



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): NTD12/2010  
NNTT Number: DCD2011/009

**Determination Name:** [Wavehill v Northern Territory of Australia - \[Dungowan Pastoral Lease\]](#)

**Date(s) of Effect:** 2/06/2011

**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:** 02/06/2011

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

#### REGISTERED NATIVE TITLE BODY CORPORATE:

Top End (Default PBC/CLA) Aboriginal Corporation RNTBC  
Agent Body Corporate  
45 Mitchell Street  
DARWIN Northern Territory 0801

*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:

4. The land and waters of the Determination Area comprise the whole or part of five estates, which are held respectively by the members of the following five estate groups:

- (a) the Ngapurpinkakujarra group;
- (b) the Narrwan group;
- (c) the Walanypirri group;
- (d) the Yingawunarri group;

(e) the Narlwan group.

These persons, together with the Aboriginal people referred to in clause 6 hereof, are collectively referred to as 'the native title holders'.

5. Each of the estate groups referred to in clause 4 hereof includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

These persons are collectively referred to as 'the estate group members'.

6. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the Determination Area, subject to the rights and interests of the estate group members, such people being:

(a) members of estate groups from neighbouring estates;

(b) spouses of the estate group members.

7. Each of the estate groups referred to in clause 6(a) hereof includes persons who are members of the group by reason of:

(a) patrilineal descent;

(b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;

(c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

#### **MATTERS DETERMINED:**

THE COURT DETERMINES THAT:

THE DETERMINATION AREA

1. The Determination Area is the land and waters described in Schedule A and depicted on the map comprising Schedule B.

2. Native title exists in those parts of the Determination Area identified in Schedule C.

3. Native title does not exist in those parts of the Determination Area identified in Schedule D.

THE NATIVE TITLE HOLDERS

4. The land and waters of the Determination Area comprise the whole or part of five estates, which are held respectively by the members of the following five estate groups:

(a) the Ngapurpinkakujarra group;

(b) the Narrwan group;

(c) the Walanypirri group;

(d) the Yingawunarri group;

(e) the Narlwan group.

These persons, together with the Aboriginal people referred to in clause 6 hereof, are collectively referred to as 'the native title holders'.

5. Each of the estate groups referred to in clause 4 hereof includes persons who are members of the group by reason of:

- (a) patrilineal descent;
- (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
- (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

These persons are collectively referred to as 'the estate group members'.

6. In accordance with traditional laws and customs, other Aboriginal people have rights and interests in respect of the Determination Area, subject to the rights and interests of the estate group members, such people being:

- (a) members of estate groups from neighbouring estates;
- (b) spouses of the estate group members.

7. Each of the estate groups referred to in clause 6(a) hereof includes persons who are members of the group by reason of:

- (a) patrilineal descent;
- (b) his or her mother, father's mother or mother's mother being or having been a member of the group by reason of patrilineal descent;
- (c) having been adopted or incorporated into the descent relationships referred to in (a) or (b) hereof.

#### THE NATIVE TITLE RIGHTS AND INTERESTS

8. The native title rights and interests of the estate group members that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, non-exclusive rights to use and enjoy those parts of the Determination Area identified in Schedule C being:

- (a) the right to travel over, to move about and to have access to those areas;
- (b) the right to hunt and to fish on the land and waters of those areas;
- (c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;
- (d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease 1076;
- (e) the right to live, to camp and for that purpose to erect shelters and other structures on those areas;
- (f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;
- (g) the right to conduct and to participate in the following activities on those areas:
  - (i) cultural activities;
  - (ii) cultural practices relating to birth and death, including burial rites;
  - (iii) ceremonies;
  - (iv) meetings;
  - (v) teaching the physical and spiritual attributes of sites and places on those areas that are of significance under their traditional laws and customs;
  - (h) the right to maintain and to protect sites and places on those areas that are of significance under their traditional laws and customs;
  - (i) the right to share or exchange subsistence and other traditional resources obtained on or from those areas;
  - (j) the right to be accompanied on to those areas 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 areas;

- (ii) people who have rights in relation to the areas according to the traditional laws and customs acknowledged by the estate group members;
- (iii) people required by the estate group members to assist in, observe, or record traditional activities on the areas;
- (k) the right to conduct activities necessary to give effect to the rights referred to in (a) to (j) hereof.

These native title rights and interests do not confer on the estate group members possession, occupation, use and enjoyment of the Determination Area, to the exclusion of all others.

9. The native title rights and interests of the native title holders referred to in clause 6 hereof that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, non-exclusive rights to use and enjoy those parts of the Determination Area identified in Schedule C being:

- (a) the right to travel over, to move about and to have access to those areas;
- (b) the right to hunt and to fish on the land and waters of those areas;
- (c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;
- (d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease 1076;
- (e) the right to camp on those areas;
- (f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;
- (g) the right to conduct activities necessary to give effect to the rights referred to in (a) to (f) hereof.

These native title rights and interests do not confer on the native title holders referred to in clause 6 hereof possession, occupation, use and enjoyment of the Determination Area, to the exclusion of all others.

#### OTHER INTERESTS IN THE DETERMINATION AREA

10. The nature and extent of other interests in relation to the Determination Area are the interests, created by the Crown or otherwise, as follows:

- (a) in relation to NT portion 850, the interests of Laverton Nominees Pty Ltd under Perpetual Pastoral Lease 1076;
- (b) in relation to NT portion 2114, part of the West Australian Border (Gordon Downs to Newcastle Waters) Stock Route and the Murrniji Stock Route, valid rights of use for the passage of travelling stock;
- (c) the rights and interests of Telstra Corporation Limited:
  - (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 Act 1989 (Cth), the Telecommunications Act 1991 (Cth) and the Telecommunications Act 1997 (Cth), including rights:
    - (A) to inspect land;
    - (B) to install and operate telecommunications facilities; and
    - (C) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications 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;
- (d) in relation to NT portions 4862(A), 4863(A) and 4864(A), the interest of the Minister under the Heritage Conservation Act (NT);
- (e) in relation to NT portion 850, the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal peoples contained in the pastoral lease, identified in ss 38(2)-(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 or Commonwealth, or other statutory authority as required in the performance of statutory duties;

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

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

(ii) otherwise conferred by statute;

(i) the following interests granted under the Mining Act (NT), depicted in Schedule E;

(i) Exploration Licence Title No. 27618 granted on 12 May 2010.

11. To the extent, if at all, that the exercise of the native title rights and interests referred to in clauses 8 and 9 conflicts with the exercise of the rights and interests of the persons referred to in clause 10, the rights and interests of the persons referred to in clause 10 prevail over, but do not extinguish, the native title rights referred to in clauses 8 and 9.

## OTHER MATTERS

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

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

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

(c) prescribed substances (as defined in s 3 of the Atomic Energy (Control of Materials) Act 1946 (Cth) and/or s 5(1) of the Atomic Energy Act 1953 (Cth)),

in the Determination Area.

13. The native title rights and interests are subject to and exercisable in accordance with the valid laws of the Northern Territory of Australia and the Commonwealth of Australia.

14. The native title rights and interests are for the personal or communal needs of the native title holders which are of a domestic or subsistence nature and not for any commercial or business purpose.

## SCHEDULE A

### DESCRIPTION OF DETERMINATION AREA

The Determination Area comprises the following areas of land:

1. NT portion 850, including the parts designated as NT Portions 4862(A), 4863(A) and 4864(A) being land the subject of Perpetual Pastoral Lease 1076;

2. NT portion 2114, being land comprising part of the West Australian border (Gordon Downs to Newcastle Waters) Stock Route and the Murrarji Stock Route.

## SCHEDULE B

### MAP OF DETERMINATION AREA

(see NNTR Attachment 1: 'Schedule B - Map of Determination Area')

## SCHEDULE C

### AREAS WHERE NATIVE TITLE EXISTS

The areas of land and waters in respect of which the native title rights and interests in clauses 8 and 9 apply are:

1. NT portion 850, including those parts designated as NT portions 4862(A), 4863(A) and 4864(A), being land the subject of Perpetual Pastoral Lease 1076, except those parts thereof referred to in Schedule D;

2. NT portion 2114, being land comprising part of the West Australian Border (Gordon Downs to Newcastle Waters)

Stock Route and the Murrarji Stock Route, except those parts thereof referred to in Schedule D.

## SCHEDULE D

### AREAS WHERE NATIVE TITLE DOES NOT EXIST

Native title rights and interests have been wholly extinguished in the following areas of land and waters:

1. Those parts of the Determination Area covered by public works (including adjacent land or waters as defined in s 251D of the Act) which were constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date, including but not limited to:

- (a) public roads, whether rural roads, arterial roads or national highways;
- (b) community and pastoral access roads which are not otherwise public roads;
- (c) gravel pits adjacent to the roads referred to at paragraphs (a) and (b) hereof used to maintain those roads;
- (d) access roads or tracks to the public works referred to in this clause;
- (e) Government bores and associated infrastructure including bores used for the establishment, operation or maintenance of public and other roads;
- (f) river and rain gauges;
- (g) transmission and distribution water pipes and associated infrastructure;
- (h) sewer pipes, sewer pump stations and associated infrastructure; and
- (i) electricity transmission lines, towers, poles and associated infrastructure;

2. In relation to NT portion 850, those parts of the Determination Area covered by pastoral improvements including but not limited to:

- (a) a homestead, house, sheds and buildings including:
  - (i) 1 homestead;
  - (ii) 4 sheds;
  - (iii) 1 cottage;
  - (iv) 4 bedroom living quarters;
  - (v) 1 camp shed (Frazier's bore);
  - (vi) 1 camp shed (Paterson's Bore); and
  - (vii) 1 workshop;
- (b) bores including:
  - (i) Azuma Nelson bore located 41 km South West of Homestead bore;
  - (ii) Buchanon bore located 12.5 km East Southeast of Homestead bore;
  - (iii) Casius Clay bore located 62.75 km South of Homestead bore;
  - (iv) Costa Tszzy bore located 74.5 km South West of Homestead bore;
  - (v) Evander Holyfield bore located 61.25 km South of Homestead bore;
  - (vi) Famechon bore located 29 km South West of Homestead bore;
  - (vii) Fenech bore located 38 km South Southwest of Homestead bore;
  - (viii) Foreman bore located 60.75 km South West of Homestead bore;
  - (ix) Frazier bore located 53.25 km South Southwest of Homestead bore;

- (x) Hagler bore located 73.5 km South West of Homestead bore;
- (xi) Harding bore located 27.75 km South of Homestead bore;
- (xii) Homestead bore;
- (xiii) Jack Dempsey bore located 63.5 km South Southwest of Homestead bore;
- (xiv) Joe Louis bore located 51.5 km South Southeast of Homestead bore;
- (xv) Johannsen bore located 47.25 km South Southwest of Homestead bore;
- (xvi) Madigan bore located 26.25 km South Southwest of Homestead bore;
- (xvii) Mick Tyson bore located 53.75 South of Homestead bore;
- (xviii) Mohammad Ali bore located 66.75 km South West of Homestead bore;
- (xix) No. 12 bore located 9.25 km South East of Homestead bore;
- (xx) No. 13 bore located 12.25 km West Southwest of Homestead bore;
- (xxi) Patterson bore located 45 km South of Homestead bore;
- (xxii) Rocky Marciano bore located 58.75 km South Southwest of Homestead bore;
- (xxiii) Rose bore located 37 km South Southeast of Homestead bore;
- (xxiv) Sonny Liston bore located 55.75 km South Southwest of Homestead bore;
- (xxv) Thomas Hearns bore located 75 km Southwest of Homestead bore; and
- (xxvi) Yellow Waterhole bore located 12.5 km South Southwest of Homestead bore;
- (c) turkey nests including 1 unnamed turkey nest;
- (d) squatter tanks including:
  - (i) Barnes tank located 60.75 km South West of Homestead bore;
  - (ii) Carruthers tank located 36 km South Southwest of Homestead bore;
  - (iii) Casius Clay tank located 64.5 km South Southeast of Homestead bore;
  - (iv) Danny Green tank located 58.5 km South West of Homestead bore;
  - (v) Harding tank located 27.75 km South of Homestead bore;
  - (vi) Homestead tank located 1.25 km East of Homestead bore;
  - (vii) Leon Spinx tank;
  - (viii) Leonard tank located 71 km South Southwest of Homestead bore;
  - (ix) Michael tank located 20 km South West of Homestead bore;
  - (x) Mundine tank located 44.75 km South Southeast of Homestead bore;
  - (xi) Sands tank located 28.5 km South Southeast of Homestead bore;
  - (xii) Vince Carter tank located 73 km South West of Homestead bore; and
  - (xiii) Yellow Waterhole tank located 10.5 km South Southwest of Homestead bore;
- (e) constructed dams and/or constructed stock watering points including:
  - (i) Bugner dam located 18 km West of Homestead bore;

- (ii) Gattelarie dam located 20 km South of Homestead bore;
- (iii) Highway dam located 6 km East Southeast of Homestead bore;
- (iv) Casius Clay waterhole located 62 km South Southeast of Homestead bore;
- (v) Madigan waterhole located 26 km South Southwest of Homestead bore; and
- (vi) Yellow waterhole located 12 km South West of Homestead bore;
- (f) stockyards including:
  - (i) Frazier's yard located 53.25 km South Southwest of Homestead bore;
  - (ii) Patterson's yard located 45 km South of Homestead bore; and
  - (iii) Yellow Water Hole Yard located 10.5 km south Southwest of Homestead bore;
- (g) trapyards including:
  - (i) Bugner Tank yard located 18 km West of Homestead bore;
  - (ii) Homestead Tank yard located 1.25 km East of Homestead bore;
  - (iii) No. 12 Bore yard located 9.25 km South East of Homestead bore;
  - (iv) Michael tank yard located 20 km South West of Homestead bore;
  - (v) Gattelarie dam yard located 20 km South of Homestead bore;
  - (vi) Famechon Bore yard located 29 km South West of Homestead bore;
  - (vii) Madigan bore yard located 26.25 km South Southwest of Homestead bore;
  - (viii) Madigan waterhole yard located 26km South Southwest of Homestead bore;
  - (ix) Harding tank yard located 27.75 km South of Homestead bore;
  - (x) Fenech bore yard located 38 km South Southwest of Homestead bore;
  - (xi) Caruthers tank yard located 36 km South Southwest of Homestead bore;
  - (xii) Rose bore yard located 37 km South Southeast of Homestead bore;
  - (xiii) Azuma Nelson bore yard located 41 km South West of Homestead bore;
  - (xiv) Patterson bore yard located 45.5 km South of Homestead bore;
  - (xv) Johannsen bore yard located 47.25 km South Southwest of Homestead bore;
  - (xvi) Joe Louis bore yard located 51.5 km South Southeast of Homestead bore;
  - (xvii) Cassius Clay tank yard located 64.5 km South Southeast of Homestead bore;
  - (xviii) Cassius Clay bore yard located 62.75 km South of Homestead bore;
  - (xix) Rocky Marciano bore yard located 58.75 km South Southwest of Homestead bore;
  - (xx) Jack Dempsey bore yard located 63.5 km South Southwest of Homestead bore;
  - (xxi) Leonard tank bore located 71 km South Southwest of Homestead bore;
  - (xxii) Foreman bore yard located 60.75 km South West of Homestead bore;
  - (xxiii) Costa Tszyu yard located 75.2 km South West of Homestead bore;
  - (xxiv) Mohammed Ali bore yard located 66.75 km South West of Homestead bore;
  - (xxv) Leon Spinx tank yard;

- (xxvi) Vince Carter tank yard located 73 km South West of Homestead bore;
- (xxvii) Thomas Hearn's bore yard located 78.5 km South West of Homestead bore;
- (xxviii) Sonny Liston bore yard located 55.75 km South Southwest of Homestead bore;
- (xxix) Mike Tyson bore yard located 53.75 South of Homestead bore;
- (xxx) Evander Holyfield bore yard located 61.25 km South of Homestead bore;

(h) highway airstrips including an airstrip located at homestead located 0.2 km Southwest of Homestead.

The areas described by 3(a) ' (g) comprise land on which the improvements have been constructed prior to the date of this determination, and any adjacent land or waters the exclusive use of which is necessary for the enjoyment of the improvements.

#### SCHEDULE E

#### MAP OF INTERESTS GRANTED UNDER THE MINING ACT (NT)

(see NNTR Attachment 2: 'Schedule E - Map of interests granted under the Mining Act (NT)')

#### **REGISTER ATTACHMENTS:**

1. Attachment 1 - Schedule B Map of Determination Area, 1 page - A4, 02/06/2011
2. Attachment 2 - Schedule E Map of interests granted under the Mining Act (NT), 1 page - A4, 02/06/2011

*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.*