

Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6018/2001
NNTT Number: QCD2013/007

Determination Name: Barry Fisher & Ors on behalf of the Ewamian People #3 v State of Queensland & Ors

Date(s) of Effect: 26/11/2013

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 26/11/2013

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Tatampi Puranga Aboriginal Corporation RNTBC
Agent Body Corporate
9A Hort Street
Mareeba Queensland 4880

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The Native Title Holders are the Ewamian People. The Ewamian People are the:

1. biological descendants of the following people:

- (a) Norman Clarke;
- (b) Harry Plate;
- (c) Emily Collins;
- (d) Arthur Georgetown;
- (e) Pearl Georgetown;
- (f) Ethel Georgetown;
- (g) Thomas Lacey;

- (h) Dora Hudson;
- (i) Frank Hudson;
- (j) Minnie Willie;
- (k) Mick Morris; or
- (l) Ben Sloppa aka Ben Mudd; or

2. the adopted persons of Ethel Georgetown, Jim Harvey, Minnie Willie, John Edward Morris and Alfred Morris being persons who have been recruited by adoption as a member of the Ewamian People in accordance with their traditional law and custom.

MATTERS DETERMINED:

BY CONSENT THE COURT DETERMINES THAT:

3. The Determination Area is the land and waters described in Schedule 1, and depicted in the map attached to Schedule 1 and to the extent of any inconsistency between the written description and the map, the written description prevails (the "Determination Area").

4. Native title exists in relation to that part of the Determination Area described in Part 1, Part 2 and Part 3 of Schedule 1.

5. The native title is held by the Ewamian People described in Schedule 3 ("the Native Title Holders").

6. Subject to paragraphs 9, 10 and 11 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 1 of Schedule 1 are:

(a) other than in relation to Water, the rights to possession, occupation, use and enjoyment of the area to the exclusion of all others; and

(b) in relation to Water, the non-exclusive rights to:

(i) hunt, fish and gather from the Water of the area;

(ii) take and use the Natural Resources of the Water in the area; and

(iii) take and use the Water of the area,
for personal, domestic and non-commercial communal purposes.

7. Subject to paragraphs 9, 10 and 11 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 2 of Schedule 1 are the non-exclusive rights to:

(a) access, be present on, move about on and travel over the area;

(b) to occupy, use and camp on the area, but not to reside permanently, and for that purpose to construct temporary structures;

(c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;

(d) take and use Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;

(e) take and use the Water of the area for personal, domestic and non-commercial communal purposes;

(f) conduct ceremonies on the area;

(g) be buried and bury Native Title Holders within the area;

(h) maintain places of importance and areas of significance to the Native Title Holders under their traditional laws and customs and protect those places and areas from physical harm;

(i) teach on the area the physical and spiritual attributes of the area; and

(j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing

vegetation.

8. Subject to paragraphs 9, 10 and 11 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 3 of Schedule 1 are the non-exclusive rights to:

(a) access, be present on, move about on and travel over the area.

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

(a) the Laws of the State and the Commonwealth;

(b) the traditional laws acknowledged and traditional customs observed by the Native Title Holders; and

(c) the terms and conditions of the agreements referred to in paragraph 1 of Schedule 4.

10. The native title rights and interests referred to in paragraphs 6(b), 7 and 8 do not confer possession, occupation, use or enjoyment to the exclusion of all others.

11. There are no native title rights in or in relation to minerals as defined by the *Mineral Resources Act 1989* (Qld) and petroleum as defined by the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld).

12. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 4.

13. The relationship between the native title rights and interests described in paragraphs 6, 7 and 8 and the other interests described in Schedule 4 (the "Other Interests") is that:

(a) the Other Interests continue to have effect, and the rights conferred by or held under the Other Interests may be exercised notwithstanding the existence of the native title rights and interests;

(b) to the extent the Other Interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests in relation to the land and waters of the Determination Area, the native title continues to exist in its entirety but the native title rights and interests have no effect in relation to the Other Interests to the extent of the inconsistency for so long as the other interests exist;

(c) the Other Interests and any activity that is required or permitted by or under, and done in accordance with, the Other Interests, or any activity that is associated with or incidental to such an activity, prevail over the native title rights and interests and any exercise of the native title rights and interests;

(d) when the native title rights (referred to in paragraphs 6, 7 and 8) are intended to be exercised on a pastoral lease, they may only be exercised if the lessee of the pastoral lease, or a person otherwise responsible for the management of the pastoral lease, is given sufficient prior notice of the intention to access the pastoral lease in order to allow:

(i) any safety issues to be addressed; and

(ii) a suitable route of access to be agreed;

(e) when the native title right to hunt (referred to in paragraph 7(c) above) is intended to be conducted on a pastoral lease using firearms, it may only be exercised:

(i) in areas where stock are not present; and

(ii) if the lessee of the pastoral lease, or a person otherwise responsible for the management of the pastoral lease, is given sufficient prior notice of the intention to hunt in order to allow any safety issues to be addressed;

(f) when the native title right to maintain and protect places of importance and areas of significance (referred to in paragraph 7(h) above) is intended to involve the erection of a structure to protect from physical harm a place or area on a pastoral lease, it may only be exercised if:

(i) the structure will not materially impact on activities permitted or required by the pastoral lease; and

(ii) the lessee of the pastoral lease, or a person otherwise responsible for the management of the pastoral lease, is given sufficient advance notice of the intention to erect the structure in order to allow any safety issues to be addressed.

14. The native title is not held in trust.

15. The Tatampi Puranga Aboriginal Corporation ICN 7950, incorporated under the *Corporations (Aboriginal and*

Torres Strait Islander) Act 2006 (Cth), is to:

- (a) be the prescribed body corporate for the purpose of s 57(2) of the *Native Title Act 1993 (Cth)*; and
- (b) perform the functions mentioned in s57(3) of the *Native Title Act 1993 (Cth)* after becoming a registered native title body corporate.

Definitions and Interpretation

16. In this determination, unless the contrary intention appears:

"firearm" has the same meaning as in the *Weapons Act 1990 (Qld)*;

"land" and "waters", respectively, have the same meanings as in the *Native Title Act 1993 (Cth)*;

"Laws of the State and the Commonwealth" means the common law and the laws of the State of Queensland and the Commonwealth of Australia, and includes legislation, regulations, statutory instruments, local planning instruments and local laws;

"Local Government Act" has the meaning in the *Local Government Act 2009 (Qld)*;

"Local Government Area" has the meaning in the *Local Government Act 2009 (Qld)*;

"Natural Resources" means:

(a) any animal, plant, fish and bird life found on or in the lands and waters of the Determination Area; and

(b) any clays, soil, sand, gravel or rock found on or below the surface of the Determination Area, that have traditionally been taken and used by the Native Title Holders, but does not include:

(a) animals that are the private personal property of another;

(b) crops that are the private personal property of another; and

(c) minerals as defined in the *Mineral Resources Act 1989 (Qld)* or petroleum as defined in the *Petroleum Act 1923 (Qld)* and the *Petroleum and Gas (Production and Safety) Act 2004 (Qld)*;

"stock" has the same meaning as in the *Stock Act 1915 (Qld)*;

"Water" means:

(a) water which flows, whether permanently or intermittently, within a river, creek or stream;

(b) any natural collection of water, whether permanent or intermittent; and

(c) water from an underground water source.

Other words and expressions used in this Determination have the same meanings as they have in Part 15 of the *Native Title Act 1993 (Cth)*.

Schedule 1 — DETERMINATION AREA

A. Description of Determination Area

The Determination Area comprises all of the land and waters described in Parts 1, 2 and 3 below, to the extent that they are within the External Boundary Description as described in Part 4 below, and depicted in the map, excluding the areas described in Schedule 2.

Part 1 – Exclusive Areas

[See NNTR attachment 1: "Schedule 1 – Determination Area – Description of Determination Area – Part 1 – Exclusive Areas"]

Part 2 – Non-Exclusive Areas

[See NNTR attachment 2: "Schedule 1 – Determination Area – Description of Determination Area – Part 2 – Non-Exclusive Areas"]

Part 3 – Non-Exclusive Town Areas

[See NNTR attachment 3: “Schedule 1 – Determination Area – Description of Determination Area – Part 3 – Non-Exclusive Town Areas”]

Part 4 – External Boundary Description

The external boundary encompasses land within the following external boundaries which are further described as:

Commencing at the junction of the centrelines of the Gilbert and Einasleigh Rivers (Approximate Easting (minus 2673) Northing 8059480 – Point A)

And bounded thence

In an easterly direction by the centreline of the Einasleigh River to a point where the centerline's of the Einasleigh and Etheridge Rivers and the Etheridge Shire boundary coincide.
(Approximate Easting 73227 Northing 8050689 – Point B)

And bounded thence

In a northerly, easterly and southeasterly direction by the Local Government Boundary of the Shire of Etheridge to its intersection with the centreline of the Gulf Development Road
(Approximate Easting 258114 Northing 7991231 – Point C)

And bounded thence

In an easterly direction by the centreline of the Gulf Development Road to its intersection with the northern section of the eastern boundary of the Undara Volcanic National Park
(Approximate Easting 26305 Northing 799200 – Point D)

And bounded thence

In a southerly direction by the eastern boundary of the Undara Volcanic National Park for approximately 18900 metres to a point where the National Park boundary turns in a westerly direction
(Approximate Easting 26135 Northing 797320 – Point E)

And bounded thence

In a southerly direction for approximately 4750 metres to a high point mapped as 1010 metres
(Approximate Easting 25960 Northing 796880 – Point F)

And bounded thence

In a southerly direction for approximately 6360 metres to a high point on the Great Dividing Range mapped as the high point of Mount Tabletop at 1002 metres
(Approximate Easting 25650 Northing 796320 – Point G)

And bounded thence

In a south-southwesterly direction for approximately 15200 metres to a high point of 695 metres
(Approximate Easting 25145 Northing 794905 – Point H)

(This high point of 695 is mapped on 1:100,000 Topographic Survey Map Sheet 7861 (Edition 1) St Ronans as approximate Easting 25130 Northing 794870)

And bounded thence

In a southerly direction for approximately 13200 metres to a high point of 555 metres
(Approximate Easting 25100 Northing 793595 – Point I)

And bounded thence

In a southerly direction for approximately 9600 metres to its intersection with the centreline of the Kennedy Development Road
(Approximate Easting 24970 Northing 792665 – Point J)

And bounded thence

In a southerly and southeasterly direction by the centreline of the Kennedy Developmental Road to its intersection with the centreline of the Gregory Developmental Road
(Approximate Easting 242824 Northing 7911003 – Point K)

And bounded thence

In a southeasterly and southerly direction by the centreline of the Kennedy Developmental Road to its intersection with the northern boundary of the Parish of Lyndhurst County of Lyndhurst
(Approximate Easting 232844 Northing 7879157 – Point L)

Being also a point on the centreline of the Kennedy Developmental Road approximately 12 kilometres south of the northern boundary of the Lyndhurst Pastoral Lease (Lot 14 on Plan LH8) and being near to a Stock Route (RC4776)

And bounded thence

In an easterly direction by the northern Boundary of the Parish of Lyndhurst approximately bearing 94 degrees 43 minutes for a distance of approximately 8000 metres (Point M)

And bounded thence

In a southerly direction by the eastern Boundary of the Parish of Lyndhurst approximately bearing 184 degrees 43 minutes for a distance of approximately 16500 metres (Point N)

And bounded thence

In a westerly direction by the southern Boundary of the Parish of Lyndhurst to the boundary of the Parish of Dumbano being also the centreline of the Einasleigh River approximately bearing 274 degrees 43 minutes for a distance of approximately 15500 metres (Point O)

And bounded thence

In a northerly direction by a western Boundary of the Parish of Lyndhurst being the centreline of the Einasleigh River for a distance of approximately 3000 metres (Point P)

And bounded thence

In a westerly direction by the southern Boundary of the Parish of Lyndhurst to the southwestern corner of the Parish of Eastdale approximately bearing 274 degrees 43 minutes for a distance of approximately 8000 metres (Approximate Easting 215762 Northing 7866977 – Point Q)

And bounded thence

In a southerly direction by a line bearing 184 degrees 43 minutes for a distance of 17000 metres (Point R)

And bounded thence

In a westerly direction by a line to the common corner of the Parishes of Titterstone, Juntala and Blackcap approximately bearing 274 degrees 43 minutes for a distance of approximately 21500 metres (Point S)

And bounded thence

In a westerly direction by the southern boundary of the Parish of Blackcap to the ridge of the Gilbert Range approximately bearing 274 degrees 43 minutes for a distance of approximately 4500 metres (Point T)

And bounded thence

In a northerly direction by the western boundary of the Parish of Blackcap also along the ridge of the Gilbert Range approximately bearing 004 degrees 43 minutes for a distance of approximately 2000 metres (Point U)

And bounded thence

In a westerly direction by the southern boundary of the Parish of Blackcap and a prolongation westerly of the southern boundary of the Parish of Blackcap to the centreline of the Gilbert River (being also to a point approximately 2000 metres northeast and upstream of the intersection of Anning Creek with the Gilbert River) being in all approximately bearing 274 degrees 43 minutes for a distance of approximately 23,410 metres from the ridgeline to the River (Approximate Easting 165383 Northing 7855939 – Point V)

And bounded thence

In a northerly and westerly direction by the centreline of the Gilbert River to the point of commencement

However the external boundaries of the Ewamian claim exclude Bulleringa National Park (being Lot 4620 on Plan PH1283) located on the northern boundary of this claim.

Note regarding geographic coordinates

Geographic coordinates are in metres. Coordinate points A, B and C and K, L, M, N, O, P, Q, R, S, T, U, V and W are referenced to Australian Geodetic Datum 1984 (AGD84) Australian Map Grid Zone 55. Coordinate points D, E, F, G, H, I and J are referenced to Geocentric Datum of Australia 1994 (GDA94) Grid Zone SE55 – 09 Einasleigh. These coordinates are based on the position of 1:250,000 topographic Maps, BLIN maps sourced from Department of Natural Resources, Qld.

Use of Coordinates and Bearings and Distances

Where coordinates are used within the description to represent cadastral and topographic boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by ground survey.

References to existing cadastral boundaries (including Lots, Parishes and County boundaries are meant to refer to those actual boundaries. Where bearings and distances are also provided they are meant as a guide only and are approximate.

References to centrelines of rivers or watercourses refer to a point midway between the banks of the river or

watercourse.

B. Map of Determination Area

[See NNTR attachment 4: "Schedule 1 – Map of Determination Area

Schedule 2 — AREAS NOT FORMING PART OF THE DETERMINATION AREA

The following areas of land and waters are excluded from the Determination Area.

Part A

On the basis that native title has been extinguished and is not claimed, the parties have agreed that the excluded areas include any land or waters on which any permanent improvement consisting of:

- (a) a homestead, house, shed or other building;
- (b) an airstrip;
- (c) a constructed dam or any other constructed stock watering point, bore, turkey nest, squatters' tank or other water storage facility; or
- (d) stock yards and trap yards,

has, at the date of the Determination, been constructed (including any adjacent land the exclusive use of which is reasonably necessary for the enjoyment of the improvement) in accordance with the rights of the lessee under, and within the boundaries of the following pastoral leases:

- (i) Preferential Pastoral Holding No. 18/5247 comprising Lot 23 on Plan CD37 and commonly known as Baroota
- (ii) Pastoral Holding No. 18/249 comprising Lot 249 on Plan CP818009 and commonly known as St. Ronans
- (iii) Term Lease No. 222006 comprising Lot 1 on Plan CP852262 and commonly known as Rosella Plains
- (iv) Preferential Pastoral Holding No. 18/5026 comprising Lot 507 on Plan CP865042 and Lot 5026 on Plan PH251 and commonly known as Namarrong
- (v) Pastoral Holding No. 18/5522 comprising Lot 1 on Plan EI3 and commonly known as Lane Creek
- (vi) Pastoral Holding No. 18/5521 comprising Lot 28 on Plan EI3 and commonly known as Mount Turner
- (vii) Term Lease No. 233948 comprising Lot 5 on Plan EI813291 and commonly known as Galloway
- (viii) Pastoral Holding No. 18/171 comprising Lot 171 on Plan EI835473 and commonly known as Abingdon Downs
- (ix) Preferential Pastoral Holding No. 18/5427 comprising Lot 3 on Plan ET42 and commonly known as Forest Home
- (x) Pastoral Holding Run No. 18/5514 comprising Lot 38 on Plan ET813287 and commonly known as Chadshunt
- (xi) Pastoral Holding No. 18/3074 comprising Lot 2 on Plan GB122 and commonly known as Rockvale
- (xii) Pastoral Holding Run No. 18/5510 comprising Lot 1 on Plan GB123 and commonly known as Kungaree
- (xiii) Pastoral Holding No. 18/5365 comprising Lot 14 on Plan GB28 and commonly known as Shrimp Creek
- (xiv) Term Lease No. 235617 comprising Lots 2 and 15 on Plan GB30 and commonly known as McDonald Creek
- (xv) Preferential Pastoral Holding No. 18/5428 comprising Lot 14 on Plan GB813293 and commonly known as Blancourt
- (xvi) Term Lease No. 236603 comprising Lot 5 on Plan GB835476 and commonly known as Haycock
- (xvii) Pastoral Holding No. 18/228 comprising Lot 14 on Plan LH8 and commonly known as Lyndhurst
- (xviii) Pastoral Holding No. 18/4533 comprising Lot 4533 on Plan PH1199 and commonly known as Ironhurst
- (xix) Pastoral Holding No. 18/4328 comprising Lot 4328 on Plan PH1217 and commonly known as Percy River
- (xx) Pastoral Holding No. 18/3420 comprising Lot 3420 on Plan PH124 and commonly known as Stockman

- (xxi) Pastoral Holding No. 18/4616 comprising Lot 4616 on Plan PH1245 and commonly known as Mount Sircom
- (xxii) Pastoral Holding No. 18/4604 comprising Lot 4604 on Plan PH1260 and commonly known as Anglesey
- (xxiii) Pastoral Holding No. 18/4661 comprising Lot 4661 on Plan PH1280 and commonly known as Granite Creek
- (xxiv) Pastoral Holding No. 18/2833 comprising Lot 2833 on Plan PH1388 and commonly known as Namul
- (xxv) Preferential Pastoral Holding No. 18/5248 comprising Lot 5248 on Plan PH1407 and commonly known as Ellendale
- (xxvi) Pastoral Holding No. 18/4665 comprising Lot 4665 on Plan PH1417 and commonly known as Eresby
- (xxvii) Pastoral Holding No. 18/4662 comprising Lot 4662 on Plan PH1513 and commonly known as Mount Alder
- (xxviii) Term Lease No. 236337 comprising Lot 5259 on Plan PH1559 and commonly known as Mount Juliet
- (xxix) Pastoral Holding No. 18/5277 comprising Lot 5277 on Plan PH1565 and commonly known as Routh
- (xxx) Pastoral Holding No. 22/4594 comprising Lot 4594 on Plan PH1586 and commonly known as Conjuboy
- (xxxi) Term Lease No. 234423 comprising Lot 5307 on Plan PH1663 and commonly known as Marquis
- (xxxii) Pastoral Holding No. 18/2248 comprising Lot 2248 on Plan PH2034 and commonly known as Kutchera
- (xxxiii) Pastoral Holding No. 18/2573 comprising Lot 2573 on Plan PH2065 and commonly known as North Head
- (xxxiv) Pastoral Holding No. 18/2460 comprising Lot 2460 on Plan PH2068 and commonly known as Cumberland
- (xxxv) Pastoral Holding No. 18/3105 comprising Lot 3105 on Plan PH2079 and commonly known as Cumberland East
- (xxxvi) Preferential Pastoral Holding No. 18/4912 comprising Lot 4912 on Plan PH210 and commonly known as Billgolla
- (xxxvii) Pastoral Holding No. 18/214 comprising Lot 214 on Plan PH2125 and commonly known as Huonfels
- (xxxviii) Pastoral Holding No. 18/4926 comprising Lot 4926 on Plan PH2242 and commonly known as Wirra Wirra
- (xxxix) Preferential Pastoral Holding No. 18/5039 comprising Lot 5039 on Plan PH245 and commonly known as Barker
- (xl) Pastoral Holding No. 18/4627 comprising Lot 4627 on Plan PH25 and commonly known as Cumbana
- (xli) Pastoral Holding No. 18/2824 comprising Lot 2824 on Plan PH272 and commonly known as Sutherland
- (xlii) Pastoral Holding No. 18/5082 comprising Lot 5082 on Plan PH418 and commonly known as Ados
- (xliii) Pastoral Holding No. 18/5101 comprising Lot 5101 on Plan PH492 and commonly known as Ortona
- (xliv) Pastoral Holding No. 18/3055 comprising Lot 3055 on Plan PH526 and commonly known as Narrawa
- (xlv) Pastoral Holding No. 18/2034 comprising Lot 2034 on Plan PH568 and commonly known as Midhills
- (xlvi) Pastoral Holding No. 18/5119 comprising Lot 5119 on Plan PH597 and commonly known as Delaney
- (xlvii) Preferential Pastoral Holding No. 18/3075 comprising Lot 3075 on Plan PH728 and commonly known as Mistletoe
- (xlviii) Pastoral Holding No. 18/235 comprising Lot 235 on Plan PH73 and commonly known as Oak Park
- (xlix) Pastoral Holding No. 18/5173 comprising Lot 5173 on Plan PH807 and commonly known as Percyvale
- (l) Pastoral Holding No. 18/3813 comprising Lot 3813 on Plan PH863 and commonly known as The Dairy Paddock
- (li) Pastoral Holding No. 18/3911 comprising Lot 3911 on Plan PH880 and commonly known as Paramount
- (lii) Pastoral Holding No. 18/4979 comprising Lot 4979 on Plan PH9 and commonly known as Shoreham
- (liii) Pastoral Holding No. 18/4965 comprising Lot 4965 on Plan PH960 and commonly known as Ropewalk

- (liv) Pastoral Holding No. 18/182 comprising Lot 182 on Plan PH995 and commonly known as Carpentaria Downs
- (lv) Pastoral Holding No. 18/257 comprising Lot 2 on Plan PY26 and commonly known as Yarraman
- (lvi) Pastoral Holding No. 18/5198 comprising Lot 3 on Plan PY835471 and commonly known as Bagstowe
- (lvii) Term Lease No. 236770 comprising Lot 327 on Plan PY839254 and commonly known as Mopata
- (lviii) Pastoral Holding No. 34/248 comprising Lot 4 on Plan SE1 and commonly known as Strathmore
- (lix) Pastoral Holding No 18/4941 comprising Lot 4941 on Plan SP116199 and commonly known as Jenkins Creek
- (lx) Pastoral Holding No. 18/5103 comprising Lot 5103 on Plan SP116199 and commonly known as Mount Talbot
- (lxi) Pastoral Holding No. 9/246 comprising Lot 2 on Plan SP116768 and commonly known as Springfield
- (lxii) Term Lease No. 220131 comprising Lot 50 on Plan SP143226 and commonly known as Spring Creek
- (lxiii) Pastoral Holding No. 18/3750 comprising Lot 50 on Plan SP144125 and commonly known as Ballynure
- (lxiv) Pastoral Holding No. 18/3752 comprising Lot 52 on Plan SP144125 and commonly known as Welfern
- (lxv) Term Lease No. 218272 comprising Lot 1 on Plan SP149834 and commonly known as Lynwater
- (lxvi) Term Lease No. 220683 comprising Lot 2698 on Plan SP166986 and commonly known as Noel
- (lxvii) Pastoral Holding No. 18/5199 comprising Lot 5 on Plan SP196211 and commonly known as Duffer
- (lxviii) Term Lease No. 235562 comprising Lot 5306 on Plan SP201262 and commonly known as Rose Glen
- (lix) Pastoral Holding No. 18/5527 comprising Lot 37 on Plan SP206973 and commonly known as Arrongulla
- (lxx) Pastoral Holding No. 18/5250 comprising Lot 5250 on Plan SP242983 and commonly known as Townley
- (lxxi) Term Lease No. 236580 comprising Lot 1 on Plan SP242983 and commonly known as Robinhood
- (lxxii) Term Lease No. 236581 comprising Lots 2, 3, 4, 5, 6 and 7 on Plan SP242983 and commonly known as Howlong
- (lxxiii) Term Lease No. 236442 comprising Lot 53 on Plan SP242966 and commonly known as Mount Sullivan
- (lxxiv) Pastoral Development Holding No. 18/234 comprising Lot 12 on Plan TE28 and commonly known as Mt Surprise
- (lxxv) Pastoral Holding No. 18/5478 comprising Lot 2 on Plan VR6 and commonly known as Perryvale

Part B

The areas in this Part are excluded from the Determination Area on the grounds that at the time at which the native title determination application was made:

- i. these areas were the subject of one or more previous exclusive possession acts, as defined in s 23B of the *Native Title Act 1993* (Cth), despite the fact that the areas, or parts of them, may have been subject to earlier acts that extinguished native title; and
- ii. in relation to the areas in paragraph 1 of this Part, none of ss 47, 47A or 47B of the *Native Title Act 1993* (Cth) applied; and
- iii. therefore, in accordance with s 61A of the *Native Title Act 1993* (Cth), these areas could not be claimed.

Public Works Based Exclusions:

A. Land or waters on which any public work, as defined in s 253 of the *Native Title Act 1993* (Cth), is or was constructed, established, or situated, and to which ss 23B(7) and 23C(2) of the *Native Title Act 1993* (Cth) and/or s 23B(7) of the *Native Title Act 1993* (Cth) and s 21 of the *Native Title (Queensland) Act 1993* (Qld) applies, together with any adjacent land or waters in accordance with s 251D of the *Native Title Act 1993* (Cth).

Schedule 3 — NATIVE TITLE HOLDERS

The Native Title Holders are the Ewamian People. The Ewamian People are the:

1. biological descendants of the following people:

- (a) Norman Clarke;
- (b) Harry Plate;
- (c) Emily Collins;
- (d) Arthur Georgetown;
- (e) Pearl Georgetown;
- (f) Ethel Georgetown;
- (g) Thomas Lacey;
- (h) Dora Hudson;
- (i) Frank Hudson;
- (j) Minnie Willie;
- (k) Mick Morris; or
- (l) Ben Sloppa aka Ben Mudd; or

2. the adopted persons of Ethel Georgetown, Jim Harvey, Minnie Willie, John Edward Morris and Alfred Morris being persons who have been recruited by adoption as a member of the Ewamian People in accordance with their traditional law and custom.

Schedule 4 — OTHER INTERESTS IN THE DETERMINATION AREA

The nature and extent of the other interests in relation to the Determination Area are the following as they exist as at the date of the determination:

1. The rights and interests of the parties under the following agreements:

- (a) Barry Fisher, Katie Georgetown, David Hudson, Noel Lacey and Ronald Richards and the State of Queensland as parties to the Ewamian-Etheridge Townships Indigenous Land Use Agreement registered on 12 March 2004;
- (b) Barry Fisher, Katie Georgetown, David Hudson, Noel Lacey and Ronald Richards and the State of Queensland as parties to the Ewamian (Towns of Forsayth, Einasleigh, Georgetown and Mount Surprise) Indigenous Land Use Agreement registered on 1 December 2008;
- (c) the agreement between Barry Fisher, David Hudson, Ron Richards and Noel Lacey and the State of Queensland, which was authorised by the native title claim group on 19, 21 and 22 August 2013 and executed by Barry Fisher on 11 November 2013, David Hudson on 15 November 2013, Ron Richards on 14 November 2013 and Noel Lacey on 7 November 2013 and the State of Queensland on 23 and 29 October 2013 (the Ewamian Protected Areas ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the Registered Native Title Body Corporate;
- (d) the agreement between Barry Fisher, David Hudson, Ron Richards and Noel Lacey and Ergon Energy Corporation Limited, which was authorised by the native title claim group on 19, 21 and 22 August 2013 (the Ergon ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the Registered Native Title Body Corporate;
- (e) the agreement between Barry Fisher, Katie Georgetown, David Hudson, Noel Lacey and Ronald Richards and the Etheridge Shire Council as parties to the Ewamian-Etheridge Shire Area ILUA No. 3 (QI 2005/04) registered on 25 February 2008; and
- (f) the agreement between Barry Fisher, Katie Georgetown, David Hudson, Noel Lacey and Ronald Richards and the Etheridge Shire Council as parties to the Ewamian-Etheridge Shire Council (Ten Mile Landfill Project) ILUA (QI 2011/051) registered on 6 February 2012.

2. The rights and interests of the holders of any leases, licences, reservations, permits, easements or authorities granted under the *Land Act 1994* (Qld), and any relevant regulations or subordinate legislation made under that Act, including the following leases;

- (a) Preferential Pastoral Holding No. 18/5247 comprising Lot 23 on Plan CD37 and commonly known as Baroota
- (b) Pastoral Holding No. 18/249 comprising Lot 249 on Plan CP818009 and commonly known as St. Ronans
- (c) Term Lease No. 222006 comprising Lot 1 on Plan CP852262 and commonly known as Rosella Plains
- (d) Preferential Pastoral Holding No. 18/5026 comprising Lot 507 on Plan CP865042 and Lot 5026 on Plan PH251 and commonly known as Namarrong
- (e) Pastoral Holding No. 18/5522 comprising Lot 1 on Plan EI3 and commonly known as Lane Creek
- (f) Pastoral Holding No. 18/5521 comprising Lot 28 on Plan EI3 and commonly known as Mount Turner
- (g) Term Lease No. 233948 comprising Lot 5 on Plan EI813291 and commonly known as Galloway
- (h) Pastoral Holding No. 18/171 comprising Lot 171 on Plan EI835473 and commonly known as Abingdon Downs
- (i) Preferential Pastoral Holding No. 18/5427 comprising Lot 3 on Plan ET42 and commonly known as Forest Home
- (j) Pastoral Holding Run No. 18/5514 comprising Lot 38 on Plan ET813287 and commonly known as Chadshunt
- (k) Pastoral Holding No. 18/3074 comprising Lot 2 on Plan GB122 and commonly known as Rockvale
- (l) Pastoral Holding Run No. 18/5510 comprising Lot 1 on Plan GB123 and commonly known as Kungaree
- (m) Pastoral Holding No. 18/5365 comprising Lot 14 on Plan GB28 and commonly known as Shrimp Creek
- (n) Term Lease No. 235617 comprising Lots 2 and 15 on Plan GB30 and commonly known as McDonald Creek
- (o) Preferential Pastoral Holding No. 18/5428 comprising Lot 14 on Plan GB813293 and commonly known as Blancourt
- (p) Term Lease No. 236603 comprising Lot 5 on Plan GB835476 and commonly known as Haycock
- (q) Pastoral Holding No. 18/228 comprising Lot 14 on Plan LH8 and commonly known as Lyndhurst
- (r) Pastoral Holding No. 18/4533 comprising Lot 4533 on Plan PH1199 and commonly known as Ironhurst
- (s) Pastoral Holding No. 18/4328 comprising Lot 4328 on Plan PH1217 and commonly known as Percy River
- (t) Pastoral Holding No. 18/3420 comprising Lot 3420 on Plan PH124 and commonly known as Stockman
- (u) Pastoral Holding No. 18/4616 comprising Lot 4616 on Plan PH1245 and commonly known as Mount Sircom
- (v) Pastoral Holding No. 18/4604 comprising Lot 4604 on Plan PH1260 and commonly known as Anglesey
- (w) Pastoral Holding No. 18/4661 comprising Lot 4661 on Plan PH1280 and commonly known as Granite Creek
- (x) Pastoral Holding No. 18/2833 comprising Lot 2833 on Plan PH1388 and commonly known as Namul
- (y) Preferential Pastoral Holding No. 18/5248 comprising Lot 5248 on Plan PH1407 and commonly known as Ellendale
- (z) Pastoral Holding No. 18/4665 comprising Lot 4665 on Plan PH1417 and commonly known as Eresby
- (aa) Pastoral Holding No. 18/4662 comprising Lot 4662 on Plan PH1513 and commonly known as Mount Alder
- (bb) Term Lease No. 236337 comprising Lot 5259 on Plan PH1559 and commonly known as Mount Juliet
- (cc) Pastoral Holding No. 18/5277 comprising Lot 5277 on Plan PH1565 and commonly known as Routh
- (dd) Pastoral Holding No. 22/4594 comprising Lot 4594 on Plan PH1586 and commonly known as Conjuboy
- (ee) Term Lease No. 234423 comprising Lot 5307 on Plan PH1663 and commonly known as Marquis
- (ff) Pastoral Holding No. 18/2248 comprising Lot 2248 on Plan PH2034 and commonly known as Kutchera
- (gg) Pastoral Holding No. 18/2573 comprising Lot 2573 on Plan PH2065 and commonly known as North Head
- (hh) Pastoral Holding No. 18/2460 comprising Lot 2460 on Plan PH2068 and commonly known as Cumberland
- (ii) Pastoral Holding No. 18/3105 comprising Lot 3105 on Plan PH2079 and commonly known as Cumberland East

(jj) Preferential Pastoral Holding No. 18/4912 comprising Lot 4912 on Plan PH210 and commonly known as Billgolla
(kk) Pastoral Holding No. 18/214 comprising Lot 214 on Plan PH2125 and commonly known as Huonfels
(ll) Pastoral Holding No. 18/4926 comprising Lot 4926 on Plan PH2242 and commonly known as Wirra Wirra
(mm) Preferential Pastoral Holding No. 18/5039 comprising Lot 5039 on Plan PH245 and commonly known as Barker
(nn) Pastoral Holding No. 18/4627 comprising Lot 4627 on Plan PH25 and commonly known as Cumbana
(oo) Pastoral Holding No. 18/2824 comprising Lot 2824 on Plan PH272 and commonly known as Sutherland
(pp) Pastoral Holding No. 18/5082 comprising Lot 5082 on Plan PH418 and commonly known as Ados
(qq) Pastoral Holding No. 18/5101 comprising Lot 5101 on Plan PH492 and commonly known as Ortona
(rr) Pastoral Holding No. 18/3055 comprising Lot 3055 on Plan PH526 and commonly known as Narrawa
(ss) Pastoral Holding No. 18/2034 comprising Lot 2034 on Plan PH568 and commonly known as Midhills
(tt) Pastoral Holding No. 18/5119 comprising Lot 5119 on Plan PH597 and commonly known as Delaney
(uu) Preferential Pastoral Holding No. 18/3075 comprising Lot 3075 on Plan PH728 and commonly known as Mistletoe
(vv) Pastoral Holding No. 18/235 comprising Lot 235 on Plan PH73 and commonly known as Oak Park
(ww) Pastoral Holding No. 18/5173 comprising Lot 5173 on Plan PH807 and commonly known as Percyvale
(xx) Pastoral Holding No. 18/3813 comprising Lot 3813 on Plan PH863 and commonly known as The Dairy Paddock
(yy) Pastoral Holding No. 18/3911 comprising Lot 3911 on Plan PH880 and commonly known as Paramount
(zz) Pastoral Holding No. 18/4979 comprising Lot 4979 on Plan PH9 and commonly known as Shoreham
(aaa) Pastoral Holding No. 18/4965 comprising Lot 4965 on Plan PH960 and commonly known as Ropewalk
(bbb) Pastoral Holding No. 18/182 comprising Lot 182 on Plan PH995 and commonly known as Carpentaria Downs
(ccc) Pastoral Holding No. 18/257 comprising Lot 2 on Plan PY26 and commonly known as Yarraman
(ddd) Pastoral Holding No. 18/5198 comprising Lot 3 on Plan PY835471 and commonly known as Bagstowe
(eee) Term Lease No. 236770 comprising Lot 327 on Plan PY839254 and commonly known as Mopata
(fff) Pastoral Holding No. 34/248 comprising Lot 4 on Plan SE1 and commonly known as Strathmore
(ggg) Pastoral Holding No 18/4941 comprising Lot 4941 on Plan SP116199 and commonly known as Jenkins Creek
(hhh) Pastoral Holding No. 18/5103 comprising Lot 5103 on Plan SP116199 and commonly known as Mount Talbot
(iii) Pastoral Holding No. 9/246 comprising Lot 2 on Plan SP116768 and commonly known as Springfield
(jjj) Term Lease No. 220131 comprising Lot 50 on Plan SP143226 and commonly known as Spring Creek
(kkk) Pastoral Holding No. 18/3750 comprising Lot 50 on Plan SP144125 and commonly known as Ballynure
(lll) Pastoral Holding No. 18/3752 comprising Lot 52 on Plan SP144125 and commonly known as Welfern
(mmm) Term Lease No. 218272 comprising Lot 1 on Plan SP149834 and commonly known as Lynwater
(nnn) Term Lease No. 220683 comprising Lot 2698 on Plan SP166986 and commonly known as Noel
(ooo) Pastoral Holding No. 18/5199 comprising Lot 5 on Plan SP196211 and commonly known as Duffer
(ppp) Term Lease No. 235562 comprising Lot 5306 on Plan SP201262 and commonly known as Rose Glen
(qqq) Pastoral Holding No. 18/5527 comprising Lot 37 on Plan SP206973 and commonly known as Arrongulla
(rrr) Pastoral Holding No. 18/5250 comprising Lot 5250 on Plan SP242983 and commonly known as Townley

(sss) Term Lease No. 236581 comprising Lot 1 on Plan SP242983 and commonly known as Robinhood
(ttt) Term Lease No. 236581 comprising Lots 2, 3, 4, 5, 6 and 7 on Plan SP242983 and commonly known as Howlong
(uuu) Term Lease No. 236442 comprising Lot 53 on Plan SP242966 and commonly known as Mount Sullivan
(vvv) Pastoral Development Holding No. 18/234 comprising Lot 12 on Plan TE28 and commonly known as Mt Surprise
(www) Pastoral Holding No. 18/5478 comprising Lot 2 on Plan VR6 and commonly known as Perryvale.

3. The rights and interests of Telstra Corporation Limited ACN 051 755 566:

- (a) as the owner or operator of telecommunications facilities installed within the Determination Area;
- (b) 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:
 - (i) to inspect land;
 - (ii) to install and operate existing and new telecommunication facilities, including cabling, customer terminal sites, customer radio sites and ancillary facilities;
 - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its existing and any new telecommunications facilities including cabling, customer terminal sites, customer radio sites, and ancillary facilities;
- (c) its employees, agents or contractors to access the Determination Area for the purposes of exercising the rights in (i), (ii) and (iii) above in respect of telecommunication facilities in and in the vicinity of the Determination Area;
- (d) under any leases, relating to its telecommunications facilities in the Determination Area.

4. The rights and interests of Ergon Energy Corporation Limited ACN 087 646 062:

- (a) as the owner and operator of any "Works" as that term is defined in the *Electricity Act 1994* (Qld) within the Determination Area;
- (b) as a distribution entity and the holder of a distribution authority under the *Electricity Act 1994* (Qld)
- (c) created under the *Electricity Act 1994* (Qld) and the *Government Owned Corporations Act 1993* (Qld) including:
 - (i) rights in relation to any agreement relating to the Determination Area existing or entered into before the date on which these orders are made;
 - (ii) rights to enter the Determination Area by its employees, agents or contractors to exercise any of the rights and interests referred to in this paragraph; and
 - (iii) to inspect, maintain and manage any Works in the Determination Area.

5. The rights and interests of the Tablelands Regional Council for that part of the Determination Area within its Local Government Area, including:

- (a) its powers, functions, responsibilities and jurisdiction under a Local Government Act;
- (b) its rights and interests under any interest in land or waters within the Determination Area including under any lease, licence, access agreement or easement in the Determination Area;
- (c) the rights to use, operate, maintain, replace, restore, remediate, repair and otherwise exercise all other rights as the owners and operators of infrastructure, structures, earthworks, access works, facilities and other improvements within the Determination Area;
- (d) the rights under any agreements between the Tablelands Regional Council and any third party which relates to land or water in the Determination Area; and
- (e) the rights of their employees, agents and contractors to enter upon the Determination Area for the purpose of performing their powers and responsibilities under paragraphs 5(a) to 5(d).

6. The rights and interests of the Etheridge Shire Council including any rights the Etheridge Shire Council, its employees, agents or contractors have;

(a) under its local government jurisdiction and functions under the *Local Government Act 2009* (Qld), under the *Land Protection (Pests and Stock Route Management) Act 2002* (Qld) and under any other legislation, for that part of the Determination Area within its Local Government Area;

(b) as the:

(i) lessor under any leases which were entered into as at the date of the Determination;

(ii) grantor of any licences or other rights and interests which were granted as at the date of the Determination;

(iii) holder of any estate or interest in land, and as trustee of any reserves, that exist in the Determination Area as at the date of the Determination;

(iv) the grantee of any easements under the *Land Act 1994* (Qld) which were granted as at the date of the Determination;

(c) as the owner and operator of infrastructure, facilities and other improvements located in the Determination Area as at the date of the Determination, including but not limited to:

(i) dedicated roads operated by the Etheridge Shire Council;

(ii) gravel pits operated by the Etheridge Shire Council;

(iii) undedicated but constructed roads except for those not operated by the Etheridge Shire Council;

(iv) water pipelines and other water supply infrastructure;

(v) drainage facilities; and

(vi) cemetery and cemetery related facilities; and

(d) to enter the land described in paragraphs 6(a) to 6(c) to:

(i) exercise any of the rights and interests referred to in paragraphs 6(a) to 6(c) of Schedule 4;

(ii) inspect, maintain and repair the infrastructure, facilities and other improvements referred to in paragraph 6(c) of Schedule 4; and

(iii) undertake operational activities in its capacity as a local government such as feral animal control, weed control, erosion control, waste management and fire management.

7. The rights and interests of the State of Queensland or any other person existing by reason of the force and operation of the laws of the State of Queensland, including those existing by reason of the following legislation or any regulation, statutory instrument, declaration, plan, authority, permit, lease or licence made, granted, issued or entered into under that legislation:

(a) the *Land Act 1994* (Qld);

(b) the *Nature Conservation Act 1992* (Qld);

(c) the *Forestry Act 1959* (Qld);

(d) the *Water Act 2000* (Qld);

(e) the *Petroleum Act 1923* (Qld) or *Petroleum and Gas Act 2004* (Qld);

(f) the *Mineral Resources Act 1989* (Qld);

(g) the *Integrated Planning Act 1997* (Qld) or *Sustainable Planning Act 2009* (Qld);

(h) the *Transport Infrastructure Act 1994* (Qld); and

(i) the *Fire and Rescue Service Act 1990* (Qld) or *Ambulance Service Act 1991* (Qld);

8. Any other rights and interests:

(a) held by the State of Queensland or Commonwealth of Australia; or

(b) existing by reason of the force and operation of the Laws of the State or the Commonwealth.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REGISTER ATTACHMENTS:

1. Schedule 1 - Determination Area - Description of Determination Area - Part 1 - Exclusive Areas, 1 page - A4, 26/11/2013
2. Schedule 1 - Determination Area - Description of Determination Area - Part 2 - Non-Exclusive Areas, 5 pages - A4, 26/11/2013
3. Schedule 1 - Determination Area - Description of Determination Area - Part 3 - Non-Exclusive Town Areas, 1 page - A4, 26/11/2013
4. Schedule 1 - Map of Determination Area, 17 pages - A3, 26/11/2013

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.