

Here is the chain of arguments used by GAGELER CJ, GORDON, STEWARD AND GLEESON JJ, reconstructed into a formal modus ponens structure:

1. If a mineral lease authorizes ancillary mining activities, then it constitutes a "right to mine" under the Native Title Act (paras 56-64). The proposed ML 29881 authorizes ancillary mining activities (para 11). Therefore, the proposed ML 29881 constitutes a "right to mine" under the Native Title Act.

2. If s 24MD(6B)(b) of the Native Title Act applies to mineral leases that solely authorize the construction of mining-related infrastructure, then it applies to the proposed ML 29881 (paras 72-73). Section 24MD(6B)(b) applies to mineral leases that solely authorize the construction of mining-related infrastructure (para 73). Therefore, s 24MD(6B)(b) applies to the proposed ML 29881.

3. If the definition of "infrastructure facility" in the Native Title Act includes its ordinary meaning, then the proposed DSEA is an "infrastructure facility" (paras 75-82). The definition of "infrastructure facility" in the Native Title Act includes its ordinary meaning (paras 75-82). Therefore, the proposed DSEA is an "infrastructure facility".

4. If the proposed ML 29881 is a "right to mine", solely authorizes the construction of an "infrastructure facility", and that facility is associated with mining, then the Native Title Act requires the completion of the procedures in s 24MD(6B) before the mineral lease can be granted (para 83). The proposed ML 29881 is a "right to mine", solely authorizes the construction of an "infrastructure facility", and that facility is associated with mining (para 83). Therefore, the Native Title Act requires the completion of the procedures in s 24MD(6B) before ML 29881 can be granted.

5. If the procedures in s 24MD(6B) of the Native Title Act must be completed before ML 29881 can be granted, then the appeal should be allowed (para 84). The procedures in s 24MD(6B) of the Native Title Act must be completed before ML 29881 can be granted (para 83). Therefore, the appeal should be allowed (para 84).

Final conclusion: The appeal should be allowed, and the first respondent should be restrained from deciding the application for ML 29881 until completion of the procedures in s 24MD(6B) of the Native Title Act (para 84).