



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): NTD1/2017  
NNTT Number: DCD2020/004

**Determination Name:** [Ryan on behalf of the members of the Central Limbunya, Nawurlala, Parayi-Kakaru and Tjutamalin landholding groups v Northern Territory of Australia](#)

**Date(s) of Effect:** 10/09/2020

**Determination Outcome:** Native title exists in parts of the determination area

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## Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

**Determination Date:** 10/09/2020

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Malapa Aboriginal Corporation  
Agent Body Corporate  
C/- Central Land Council  
PO Box 3321  
ALICE SPRINGS Northern Territory 0870

*Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations [www.oric.gov.au](http://www.oric.gov.au)*

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

#### The native title holders

4. The Determination Area comprises four estate areas associated with the Central Limbunya, Nawurlala, Parayi-Kakaru and Tjutamalin landholding groups ("the landholding groups") respectively and the area of land and waters comprising Northern Limbunya.
5. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who are:
  - (a) members of one or more of the landholding groups referred to in paragraph 4 by virtue of descent (including adoption) through father's father, mother's father, father's mother and mother's mother; or

(b) accepted as members of one or more of the landholding groups referred to in paragraph 4 by senior members of a landholding group, referred to in subparagraph 5(a), by virtue of the following non-descent connections to an estate:

(i) birth in an estate;

(ii) long-term association with an estate;

(iii) possession of secular and traditional spiritual knowledge, authority, status and responsibility for an estate or surrounding country, in particular, knowledge of sites and their mythology.

(c) have rights and interests in the land and waters of Northern Limbunya by virtue of succession and their descendants.

## **MATTERS DETERMINED:**

### **THE COURT ORDERS THAT:**

1. There be a determination of native title in terms of the determination set out below.

2. The native title is not to be held on trust.

3. Malapa Aboriginal Corporation (ICN: 8452) is:

(a) to be the prescribed body corporate for the purposes of s 57(2) of the Act;

(b) to perform the functions outlined in s 57(3) of the Act after becoming a registered native title body corporate.

4. The parties have liberty to apply to establish the precise location and boundaries of any public works and adjacent land and waters identified or otherwise referred to in Schedule C of the Determination; and

### **THE COURT DETERMINES THAT:**

#### **The Determination Area**

1. The Determination Area comprises NT Portion 2092, being the land and waters more particularly described in Schedule A and depicted on the map comprising Schedule B.

2. Native title exists in the Determination Area.

3. Native title does not exist in those parts of the Determination Area described in Schedule C.

#### **The native title holders**

4. The Determination Area comprises four estate areas associated with the Central Limbunya, Nawurlala, Parayi-Kakaru and Tjutamalin landholding groups ("the landholding groups") respectively and the area of land and waters comprising Northern Limbunya.

5. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who are:

(a) members of one or more of the landholding groups referred to in paragraph 4 by virtue of descent (including adoption) through father's father, mother's father, father's mother and mother's mother; or

(b) accepted as members of one or more of the landholding groups referred to in paragraph 4 by senior members of a landholding group, referred to in subparagraph 5(a), by virtue of the following non-descent connections to an estate:

(i) birth in an estate;

(ii) long-term association with an estate;

(iii) possession of secular and traditional spiritual knowledge, authority, status and responsibility for an estate or surrounding country, in particular, knowledge of sites and their mythology.

(c) have rights and interests in the land and waters of Northern Limbunya by virtue of succession and their descendants.

#### **Native title rights and interests**

6. The native title rights and interests in relation to the Determination Area comprise:

- (a) the right to access and travel over any part of the land and waters;
- (b) the right to live on the land, and for that purpose, to camp, erect shelters and other structures;
- (c) the right to hunt, gather and fish on the land and waters;
- (d) the right to take and use the natural resources of the land and waters;
- (e) the right to access, take and use natural water on or in the land, except water captured by the holder of Perpetual Pastoral Lease No. 1136;
- (f) the right to light fires for domestic purposes, but not for the clearance of vegetation;
- (g) the right to share or exchange natural resources obtained on or from the land and waters, including traditional items made from the natural resources;
- (h) the right to access and to maintain and protect sites and places on or in the land and waters that are important under traditional laws and customs;
- (i) the right to conduct and participate in the following activities on the land and waters:
  - (i) cultural activities;
  - (ii) ceremonies;
  - (iii) meetings;
  - (iv) cultural practices relating to birth and death including burial rites;
  - (v) teaching the physical and spiritual attributes of sites and places on the land and waters that are important under traditional laws and customs,
  - (j) the right to make decisions about the use and enjoyment of the land and waters by Aboriginal people who recognise themselves to be governed by the traditional laws and customs acknowledged by the native title holders provided that the right does not extend to making any decision that purports to control the access of such persons to the Determination Area;
  - (k) the right to be accompanied on the land and waters by persons who, though not native title holders, are:
    - (i) people required by traditional law and custom for the performance of ceremonies or cultural activities on the land and waters;
    - (ii) people who have rights in relation to the land and waters according to the traditional laws and customs acknowledged by the native title holders;
    - (iii) people required by the native title holders to assist in, observe, or record traditional activities on the areas.

7. The native title rights and interests do not confer:

- (a) possession, occupation, use and enjoyment of the land and waters on the native title holders to the exclusion of all others;
- (b) any right to control access to, or the use of, the Determination Area or its resources.

8. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the valid laws of the Northern Territory of Australia and the Commonwealth of Australia;
- (b) the traditional laws and customs of the native title holders for personal or communal needs which are of a domestic or subsistence nature and not for any commercial or business purpose.

**Other rights and interests**

9. The nature and extent of the other interests in the Determination Area are:

- (a) NT Portion 2092:
  - (i) the rights and interests of Jam Pastoral Pty Ltd (ACN 140 077 372) as trustee for the Jam Pastoral Trust under Perpetual Pastoral Lease No. 1136;

(ii) the rights and interests of the proprietor of NT Portion 2677 under access easement registered on 15 January 1990 (Dealing No 226885);

(b) the rights and interests of the holders of the following mining titles granted under the *Mineral Titles Act 2010* (NT) (or its predecessor):

No.	Expiry date	Holder
EL 31824	11/11/2024	Scriven Exploration Pty Ltd (ACN 006 264 615)

(c) the rights and interests of the holders of the following petroleum titles granted pursuant to the *Petroleum Act 1984* (NT) (or its predecessor):

No.	Expiry date	Holder
EP 200	15/02/2021	Wiso Oil Pty Ltd (ACN 147 564 529)
EP 237	04/09/2020	Paltar Petroleum Limited (ACN 149 987 459)

(d) the rights and interests of Telstra Corporation Limited (ACN 051 775 556):

(i) as the owner or operator of telecommunications facilities within the Determination Area;

(ii) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Acts 1989* (Cth), the *Telecommunications Act 1991* (Cth) and under Schedule 3 to the *Telecommunications Act 1997* (Cth), including rights:

A. to inspect land;

B. to install and operate telecommunication facilities; and

C. to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunication facilities; and

(iii) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in the performance of their duties;

(iv) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Determination Area.

(e) the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal people contained in pastoral leases set out in sections 38(2) to (6) of the *Pastoral Land Act 1992* (NT);

(f) the rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT);

(g) rights of access by an employee, servant, agent or instrumentality of the Northern Territory, Commonwealth or other statutory authority as required in the performance of his or her statutory duties;

(h) the interests of persons to whom valid or validated rights and interests have been:

(i) granted by the Crown pursuant to statute or otherwise in the exercise of its executive power; or

(ii) conferred by statute.

### Relationship between rights and interests

10. To the extent that the continued existence, enjoyment or exercise of the native title rights and interests referred to in paragraph 6 is inconsistent with the existence, enjoyment or exercise of the other rights and interests referred to in paragraph 9, the other rights and interests and the doing of any activity required or permitted to be done by or under the other interests prevail over, but do not extinguish, the native title rights and interests.

### Other matters

11. There are no native title rights and interests in:

(a) minerals (as defined in s 2 of the *Minerals Acquisition Act 1953* (NT));

(b) petroleum (as defined in s 5 of the *Petroleum Act 1984* (NT));

(c) prescribed substances (as defined in s 5 of the *Atomic Energy Act 1953* (Cth) and s 3 of the *Atomic Energy (Control of Materials) Act 1946* (Cth)).

12. In this determination the term:

(a) 'natural resources' means:

(i) animals *ferae naturae*, birds, fish and plants, including timber, wax, resin and gum; and

(ii) surface soils, clays, stone, rocks and ochre,

but does not include minerals, petroleum and prescribed substances;

(b) 'natural waters' includes springs and rockholes.

13. Unless the contrary intention appears, a word or expression used in the Act has the same meaning in this determination as it has in the Act.

#### **REGISTER ATTACHMENTS:**

1. Schedule A - Determination Area, 1 page - A4, 10/09/2020

2. Schedule B - Determination Area Maps, 3 pages - A4, 10/09/2020

3. Schedule C - Areas where native title does not exist, 1 page - A4, 10/09/2020

*Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.*