



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): NTD16/2010  
NNTT Number: DCD2011/013

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

**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:

The Top End (Default PBC/CLA) Aboriginal Corporation RNTBC was determined as the Prescribed Body Corporate for this determination on 13 April 2016.

### 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 six estates, which are held respectively by the members of the following six estate groups:

- (a) the Ngapurrpinkakujarra group;
- (b) the Yingawunarri group;
- (c) the Liwi group;
- (d) the Luwaja group;

- (e) the Nirrira group;
- (f) the Beregumayin-Ngarrajananggu 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 six estates, which are held respectively by the members of the following six estate groups:

- (a) the Ngapurpinkakujarra group;
- (b) the Yingawunarri group;
- (c) the Liwi group;
- (d) the Luwaja group;
- (e) the Nirrira group;
- (f) the Beregumayin-Ngarrajananggu 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 1143;

(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 1143;
- (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 1363, the interests of the Wallco Pastoral Company Pty Ltd under Perpetual Pastoral Lease 1143;
- (b) in relation to the town of Top Springs, the interests of the holder of a freehold estate in Lot 28;
- (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;

(iv) under any license, access agreement or easement relating to its telecommunications facilities in the Determination Area; and

(v) in respect of its freehold estate in NT Portions 4103, 3528 and 3529;

(d) in relation to NT portion 5143, part of the Dry River and Weaner Springs to Top Springs Stock route, valid rights of use for the passage of travelling stock;

(e) in relation to the NT Portion 5142, part of the Auvergne Stock route, valid rights of use for the passage of travelling stock;

(f) in relation to NT portion 1363, 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);

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

(h) 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;

(i) 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;

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 1363, being land the subject of Perpetual Pastoral Lease 1143;

2. Lot 28 Town of Top Springs, being land the subject of a grant in fee simple;

3. NT Portions 4103, 3528 and 3529, being land the subject of grants in fee simple to Telstra Corporation Limited;

4. NT Portion 5143, part of the Dry River and Weaner Springs to Top Springs Stock Route;

5. NT Portion 5142, part of the Auvergne Stock Route ' Weaner Crossing/Top Springs.

#### 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 1363, being land the subject of Perpetual Pastoral Lease 1143, except those parts thereof referred to in Schedule D;
2. NT Portion 5143, part of the Dry River and Weaner Springs to Top Springs Stock Route, except those parts thereof referred to in Schedule D;
3. NT Portion 5142, part of the Auvergne Stock Route ' Weaner Crossing/Top Springs, 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. NT portions 4103, 3528 and 3529, being land the subject of freehold estate granted to Telstra Corporation Limited;
2. Lot 28 Town of Top Springs, being land the subject of a freehold estate;
3. 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;
4. In relation to NT portion 1363, those parts of the Determination Area covered by pastoral improvements including but not limited to:
  - (a) a homestead, house, sheds and buildings including:
    - (i) 1x covered meeting area;
    - (ii) 1x eating mess;
    - (iii) 1x kitchen;
    - (iv) 2x machine sheds;
    - (v) 9x accommodation houses;
    - (vi) Ablution block;

- (vii) BBQ area;
- (viii) Butchery;
- (ix) Cool room;
- (x) Dry store;
- (xi) Fuel storage shed;
- (xii) Guest quarters (homestead);
- (xiii) Guest quarters;
- (xiv) Homestead;
- (xv) Laundry;
- (xvi) Main workshop;
- (xvii) Managers quarters;
- (xviii) Office;
- (xix) Power generating shed;
- (xx) Workers quarters; and
- (xxi) Workshop;
- (b) bores including:
  - (i) 1/98 Stock bore located 31.7 km Northeast by North of homestead;
  - (ii) 46/81 bore located 4.4 km Northwest by North of homestead;
  - (iii) 8/65 new homestead bore at homestead;
  - (iv) 82/79 bore at homestead;
  - (v) 83/79 bore at homestead;
  - (vi) A 88/88 bore located 36.5 km Northeast by East of homestead;
  - (vii) Ballinia bore;
  - (viii) Bell Brothers bore located 26 km East by North of homestead;
  - (ix) Bennetts bore;
  - (x) Bidy's Hole bore located 21.3 km East by North of homestead;
  - (xi) Blackfellow bore;
  - (xii) Bloodwood bore;
  - (xiii) Bohemia bore located 30 km Northeast by North of homestead;
  - (xiv) Boundary bore located 14 km Southwest by North of homestead;
  - (xv) Brown Creek bore located 9.5 km Southeast by East of homestead;
  - (xvi) Browns bore;
  - (xvii) Bull Creek bore located 11.6 km East by South of homestead;
  - (xviii) Bull Creek bore located 9.2 km West by North of homestead;
  - (xix) Bullock hole bore located 26 km North by West of homestead;

- (xx) Bullwaddy bore;
- (xxi) Camp Pie bore 16.6 km Northeast by North of homestead;
- (xxii) Charlie Ale bore located 14.4 km Northwest by North of homestead;
- (xxiii) Comet bore;
- (xxiv) Comet Creek bore located 24.2 km North Northwest of homestead;
- (xxv) Companion bore 'D' located 27.2 km South of homestead;
- (xxvi) Companion bore located 21.6 km South of homestead;
- (xxvii) Companion bore located 23.2 km South Southwest of homestead;
- (xxviii) Companion waterhole bore No. 2 located 25.3 km South by West of the homestead;
- (xxix) Companion well located 26.1 km South by West of homestead;
- (xxx) Coolabah bore;
- (xxxi) Elders bore located 5.7 km Southwest of homestead;
- (xxxii) Gutter Percha bore;
- (xxxiii) Homestead Creek bore at homestead;
- (xxxiv) Horse Creek bore located 7.7 km Northeast of homestead;
- (xxxv) Horse Creek bore;
- (xxxvi) Killarney 1/88 bore located 35 km East Southeast of homestead;
- (xxxvii) Killarney bore located 37.5 km East by North of homestead;
- (xxxviii) Maryvale bore located 23.8 km North by East of homestead;
- (xxxix) Monster bore located 18.4 km East by South of homestead;
- (xl) Monster bore;
- (xli) New Callighers bore located 2 km Southeast by East of homestead;
- (xlii) No. 1 bore located 4.5 km Southwest by West of homestead;
- (xlili) No. 1 homestead bore located 0.5 km East of homestead;
- (xliv) No. 2 bore located 27.6 km East by North of homestead;
- (xlv) No. 2 bore located 6.5 km North Northeast of homestead;
- (xlvi) No. 2 homestead bore located 0.6 km East of homestead;
- (xlvii) No. 8 Bore located 32.6 km East Northeast of homestead;
- (xlviii) No. 9 bore located 32 km Southeast of homestead;
- (xlix) Nutwood bore located 6.8 km Southwest of homestead;
- (l) Patterson's bore located 20 km North by East of homestead;
- (li) Pikers Coogeberry bore located 21.8 km Southeast by South of homestead;
- (lii) Pikers duplicate bore located 21.6 km Southeast by South of homestead;
- (liii) Pikers No. 5 located 22.5 km Southeast by South of homestead;

- (liv) Road bore located 25 km East of homestead;
  - (lv) Stock Route No. 2 bore located 35.9 km Northeast by East of homestead;
  - (lvi) Stock Route No. 8 bore located 33 km Northeast by East of homestead;
  - (lvii) Three Ways bore 18 km Northeast by North of homestead; and
  - (lviii) Wesleys bore;
- (c) turkey nests located at the following bores:
- (i) Three Ways bore (2 turkey nests);
  - (ii) Biddys bore bore;
  - (iii) Blackfellows bore;
  - (iv) Bloodwood bore;
  - (v) Boundary bore;
  - (vi) Brownes bore;
  - (vii) Charlie Ali bore;
  - (viii) Coolabah bore;
  - (ix) Gutter Percha bore;
  - (x) Horse Creek bore;
  - (xi) Monster bore;
  - (xii) No. 9 bore; and
  - (xiii) Wesleys bore;
- (d) squatters tanks including a 20,000 gallon tank located beside the generator shed at the homestead complex;
- (e) constructed dams and/or constructed stock watering points including:
- (i) Amys dam;
  - (ii) Barrys dam;
  - (iii) Kellys dam;
  - (iv) Lees dam; and
  - (v) Little dam;
- (f) stockyards including:
- (i) Three Ways yard;
  - (ii) Gutter Percha yard;
  - (iii) Homestead yard; and
  - (iv) Pikers yard;
- (g) highway airstrips and trapyards including an airstrip near the 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.

**REGISTER ATTACHMENTS:**

1. Attachment 1 - Schedule B Map of Determination Area, 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.*