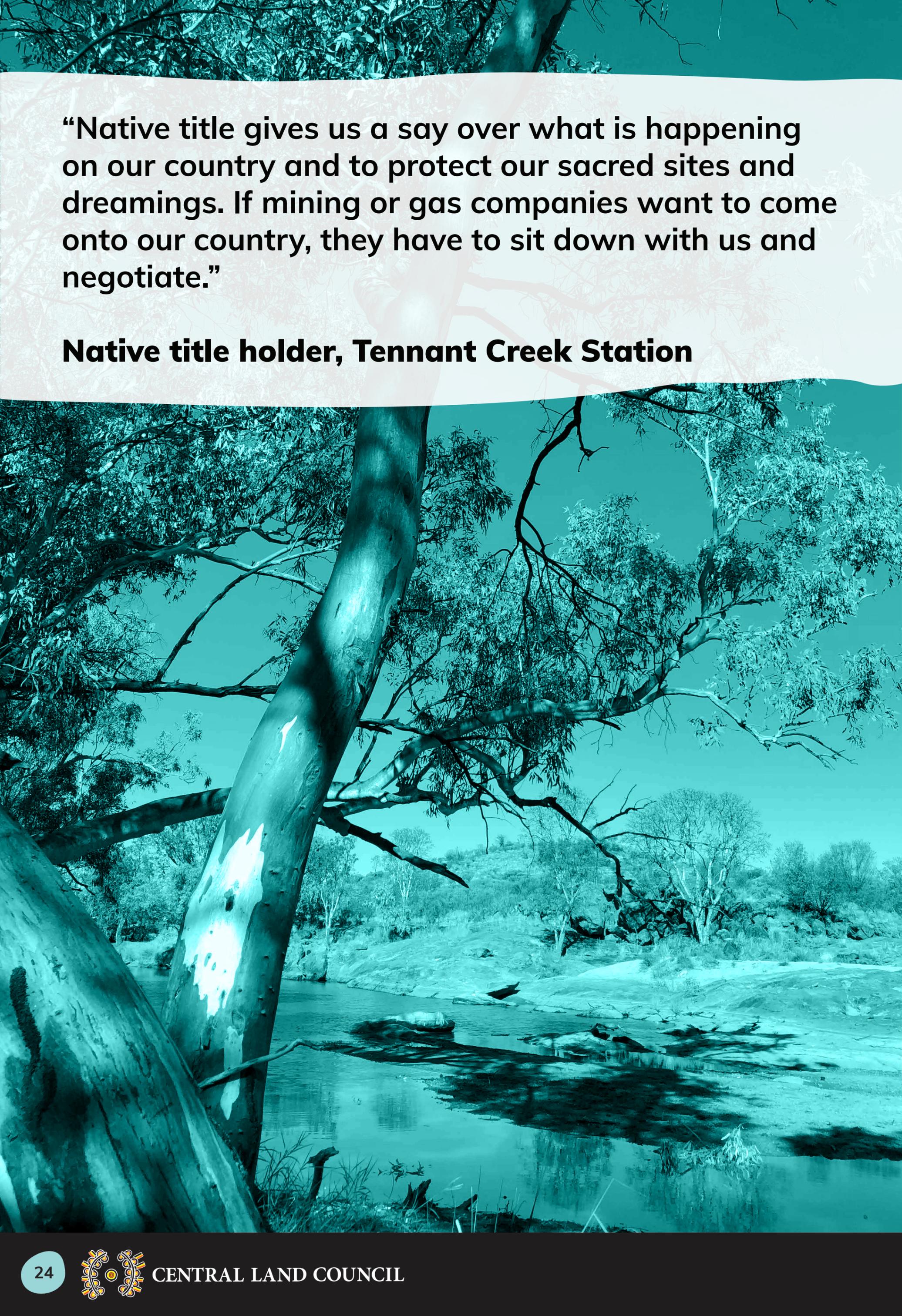


Can the cattlemen go in mining areas?



The pastoralists and the mining company have an agreement that says where the cattlemen can and cannot go.





“Native title gives us a say over what is happening on our country and to protect our sacred sites and dreamings. If mining or gas companies want to come onto our country, they have to sit down with us and negotiate.”

Native title holder, Tennant Creek Station

Building good relationships with cattlemen

It is important to have a good relationship with the cattlemen

A good relationship means respect.

You all talk and fix problems together. You have respect for each other's business.

With a good relationship:

- you get easier access to country
- it is easier to bring visitors to country
- you could get jobs for your community
- you can enjoy your native title rights with less worries.



It is good to keep working on strong relationships. Sometimes you have a good relationship, but then a new manager comes along. You have to start again.



Some ideas to build strong relationships

- Talk to each other more.
- Learn about each other's rights.
- Learn about each other's business.
- Keep promises to each other.
- Do the right thing for each other's business.
- Work on stations together.
- Fix problems together.

How can CLC help you build strong relationships with cattlemen?

- CLC can tell you about your rights.
- CLC can tell the pastoralists about your rights.
- CLC can bring cattlemen and native title holders together to help understand each other.
- CLC can mediate between the pastoralists and the native title holders. This means they can help you and the cattlemen talk and agree.
- CLC can speak up to Northern Territory Cattlemen's Association and government to make good policies about native title on cattle stations.





The Acts in this booklet

- **Northern Territory Aboriginal Sacred Sites Act 1989**
- **Pastoral Land Act 1992**
- **Native Title Act 1993**
- **Aboriginal Land Rights Act 1976**





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