

Document 5

From: [Nguyen, Tri](#)
To: ["plb@lands.wa.gov.au"](mailto:plb@lands.wa.gov.au)
Subject: Request for Ministerial Consent - Crown Lease 516-1997/Pastoral Lease 3114/499
Date: Wednesday, 30 July 2014 12:07:21 PM
Importance: High

Dear Gillian,

Thank you for taking my call yesterday and for clarifying the administrative processes.

As discussed, the Indigenous Land Corporation (ILC) is the current lessee of Roebuck Plains Station being Crown Lease 516-1997 being Pastoral Lease 3114/499 described as Lot 270 on DP220197, Broome Hwy, Via Broome, WA 6725 (Land). The ILC as part of its statutory functions under the Aboriginal and Torres Strait Islander Act 2005 (Cth) is proposing to divest the Land to Nyamba Buru Yawuru Ltd (NBY), a body corporate set up by the Yawuru Traditional Owners to hold assets for the Yawuru Native Title Holders Aboriginal Corporation.

The ILC and NBY have been in discussion for an extended period over the divestment and future use of the Land. Subject to Ministerial Consent the parties have agreed that the ILC will divest the whole of Land to NBY and immediately upon divestment the ILC will lease the whole of the Land from NBY (Sublease) so that it can provide rental income for NBY and for the ILC to continue with its existing pastoral activities and provide training to Indigenous Australians.

The parties are keen to effect this dual transaction as soon as possible given the period of negotiation thus far but more importantly the obvious ongoing benefits (financial or otherwise) to NBY and in particular the Yawuru Traditional Owners.

The ILC Board will meet on 12th August where it is expected to formally approve the granting of the Land and to enter into a Sublease and this application is subject to the ILC Board formally approving the proposed dual transaction.

Pursuant to the Land Administration Act 1997 (WA) the ILC therefore urgently seek your consent for the proposed transaction.

I understand that the registration of the Sublease cannot occur until the 2015 Pastoral Lease Renewal process commences.

By way of further background the ILC is also proposing to divest and sublease back a related property being the Roebuck Cattle Yards being Crown Lease J-298931 – Volume/Folio LR3110/463 to NBY and we have been liaising with your colleague, Ms Leanne Shaw from the General Crown Lease Section.

Please let me know if you require any further information and I look forward to your favourable response.

Thanks again
Tri

T: (08) 81007100 | F: (08) 81007171 | T: (08) 81007112 (direct) | M: 0418 815 684
Email: Tri.Nguyen@ilc.gov.au | Web: www.ilc.gov.au
Level 7, 121 King William Street, Adelaide SA 5000 | GPO Box 652, ADELAIDE SA 5001

Document 6

From: [Nguyen, Tri](#)
To: [Rai, Sailesh](#); [Mundy, Leah](#)
Cc: [Alderton, Kate](#)
Subject: Roebuck - divestment & lease back; OTC - divestment: ILC & Nyamba Buru Yawuru (NBY)
Date: Monday, 8 September 2014 7:01:37 PM
Attachments: [FW 2015 LEASE RENEWAL DOCUMENTS.msg](#)
[20140723 - Copy Of Signed In Principle Approval Letter To ILC For Transf.....pdf](#)
[Request for Ministerial Consent - Crown Lease 516-1997Pastoral Lease 3114499.msg](#)
[RE Transfer of ILC Landholdings and proposed SubLease .msg](#)
[September Yawuru event proceeding .msg](#)
[Transfer of Roebuck Plains PL - Lease documentation .msg](#)
[FW Request for Ministerial Consent - Crown Lease 516-1997Pastoral Lease 3114499.msg](#)
[Board-386.pdf](#)
[LM-226.pdf](#)
[Board-385.pdf](#)
[Board-387.pdf](#)
[permission to sell Roebuck Plains station.msg](#)
Importance: High

Sailesh/Leah,

You will need to assist Kate with this project while I am away.

Some background info:

- Crown lease (Roebuck Export Depot) & pastoral lease (Roebuck Plains Station).
- The Crown lease on the depot is not subject to the 2015 crown lease renewal process but the pastoral lease on the station is, which makes the process a tad complicated. [Kate can correct me if I am grossly incorrect].
- 3 grants of land – OTC Block, Roebuck Plains Station, Roebuck Export Depot (or Roebuck Cattle Yard). These are all signed and originals are being organised by Leah to send to NBY.
- grant of money - \$1.5M (sinking fund). This is ready for execution.
- grant of money - \$1M (standard LM). Awaiting for comments from NBY.
- Leah is preparing all the required caveats, transfers, water licences etc...OTC block is a standard grant so Leah should be able to progress this quickly.
- Roebuck grants – we are divesting and then subleasing back. Awaiting for draft sublease from NBY.
- Gillian Taylor is the contact at the Department of Lands (see email attached. She can be contacted on (08) 865524573). Provisional Ministerial consent has been provided (email attached).
- Over the next few weeks we need to work with NBY (essentially assist them) in responding to the 14 conditions. Rodney Nicole is the General Counsel for NBY. He is new to the role so is fairly dependant on us.

The email below and attached should provide adequate background information and I will discuss further with you both tomorrow.

Cheers

Tri

From: Nguyen, Tri
Sent: Tuesday, 29 July 2014 6:55 PM
To: Dillon, Michael; North, Craig; Alderton, Kate
Cc: Cook, Garry; Lindsay, Jodie
Subject: RE: Divestment and lease back of Roebuck Plains Station: ILC and Nyamba Buru Yawuru (NBY)

Importance: High

Dear all,

After conversations with some of you today I thought I'd send this email to update on:

1. Timing for payment;
2. Documentation; and
3. Administrative processes.

Timing for payment

- Infrastructure Investment Sinking Fund (\$1.5M): - this will only be paid within 30 days of commencement of the Sublease
- Cultural & Environmental LM Activities (\$1M): - this will only be paid upon the Grant of Land
- Lease payment from 1 July 2014: - As the lease has not come into existence it is appropriate for the ILC to secure its right to the Sublease by providing consideration for NBY's agreement to enter into a Sublease (as outlined in the agreed term sheet) and for NBY to continue to work towards formal Sublease preparation and execution. [Kate, I suggest you amend the Board paper to include this pro-rata sum as consideration for NBY's agreement to enter into a Sublease with the ILC and for the ILC to secure this right to a Sublease. NOTE this is separate from the sign-on fee of \$10K as that money relates to the transfer of the Pastoral Lease].

Documentation

- Deed of Grant of Land (OTC): - Already finalised with Kate
- Deed of Grant of Land (Roebuck Plains Station): - Further draft is with Kate for review. As the Sublease including the renewal is 15 years, I have included clauses to ensure the ILC is still entitled to the Sublease post 1 July 2015 Pastoral Lease Renewals.
- Deed of Grant of Land (Roebuck Export Depot): - Further draft is with Kate for review. As the Sublease including the renewal is 15 years, I have included clauses to ensure the ILC is still entitled to the Sublease post renewal of the Headlease (Crown Lease) in 2020.
- Deed of Grant of Money (\$1.5M): - Draft is sitting with Kate for review. As it is related to the Sublease I have included clauses to ensure the ILC is still entitled to the Sublease post 1 July 2015 Pastoral Lease Renewals, failing which the money has to be refunded to the ILC.
- Deed of Grant of Money (\$1M): - Draft is sitting with Kate for review.
- Transfers (OTC, Roebuck Export Depot & Roebuck Plains Station): - One of my team members is preparing this now.
- Sublease: - NBY has recently recruited a new legal counsel and I have been liaising with him. He has the Term Sheet and a basic ILC template for consideration. As sublessor NBY will have responsibility for preparing this and I from my conversation with them back in May they were in discussion with external lawyers so I hope they can get a move on quickly.

Administrative processes

The Grant of Land and Sublease are both subject to Ministerial consent so the effective date as suggested in my email below is the latter of Ministerial Consent and date of execution of the relevant docs.

The process for effecting these Grants/transfers & Subleases are as follows (after my conversation with both areas of the Department of Lands today – General Crown Lease section & Pastoral Lands section).

Crown Lease Transfer & Sublease (Roebuck Export Depot):

1. ILC writes to DoL seeking consent [Kate has done this].
2. DoL provides in principle approval [letter from DoL dated 23/07/14].
3. ILC prepares & submit transfer and Sublease.
4. DoL formally endorses the transfer & Sublease (approx 7 days).
5. ILC then registers transfer & Sublease with WA LTO.

Pastoral Lease Transfer & Sublease (Roebuck Plains Station):

1. ILC writes to DoL (Pastoral Lands section) seeking consent.
2. DoL provides a Permission to Sell letter which contains a number of conditions, which the transferee (NBY) has to meet.
3. ILC provides the Permission to Sell letter and attaching conditions to NBY to complete and respond.
4. As part of the response NBY will also apply as transferee seeking consent to receive the transfer.
5. One of the conditions on NBY as transferee is it has to let DoL know what it intends to do with the Land, which it will simply say it wishes to sublease the whole of the land to the ILC and therefore seeks Ministerial Consent.
6. Draft Sublease is submitted along with the response in 5.
7. ILC also writes to DoL endorsing NBY's response in 5.
8. DoL provides formal consent.
9. Transfer & Sublease are then signed and lodged with WA LTO along with DoL consent letter.

Kate,

Could you outline the above steps to NBY so that they are ready to move quickly as steps 3-6 require their input.

Mike,

As timing is critical, with your approval I will write to DoL seeking their Permission to Sell letter asap. My letter to them will state that it is subject to Board approval for the Grant & Sublease. They have agreed to give priority to our application.

Please let me know if you have any other queries.

Thanks

Tri

From: Nguyen, Tri

Sent: Tuesday, 29 July 2014 1:00 PM

To: North, Craig

Cc: Dillon, Michael; Lindsay, Jodie; Alderton, Kate

Subject: RE: Divestment and lease back of Roebuck Plains Station: ILC and Nyamba Buru Yawuru (NBY)

Craig,

The grant and sublease is subject to Ministerial consent. Therefore if we can, we should try to seek Ministerial consent now so that once the Deed is signed in September it is effective from the signing date in September. The term sheet should refer to the Commencement Date as “the latter of the date of Ministerial Consent and the date of execution of the Deed of Grant of Land”. You can agree for an earlier commencement date of the sublease, ie, a date earlier than the actual completed signing of the lease but whatever date that is agreed to it cannot be earlier than the “latter of the date of Ministerial Consent and the date of execution of the Deed of Grant of Land”.

Cheers

Tri

From: North, Craig

Sent: Tuesday, 29 July 2014 12:42 PM

To: Nguyen, Tri

Cc: Dillon, Michael; North, Craig; Lindsay, Jodie; Alderton, Kate

Subject: FW: Divestment and lease back of Roebuck Plains Station: ILC and Nyamba Buru Yawuru (NBY)

Hi Tri,

Thanks for the table on the lease/sublease transfer arrangements and the status of other funding contracts.

The issue I was seeking to discuss & resolve yesterday at the Exec Group was that of the sublease b/t us and NBY, particularly the issue of the commencement date of the sublease and the lease fee payments from 1 July 2014, as per the Term Sheet.

I have attached the term sheet provided to us by NBY that sets out the key terms and conditions of leasing and subleasing arrangements. The Term Sheet states that the commencement of the sublease will be 1 July 2014 with the starting rent to be \$340,000 for RPS which is paid quarterly.

With that in mind and the advice you have provided, what are we proposing to be the commencement date of the sub-lease? I assume it will be the date of the execution of the sub-lease by both parties (in September) following ILC Board approval? Is that right or will it be something else like the date of the Minister's approval of the sub-lease? The subsequent question that arises is: does that cause us any issues in making the first quarterly lease payment, as per the term sheet, because 1 July 2014 has now past and it's looking like September 2014 before the sub-lease will be executed.

I'm trying to work out if we need to discuss changes to the Term Sheet with NBY sooner rather than later.

Happy to discuss further.

Cheers,

Craig,

From: Nguyen, Tri
Sent: Monday, 28 July 2014 4:59 PM
To: Dillon, Michael
Cc: North, Craig; Lindsay, Jodie; Alderton, Kate
Subject: Divestment and lease back of Roebuck Plains Station: ILC and Nyamba Buru Yawuru (NBY)

Hi Mike,

Please find attached a table showing the various legal agreements and their status.

Cheers

Tri

Document 7

From: [Taylor, Gillian M.](#)
To: [Nguyen, Tri](#)
Cc: [Alderton, Kate](#)
Subject: FW: Request for Ministerial Consent - Crown Lease 516-1997/Pastoral Lease 3114/499
Date: Friday, 1 August 2014 5:51:19 PM

Dear Tri,

Thank you for your email. I have prioritised the Roebuck Plains permission to sell letter and should be able to forward it to you on Monday.

Regards,
Gillian Taylor

From: Nguyen, Tri [<mailto:Tri.Nguyen@ilc.gov.au>]
Sent: Friday, 1 August 2014 3:12 PM
To: Pastoral Lands Board
Cc: Alderton, Kate
Subject: RE: Request for Ministerial Consent - Crown Lease 516-1997/Pastoral Lease 3114/499

Dear Gillian,

Just to confirm that my email below is to commence the process to seek Ministerial consent. Our expectation is that, if satisfied, you would issue us with a Permission to Sell letter (as was explained to me in our discussion) so that we may urgently liaise with NBY to prepare the responses to the various conditions to be attached to your letter.

Apologies for any confusion.

Cheers
Tri

From: Nguyen, Tri
Sent: Wednesday, 30 July 2014 12:37 PM
To: 'plb@lands.wa.gov.au'
Subject: Request for Ministerial Consent - Crown Lease 516-1997/Pastoral Lease 3114/499
Importance: High

Dear Gillian,

Thank you for taking my call yesterday and for clarifying the administrative processes.

As discussed, the Indigenous Land Corporation (ILC) is the current lessee of Roebuck Plains Station being Crown Lease 516-1997 being Pastoral Lease 3114/499 described as Lot 270 on DP220197, Broome Hwy, Via Broome, WA 6725 (Land). The ILC as part of its statutory functions under the Aboriginal and Torres Strait Islander Act 2005 (Cth) is proposing to divest the Land to Nyamba Buru Yawuru Ltd (NBY), a body corporate set up by the Yawuru Traditional Owners to hold assets for the Yawuru Native Title Holders Aboriginal Corporation.

The ILC and NBY have been in discussion for an extended period over the divestment and future use of the Land. Subject to Ministerial Consent the parties have agreed that the ILC will divest

the whole of Land to NBY and immediately upon divestment the ILC will lease the whole of the Land from NBY (Sublease) so that it can provide rental income for NBY and for the ILC to continue with its existing pastoral activities and provide training to Indigenous Australians.

The parties are keen to effect this dual transaction as soon as possible given the period of negotiation thus far but more importantly the obvious ongoing benefits (financial or otherwise) to NBY and in particular the Yawuru Traditional Owners.

The ILC Board will meet on 12th August where it is expected to formally approve the granting of the Land and to enter into a Sublease and this application is subject to the ILC Board formally approving the proposed dual transaction.

Pursuant to the Land Administration Act 1997 (WA) the ILC therefore urgently seek your consent for the proposed transaction.

I understand that the registration of the Sublease cannot occur until the 2015 Pastoral Lease Renewal process commences.

By way of further background the ILC is also proposing to divest and sublease back a related property being the Roebuck Cattle Yards being Crown Lease J-298931 – Volume/Folio LR3110/463 to NBY and we have been liaising with your colleague, Ms Leanne Shaw from the General Crown Lease Section.

Please let me know if you require any further information and I look forward to your favourable response.

Thanks again

Tri

Tri Duc Nguyen | General Counsel | Indigenous Land Corporation
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Document 8

From: [Alderton, Kate](#)
To: 2015@lands.wa.gov.au
Cc: [Eringa, Karel](#); [Rodney Nichole](#); [Nguyen, Tri](#)
Subject: Transfer of Roebuck Plains PL - Lease documentation
Date: Tuesday, 5 August 2014 7:31:03 PM
Attachments: [20140805175058217.pdf](#)

Please find attached letter and completed form in relation to Roebuck Plains Pastoral Lease and future details for 2015 lease renewal documentation.

Kind regards,

Kate Alderton
Manager | Western Division
Indigenous Land Corporation
Level 12, Carillon City Office Tower | 207 Murray St, Perth WA 6000
PO Box 7502 Cloisters Square, Perth WA 6850
ph: 08 9420 6300 f: 08 9420 6333
www.ilc.gov.au



Australian Government
Indigenous Land Corporation

5 August 2014

Mr Anthony DeBarro
Executive Director – LAMP
Department of Lands
By email: 2015@lands.wa.gov.au

Dear Mr DeBarro

Ref: Confirmation of Details for Lease Renewal Document: Roebuck Plains Station
(Lands Ref: A4794914/L00378-2012)

I refer to my previous correspondence to you dated 31 July 2014.

The Indigenous Land Corporation will be transferring the Pastoral Lease for Roebuck Plains to the operating entity representing the Yawuru Native Title Holders of Broome, Nyamba Buru Yawuru Ltd before the time of the new 2015 lease comes into effect. The transfer documentation relating to this lease is likely to be submitted to the Department by late August. Note a request for *Permission to Sell* letter was sent to the relevant area on 30 July 2014.

Please find herewith the completed form relating to the Roebuck Plains Pastoral Lease and below the standard execution clause for Nyamba Buru Yawuru Ltd:

Executed by **Nyamba Buru Yawuru Ltd** ACN)
137 306 917 in accordance with section 127(1))
of the *Corporations Act 2001 (Cth)*:)
)
)

.....
Signature of director

.....
Signature of director or company secretary*

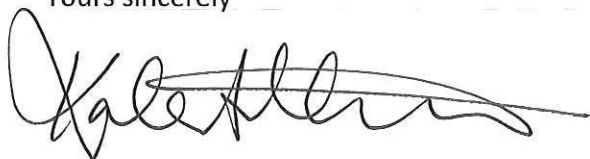
*delete whichever does not apply

.....
Name (please print)

.....
Name (please print)

Please contact me on telephone 9420 6300 or email kate.alderton@ilc.gov.au should you wish to discuss any of these matters further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Alderton', with a long horizontal flourish extending to the right.

KATE ALDERTON
Divisional Manager, Western



CONFIRMATION OF DETAILS FOR LEASE RENEWAL DOCUMENT

Please fill in the information fields below and return to the Department of Lands by 31 July 2014. We appreciate you taking the time to complete these details as it will greatly assist in ensuring that there are no undue delays/errors when drafting the documents for the lease renewal process.

DETAILS

Station Name ROEBUCK PLAINS

State full name of Lessee / Lessees (if the lessee is not an individual include ACN, ICN, ABN etc)

NYAMBA BURN YAWURU LTD
ACN 137 306 917

Address to which future notices regarding the lease can be sent. This will be included on the lease to be registered at Landgate:

PO BOX 425
BROOME WA 6725
ATTENTION: RODNEY NICHOLE, GENERAL COUNSEL

If the Lessee is not an individual, please provide a copy of the standard execution clause of the entity or insert the details in the panel below. (Refer to the attached examples regarding signing of legal documents.)

SEE ATTACHED LETTER.

Email Address: rodney.nichole@yawuru.org.au

Signature of lessee: Provided by [Signature], Divisional
Manager, ILC.

Please return the form to the Department of Lands via:

a) Post at -
Department of Lands
2015 Project
PO Box 1143
WEST PERTH WA 6872

b) Scanned and forwarded by email to:
2015@lands.wa.gov.au

Document 9

Leah Schonfeldt (ILSC)

From: Alderton, Kate
Sent: Thursday, 31 July 2014 12:58 PM
To: Dillon, Michael
Cc: Roberts, Eric; Nguyen, Tri
Subject: September Yawuru event proceeding
Attachments: Summary of NBY Transfer and Grants_For Chair_310714_final.docx

Importance: High

Hi Mike

I have spoken to Dean Newton again this morning and reiterated the ILC's position regarding the celebration event on 2 September.

Dean advised that he had reviewed the legal administrative processes more closely with his General Counsel Rodney Nichole (Rodney spent 6 years as PLO at Yamatji Marlpa and is by reputation very good) and discussed the purpose and benefits of the event with Mr Dodson.

NBY would like to proceed with the event as proposed and commit to the joint planning with the ILC to ensure a successful event.

Please find attached a two page summary of issues for the Chair should Dawn wish to discuss directly with Mr Dodson. This paper has been cleared by Tri and Eric.

Kind regards
Kate



Australian Government

Indigenous Land Corporation

ILC Transfer of Land and Grants of Monies to Nyamba Buru Yawuru Ltd

Purpose: To inform the Chair about the upcoming land transfer and grants of monies to Nyamba Buru Yawuru Ltd and the proposed celebration event with Yawuru Traditional Owners.

Divestment of Land

The ILC has agreed to progress the divestment of three landholdings to Nyamba Buru Yawuru Ltd (NBY) the entity established by the Yawuru Traditional Owners to hold assets and monies for the Prescribed Body Corporate, the Yawuru Native Title Holders Aboriginal Corporation. The land holdings are as follows:

- *Roebuck Plains – Crown (Pastoral) Lease (RPS), value \$11.23m*
- *Roebuck Cattle Yards – Crown (Special) Lease (RCY), value \$1.1m*
- *OTC Dampier - Freehold title (OTC), value \$3.31m*

As agreed in the executed Terms Sheet between ILC and NBY, the ILC will enter into a sub-lease with NBY for an initial seven (7) year period with the option to renew for a further eight (8). The ILC's West Kimberley Integrated Cattle Business will pay NBY a lease fee of \$370,000 p.a. comprising \$340,000 p.a. for RPS and \$30,000 p.a. for RCY (Sublease).

The Board will sign **Deeds of Grant** for all three properties to enact this transfer. NBY will be sent the Deeds for its execution by Monday 4 August.

Grants of Monies

In addition to the agreed lease fees, the ILC has committed (pending Board Approval) to grant funds to NBY for the following purposes –

- \$1.5 million - Infrastructure Investment Sinking Fund: paid within 30 days of commencement of the Sublease via Grant of Monies Contract
- \$1 million - Cultural and Environmental Land Management Project aligned with the Indigenous Protected Area (IPA) Plan of Management: paid upon the Grant of Land via Grant of Monies Contract

Administrative Process for Land Transfer

Following the Board approval, the ILC will commence the administrative process to transfer:

1. the title in OTC Dampier; and;
2. the Crown leases for Roebuck Plains Station and Roebuck Cattle Yards

to NBY.

We will proceed with the transfer this year so that the financial benefits can flow to NBY sooner.

On 1 July 2015, all compliant WA Pastoral Leases will be issued with new leases; this impacts Roebuck Plains Station Pastoral Lease. This means all subleases will also expire on 30 June 2015 and require new subleases to be issued.

As the ILC will transfer the Pastoral Lease to NBY before 1 July 2015, NBY will be required to renew the Pastoral Lease as part of this renewal process and in turn renew the sublease to ILC.

The Department of Lands has confirmed to the ILC that the Roebuck Plains Station Pastoral Lease is compliant and will be renewed.

There are various steps required in the Administrative process to seek Ministerial consent for the lease transfer from ILC to NBY, including the ILC and NBY providing documentation to the Department of Lands about the future management of the land (sub lease to ILC).

The ILC is working with the Department of Lands to expedite the processes and ensure the matter is given priority.

The Department has confirmed that the transfer and approval of the sub lease can occur this year and the general turnaround time for Ministerial approval is 6-8 weeks from lodgement of transfer documentation. The ILC plan to lodge this documentation as soon as the Deeds of Grant are executed by both parties (expected end of August 2014).

MOU

The ILC and NBY have agreed to develop an MOU in order to establish terms of engagement beyond the terms of the Sublease. The MOU will elevate priority matters within the relationship and progress opportunities of mutual benefit during the terms of the Sublease. This is particularly relevant in regards to the joint pursuit of:

- Training, employment and pastoral management opportunities to be taken up by Yawuru people;
- Land management activities on country that deliver cultural and environmental benefits;
- Development of diversified land based enterprises through joint venture arrangements (e.g. irrigated agriculture for fodder production, tourism)

The ILC and NBY have agreed to work together to have the MOU in place by the end of 2014. The ILC will prepare the first draft for NBY's review in due course.

Celebration Event

As the ILC Board will be meeting in Broome on 3 September, the ILC has been working with NBY Staff to prepare for a community celebration event on 2 September (10am – 1pm) to mark the agreement to transfer the land and the change in the relationship between ILC and NBY.

This event is likely to attract up to 200 guests and will involve TOs in the event proceedings (smoking ceremony, cultural dance).

It is proposed the event will be held at Roebuck Plains Station from 10 am to 1pm with lunch being served to all guests.

The ILC has committed to funding the event (estimated \$15,000).

National, State and local media coverage is expected.

Prepared by Kate Alderton, Western Divisional Manager

Document 10

Leah Schonfeldt (ILSC)

From: Ritchie, Leah
Sent: Thursday, 28 May 2015 2:48 PM
To: Rai, Sailesh
Subject: FW: Divestment - Roebuck Plains Station
Attachments: Sublease (revised) - RPS - Fully executed copy - 25.02.15.pdf

From: Nguyen, Tri
Sent: Thursday, 28 May 2015 2:00 PM
To: Lindsay, Jodie
Cc: Ritchie, Leah
Subject: RE: Divestment - Roebuck Plains Station

Jodie,

This is the original executed sublease 1 July 2014 to 30 June 2021. This will become 1 July 2014 to 30 June 2015 once NBY has amended and got approval for the additional sublease split (sublease 1 July 2015 to 30 June 2021).

Cheers

Tri

From: Lindsay, Jodie
Sent: Thursday, 28 May 2015 2:20 PM
To: Nguyen, Tri; Ritchie, Leah; Muntinga, Claire; Alderton, Kate; Damgaard, Hanne; Bland, Anne; Legal
Cc: Cook, Garry; Shanahan, Michael
Subject: RE: Divestment - Roebuck Plains Station

Thanks

Can I please have a copy of the sublease between NIPE and NBY from 1 July 2014 to 30 June 2015 (the executed sublease).

Thanks

JODIE

From: Nguyen, Tri
Sent: Thursday, 28 May 2015 12:40 PM
To: Lindsay, Jodie; Ritchie, Leah; Muntinga, Claire; Alderton, Kate; Dillon, Michael; Damgaard, Hanne; Bland, Anne; Legal
Cc: Cook, Garry; Shanahan, Michael
Subject: RE: Divestment - Roebuck Plains Station

Hi All,

A sublease between NIPE and NBY has been executed (1 July 2014 to 30 June 2021), which also allows for the renewal of the (pastoral) headlease. NBY was unable to have it registered due to recent requests from DOL (despite having provided Ministerial endorsement to it already) thus the lease will be separated as follows:

1. A sublease between NIPE and NBY from 1 July 2014 to 30 June 2015 (the executed sublease);

2. A sublease between NIPE and NBY from 1 July 2015 to 30 June 2021 so as to be consistent with the 2015 pastoral lease renewal when a new title reference is provided to the renewed headlease between NBY and the Crown.

In short, yes and with NIPE.

Cheers

Tri

From: Lindsay, Jodie
Sent: Thursday, 28 May 2015 12:41 PM
To: Ritchie, Leah; Muntinga, Claire; Alderton, Kate; Dillon, Michael; Damgaard, Hanne; Bland, Anne; Legal
Cc: Cook, Garry; Shanahan, Michael
Subject: RE: Divestment - Roebuck Plains Station

Leah, Tri

Thanks for this. Could you please confirm that there is a lease in place from 1 April 2015 – and if so is it with the ILC or NIPE? (ie the latest NIPE transition schedule as this property being transition to NIPE on 1 July 2015).

Thanks

JODIE

From: Ritchie, Leah
Sent: Thursday, 28 May 2015 11:14 AM
To: Muntinga, Claire; Alderton, Kate; Dillon, Michael; Damgaard, Hanne; Lindsay, Jodie; Bland, Anne; Roberts, Eric; Keough, Peter; Legal; Price, Tim
Subject: Divestment - Roebuck Plains Station

Hello All,

Roebuck Plains Station (Volume LR3010 Folio 475 and Volume LT3161 Folio 646) in Western Australia has been successfully divested to Nyamba Buru Yawuru Ltd. Registration occurred on 1 April 2015.

Congratulations to WDO colleagues.

Tim, please note for IT records including map.

Finance/Admin, please note for purposes of insurances and asset registers and accounting entries.

Eric, please note for Annual Report purposes.

Please pass this on to any staff who may need to know.

Regards,

Leah

This Lease is made this 25th day of FEBRUARY 2015.

Between

Nyamba Buru Yawuru Ltd (ABN 137 306 917) of 55 Reid Road, Broome WA 6725 ("Lessor")

and

National Indigenous Pastoral Enterprises Pty Ltd (ABN 28 108 266 548) of level 7, 121 King William Street, Adelaide SA 5000 ("Lessee") as a wholly owned subsidiary of the Indigenous Land Corporation (ABN 59 912 679 254), a Commonwealth Statutory Corporation.

1. Definitions and Interpretation

1.1 Definitions

In this Lease, unless the context otherwise requires:

buildings and improvements means the buildings, yards, drains, bores, bore drains, wells, ground tanks, reservoirs, dams, levee banks, fences, gates, grids, ramps, roads, private telephone lines, private powered lines, wiring, water pipes, gas pipes, sheds, dips, mailboxes, huts, cottages, homesteads, outbuildings, power generation plant and equipment, all pumping equipment, troughs, windmills, associated with existing livestock watering and all other plant and equipment and other structures of any kind on the land, all existing and developed stock bores;

Capital Improvement means any new, mutually agreed property development project that has been negotiated between the Lessor and the Lessee prior to the investment being made.

Chattels mean goods or chattels other than:

- i. The Chattels granted by the Lessee to the Lessor pursuant to the Deed of Grant;
- ii. Lessee's Fixtures held at the Premises by the Lessee from time to time;

Deed of Grant means the deed between the Indigenous Land Corporation and Nyamba Buru Yawuru Ltd (ABN 137 306 917) dated 1 September 2014.

Further Term means the further term described in Item 3;

Head Lessor means the Minister for Lands, Western Australia;

Item means an Item in the reference schedule to the Lease;

Land means the land described in Item 1, and includes the buildings and improvements;

Law means any Federal, State, Territorial or local government legislation and/or regulations, ministerial determinations, rulings or guidelines of Australia, and includes any requirement of any statute, regulation, proclamation, ordinance, local law or by-law, present or future, and whether state, federal or otherwise;

LAA means the *Land Administration Act 1997 (WA)*

Head Lease means Crown Lease No. 516 -1997 being Pastoral Lease 3114/499 now comprised in Crown Land Titles Volume LR 3161 Folio 646 and Volume LR3010 Folio 475 (and as renewed from 1 July 2015);

Indigenous Protected Area Plan of Management means the approved management plan for the Yawuru Indigenous Protected Area (IPA) as declared by the Australian Government (Cth).

Lease means this sublease and all annexures and schedules relating to the sublease;

Lessee's Fixtures means partitioning, fittings, plant, equipment, machinery, shelving, counters, signs, safes and other articles in the nature of trade or tenants' fixtures erected or installed in accordance with the management plan or otherwise, in or on the Premises or upon the Land by the Lessee from time to time;

Lessor means the Lessor named in this Lease and includes its successors and assigns and where the context so permits, the employees, agents, contractors and invitees of the Lessor;

Lessor's Property means fixtures, fittings, furnishings, plant, machinery and equipment of the Lessor erected or installed therein or upon the Land;

Life Cycle Asset Plan means the life cycle management plan to be prepared by the Lessee pursuant to this Lease;

Minister for Lands means a body corporate constituted under the *Land Administration Act 1997 (WA)*;

Party means a party to the Lease;

Pastoral Industry Best management Practice the guidelines as set out in the DAFWA publication -"Best Management Practice Guidelines for the Grazing of Cattle in the Northern Pastoral Areas of Western Australia"

Permitted Use means the permitted use in Item 4;

Premises means the Land, including the building and improvements, together with any modifications, extensions or alterations to the buildings and improvements from time to time and where the context so permits includes the fixtures, fittings, furnishings, plant, machinery and equipment of the Lessor erected or installed therein or upon the Land and the Lessee's Fixtures; and

Reference schedule means the Reference Schedule described as such in the Lease.

Rent means the rent set out in Item 3;

Station Operational Plan – the annual livestock movements schedule and resulting budget for a 12 month period (typically a calendar year);

Valuer means a person licensed under the *Land Valuers Licensing Act 1978*.

1.2 Interpretation

In this Lease unless the context otherwise requires"

- (a) Where used in the Lease words importing the singular number include the plural and the masculine gender the feminine or neuter and vice versa and words importing persons include corporations and vice versa.
- (b) All heading in this Lease have been inserted for guidance only and do not form any part of the provisions of the Lease and shall not limit or govern the construction of the Lease.
- (c) Any reference in the Lease to a statute includes all regulations under and amendments to that statute whether by subsequent statute or otherwise and a statute passed in substitution for the statute referred to or incorporation any of its provisions.
- (d) A reference in the Lease to a body (including, without limitation, an institute, association or authority) or position:
 - (i) Which ceases to exist; or
 - (ii) Whose powers or functions are transferred to any other body or position,
 shall be deemed to be a reference to the body or position which replaces it or which substantially succeeds to its power or functions

1.3 Severability

If any provision of the Lease or the application thereof to any person or circumstance shall be or become invalid or unenforceable the remaining provisions shall not be affected thereby and each provision of the Lease shall be valid or enforceable to the fullest extent permitted by law.

1.4 Business Days

Where under the Lease or anything done pursuant to the Lease the day on or by which any act is to be done or is deemed to be done is a Saturday or a Sunday or a public holiday in the State of Western Australia such act may be done or shall be deemed to have been done on the next succeeding day which is not a Saturday, Sunday or such a public holiday.

1.5 Joint and Several

Any covenant or agreement on the part of two or more persons shall bind them jointly and severally.

1.6 Contra Proferentum

In the interpretation of the Lease no rules of construction shall apply to the disadvantage of one party on the basis that such party put forward the Lease or any part thereof.

2. Preservation of Native Title Rights

2.1 The parties acknowledge that;

- (a) The Yawuru People are the common law holders of exclusive possession and occupation native title rights and interests over the area of the premises in accordance with the Further Consolidated Amended Orders and Determination (as amended by the orders of French J made 23 November 2006, 30th April 2007 and 9th May 2007 and Branson, North and Mansfield JJ made 18th July 2008) in Sebastian and State of Western Australia Federal Court WAD 6006of 1998 and WAD 223 of 2004 .
- (b) Subject to subclause c, the grant of the lease is subject to the co-existence of the Yawuru People's exclusive possession and occupation native title rights and interests with the rights and interests of the Lessee under this Lease.
- (c) The rights and interests of the Lessee prevails for the term/s under this Lease to the extent of any inconsistency with the Yawuru People's exclusive possession and occupation native title rights and interests which will be subordinate for the term/s of the Lease but will continue to exist and will not be extinguished.

2.2 The parties agree that they will use their best endeavours to negotiate and finalise a binding memorandum of understanding in part/s between the Indigenous Land Corporation, the Lessor, the Lessee and the Yawuru Native Title Holders Aboriginal Corporation in relation to the co-existence and concurrency of the respective rights of the Yawuru People and the Lessee including but not limited to the establishment of an implementation Committee to annually review operational plans (including Capex) for the premises, training opportunities and targets for the Yawuru particularly in relation to the development of managerial capacity and involvement in business opportunities and other relevant matters within one year of the date of execution of this lease.

3. Reservation to Lessor

3.1 Creation of Interests in land

Subject to the consent of the Minister for Lands and the provisions of the *Land Administration Act 1997 (WA)*, the Lessor reserves the right to create any interest in respect of the Land, except that the Lessor may not create an interest that would:

- (a) Unreasonably, unnecessarily or substantially interfere with the Lessee's use or occupation of the Premises; or
- (b) Unreasonably, unnecessarily or substantially derogates from the enjoyment of the rights conferred on the Lessee by the Lease.

- 3.2 The Lessor shall give the Lessee at least 6 months written notice (unless the Lessee advises the Lessor in writing that it requires 12 months' notice, in which case the Lessor must agree to give 12 months' notice to the Lessee) of its intention to create any interest in respect of the land pursuant to subclause 3.1 and shall fully compensate the Lessee for any impact on Lessee's permitted uses of the Premises. Any dispute under this clause will be dealt with under clause 24.7

4. Exclusion of the implied covenants and powers

4.1 Statutory Exclusions

The covenants and powers implied by the *Transfer of Land Act 1893* (WA) do not apply to this Lease and are not implied in this Lease unless expressly included.

4.2 Whole Agreement

The provision contained in the Lease expressly or by statutory implication covers and comprises the whole of the terms of the Lease between the parties but without derogating from the rights of the parties under any collateral or other agreement between the parties.

5. Manner of requesting and providing consent under lease

Where the Lessee is required under the Lease to request the consent or approval of the Lessor, such request shall be in writing and the consent or approval:

- (a) must be given or refused in writing;
- (b) may be given unconditionally or subject to reasonable conditions; and
- (c) may not be refused or delayed unreasonably.

6. Lessor's powers of entry to be exercised reasonably

Except in the case of emergency, the Lessor shall exercise a power of entry under the Lease only at reasonable times, upon reasonable notice and in the company of representative of the Lessee (which the Lessee must provide when requested by the Lessor), and without causing undue interference with the use or occupation of the premises by the Lessee.

7. Grant and term of lease

7.1 Grant and Term

The Lessor hereby Leases the Premises to the Lessee subject to the covenants and agreement for the term commencing and terminating on the dates set out in Item 3.

7.2 Option to Extend

- (a) If the Lessee intends to take a lease of the premises for the Further Term commencing and terminating on these dates set out in Item 3, it shall give the Lessor

notice of such intention not more than six (6) months and not less than three (3) months before the termination date of the Lease.

- (b) Where at the termination date of the Lease there is no subsisting breach of the Lease by the Lessee notice of which has been given by the Lessor, the Lessor must, after receipt of a notice under clause 7.2(a), lease the premises to the Lessee for the Further Term
- (c) The Lessee shall be deemed not to be in default under the Lease for the purposes of clause 7.2(b) if after having received notice of default the Lessee is taking reasonable steps to rectify such default within the period set out in the notice.
- (d) The provisions of the lease for the further term shall be the same as those of the Lease except that this clause will be omitted from the lease of the further term.

7.3 Holding over

If the Lessee continues to occupy the premises after the end of the Lease with the consent of the Lessor, it will do so as a tenant from month to month. The terms of the Lease will apply to the tenancy as far as they may be applicable. Either the Lessor or the Lessee may end the tenancy by one month's notice to the other, expiring at any time.

8. Rent

The Lessee must pay the Lessor the rent, on presentation of a correctly rendered Tax Invoice, set out in Item 3 for the term of the Lease:

- (a) by quarterly instalments in advance with the first instalment payable on the Commencement Date;
- (b) at the place and in the manner notified by the Lessor in writing at any time or in the absence of that direction, at the address specified in Item 2;
- (c) without deduction or abatement; and
- (d) without demand from the Lessor.

9. Review of Rent

9.1 Market Rent review

(a) Review

On each market review date set out in Item 3 the rent for the time being reserved under this Lease is to be reviewed to the then current market rental in relation to the rent payable for the rental period commencing on the relevant market review date.

(b) Notice of Review

The Lessor must give the Lessee a notice specifying an amount which is in the opinion of the Lessor would be the current market rent of the Premises on the relevant market review date.

(c) Rejection Notice

- (i) If the Lessee disagrees with the current market rent proposed pursuant to clause 0 and gives notice to the Lessor within 14 days after the notice is given to it then the dispute will be referred to a valuer(s) under clause 9.1(d) to determine the current market rent of the Premises on the relevant market review date.
- (ii) If the Lessee does not object to the amount specified by the Lessor within 14 days after the notice is given to it then the Lessee will be deemed to have accepted the amount specified as the current market rent payable from the relevant market review date.

(d) Determination by valuer

The current market rent of the Premises is to be determined by a Valuer appointed by the President for the time being of the Australian Property Institute (WA Division) at the request of either the Lessor or the Lessee:

- (i) having regard to the terms of this Lease;
- (ii) assuming the Lessee and the Lessor have complied with all the terms of this Lease;
- (iii) assuming the Lessor is a willing but not an anxious landlord and the Lessee is a willing but not an anxious tenant and that the Lessee is being offered the Premises with vacant possession;
- (iv) having regard to the current rental value of premises similar to the Premises; and
- (v) having regard to all other relevant valuation principles.

9.2 Valuer as expert

In determining the current market rent, the appointed valuer is to act as an expert and not an arbitrator and the appointed valuer's determination is conclusive and binding on the Lessor and the Lessee.

9.3 No reduction of Rent

Notwithstanding any other provision of this clause 9, on a review date under this clause 9, the rent is not to be reduced below that payable immediately prior to the relevant review date.

9.4 Failure to notify review

Any failure by the Lessor to notify the Lessee prior to each of the relevant market review dates of the intention of the Lessor to review the rent shall not prejudice the right of the Lessor to review the rent or have the rent reviewed retrospectively provided that the review does not occur later than 6 months after the relevant market rent review date.

9.5 Date for commencement of reviewed Rent

The new rent shall be payable and paid at the new rate from and including the relevant review date irrespective of when the reviewed rent is agreed or determined.

9.6 Costs

All costs incurred in the valuation and determination of the reviewed rent shall be paid by the parties equally.

9.7 Payment of Rent pending review

- (a) Until the determination of rent has been made the Lessee will pay rent to the Lessor at the existing rate until the market rent dispute is determined;
- (b) any variation in rent as the result of any review under clauses 9.4 and 9.5 will take effect on the review date;
- (c) within 14 days of the determination, the Lessor will refund any overpaid rent or the Lessee will pay any shortfall in rent payable prior to the review date.

10. Outgoings

10.1 Lessor's obligation to pay outgoings

The Lessor must pay the outgoings specified in Item 5(a) when due and payable.

10.2 Lessee's obligation to pay outgoings

The Lessee must pay the outgoings specified in Item 5(b) when due and payable.

11. Yielding up

11.1 Yield Up

Subject to fair wear and tear, the Lessee must forthwith upon the termination or sooner determination of this Lease yield up to the Lessor the premises in good repair, clean condition, tidy and free from rubbish.

11.2 Lessee's Fixtures

The Lessee shall not be entitled to remove the Lessee's Fixtures or any improvements carried out by the Lessee in accordance with the Life Cycle Asset Plan at the termination of the Lease.

11.3 Chattels

The Lessee must on or before the termination of the Lease remove the Chattels from the Premises and make good any damage caused to the premises by such removal unless otherwise agreed by the parties.

12. Lessor's Rights

12.1 Lessor's Rights

Notwithstanding any rule of law or of equity it is expressly agreed that the Lessor shall not be entitled to re-enter forfeit terminate or determine the Lease, unless the Lessee shall be in default under this Lease in the circumstances referred to in sub-clause 12.3.

12.2 Preservation of the Lessor's Rights

Nothing in the clause 12 shall limit restrict or prejudice the Lessor's right:

- (a) to claim damages in respect of any such default or breach or failure to observe or perform any of the covenants obligations or conditions of this Lease;
- (b) to claim specific performance of any of the covenants, obligations or conditions of this Lease;
- (c) to seek an injunction restraining the Lessee from continued or future default or breach in respect of any of the covenants, obligations or conditions of this Lease; or
- (d) against the Lessee otherwise at law or in equity.

12.3 Default

The Lessee shall be in default under the Lease if:

- (a) the rent or any money payable by the Lessee is unpaid for 21 days after written notice is given to the Lessee;
- (b) the Lessee fails to comply with any of the covenants of this Lease within 21 days of being requested so to do by notice in writing by the Lessor;
- (c) if the Lessee ceases or threatens to cease to carry on business;
- (d) if the Lessee is a company:
 - (i) an order is made or a resolution is made for its winding up except for reconstruction or amalgamation;
 - (ii) if the company enters into a composition or a scheme of arrangement;
 - (iii) the company is unable to pay its debts when due;

- (iv) receiver or receiver and manager or controller (as defined in the Corporations Law) is appointed in respect of any part of the property of the company.

12.4 Forfeiture of Lease

Subject to giving any prior demand or notice required by any Law if the Lessee defaults as specified in clause 12.3 the Lessor may (but without prejudicing any other rights of the Lessor in law or equity consequent on the Lessee's breach):

- (a) re-enter and take possession of the Premises and eject the Lessee and all other persons and this Lease will terminate; or
- (b) by notice to the Lessee, terminate this Lease from the date of giving the notice.

12.5 Tender after termination

In the absence of any election by the Lessor, any money tendered by the Lessee after termination and accepted by the Lessor will be applied:

- (a) firstly, on account of any unpaid rent and other money due under this Lease at the date of termination; and
- (b) secondly, on account of the Lessor's costs of re-entry.

13. Lessor may rectify

13.1 Lessor may rectify

Subject to the other provisions of the Lease, the Lessor may rectify a breach by the Lessee of any provision of the Lease.

13.2 Lessee to Pay Lessor's Costs and Expenses

The Lessee must within one month of being requested so to do by notice from the Lessor pay the reasonable costs and expenses for which the Lessor becomes liable or which the Lessor suffers or incurs as a consequence of or in connection with a breach of the Lease by the Lessee including but not limited to the cost and expense incurred by the Lessor in rectifying such breach.

13.3 No Derogation

Sub-clauses 14.1 and 14.2 shall not operate to limit or derogate from the Lessee's rights under the other provisions of the Lease or at law or in equity.

13.4 Remedies Cumulative

The rights granted to the Lessor under sub-clauses 14.1 and 14.2 shall be in addition to and not in substitution for the Lessor's rights under the other provisions of the Lease or at law or in equity.

14. Ownership of Lessee's Fixtures

14.1 Ownership of Lessee's Fixtures

The Lessee's Fixtures remaining at the termination date of the Lease shall become the property of the Lessor without payment of compensation upon being erected or installed in or on the premises or upon the Land.

14.2 Removal and Replacement of Fixtures.

The Lessee shall be entitled to remove or replace the Lessee's Fixtures during the term of the Lease except where such removal is inconsistent with the Life Cycle Asset Plan.

15. Permitted Use

15.1 Permitted Use

The Lessee may use the land only for the purpose specified in Item 4 of the Reference Schedule.

15.2 Illegal Use etc

The Lessee shall not use the premises for;

- (a) any immoral purpose; or
- (b) any purpose prohibited by law; or
- (c) any purpose not permitted by, or which is inconsistent with, the terms of any Lease under the *Land Administration Act 1997* (WA).

15.3 Lessee's own Enquiries

The Lessor does not warrant that the premises are suitable for the Permitted Use.

15.4 Lessee's own Enquiries

The Lessee acknowledges that before entering into the Lease it inspected the Premises and that in entering into the Lease it relies upon its own enquiries in relation to the Premises and accepts the premises in their present condition and state of repair and with all defects whether latent or patent.

15.5 Lessee not to create danger or nuisance

The Lessee must not do or omit to do or permit any act on or about the premises that may:

- (a) damage or render dangerous, untidy or unclean the Premises or any land or premises adjoining or surrounding the Premises; or
- (b) constitute a nuisance at law or a danger to the owners or occupiers of land or premises adjoining or surrounding the Premises.

15.6 Licences and Approvals

The Lessee is to take out and at all times keep current all conditions required by law, licences, permits and approvals required to carry on the Permitted Use specified in Item 4.

16. Repair and Maintenance

16.1 Lessee to Repair and Maintain

- (a) Subject to fair wear and tear, the Lessee must during the term of the Lease keep and maintain the Premises and the Lessee's Fixtures and property including but not limited to all residences on the Premises in good repair and in their condition at the beginning of this Lease as recorded in the Life Cycle Asset Report.
- (b) The Lessee must repair defects and damage to the Premises caused by an act, omission, negligence or default of the Lessee.

16.2 Capital and Structural Works

Subject to the Special Conditions, the Lessee's obligation under sub-clause 16.1 shall, without limiting the generality of that sub-clause, include the obligation to carry out work of a capital or structural nature.

16.3 Cleaning

The Lessee must keep the Premises clean and tidy and free from dirt, rubbish, garbage, debris, weeds, vermin, rodents, pests, and diseases.

16.4 Fire control

- (a) The Lessee must undertake controlled burns of the country in accordance with the DAFWA Best Management Practice Guidelines for the Grazing of Cattle in the Northern Pastoral Areas of Western Australia.
- (b) The Lessee must maintain adequate fire breaks on the Premises to reduce impact of bushfires.

17. Additional Lessee Covenants

17.1 Fencing

Subject to the Special Conditions, the Lessee shall at its own cost and expense and in a proper and workmanlike manner:

- (a) repair and maintain any boundary and subdivisional fences existing on the land at the date of commencement of the Lease in accordance with clause 16.1;

17.2 New Fencing

Subject to the Special Conditions, the Lessee must obtain the prior written consent of the Lessor to the construction of new fences and new fences in new locations. Any application

for consent must be accompanied by details of the proposed location of the fence and details of the construction of the fence. If the Lessor consents to the construction of the new fence, then the Lessee must construct the fence in accordance with the Lessor's consent.

17.3 Lessee to Comply with Laws

The Lessee must comply with all Laws affecting the Land or the way the Lessee uses the Land. The Lessee, at its own cost, is to carry out any alterations, additions and repairs (including but not limited to structural alterations, additions and repairs) to the Land required by any Law or any notices given under any Law if their necessity had been caused by either the Lessee or the way the Lessee has used the Land.

17.4 Laws in relation to use and occupation

Without limiting the generality of clause 17.3, it is an express condition of this Lease that the Lessee shall at all times observe all Laws in relation to use, occupation, development or building upon the Land or the carrying out of any renovation, refurbishment, repair, alteration, or other work to the Premises or on the Land and shall comply with all notices issued in pursuance thereof as though the Lessee was the freehold owner of the Land.

17.5 Pest and Noxious Weed Control

Subject to such similar obligations under the Head Lease (as renewed from 1 July 2015) and without any further increase in the Lessee's obligations, the Lessee must take all reasonable steps to keep the land free of rabbits, feral camels, foxes and other vermin, and noxious weeds, prohibited shrubs and vegetation, and comply with all Laws relating to them.

17.6 Infectious Diseases

Subject to such similar obligations under the Head Lease (as renewed from 1 July 2015) and without any further increase in the Lessee's obligations:

- (a) The Lessee must give notice of all infectious illnesses to humans and livestock to the Lessor and all relevant public authorities as required by Law.
- (b) The Lessee must, at its own cost, comply with all requirements of all public authorities under any Law regarding fumigation, disinfection, eradication and prevention of such diseases. The Lessee must also comply with requirements of all Laws regarding the quarantining of stock.

17.7 Livestock

The Lessee must maintain quality and marketable breeds of livestock on the premises which shall be managed in accordance with the DAFWA Best Management Practice Guidelines for the Grazing of Cattle in the Northern Pastoral Areas of Western Australia.

17.8 Timber and Vegetation.

The Lessee must not clear any timber and vegetation on the premises except for the purposes of the maintenance or construction of fencing.

17.9 Quotas, Licences and Permits

The Lessee must do all things reasonably necessary to ensure that any quota, licence or permit now or in the future in relation to the Land or any activity on the Land is preserved.

17.10 Ecologically Sustainable Rangelands Monitoring Plan

The Lessee agrees that it shall undertake the development of the Roebuck Plains Ecologically Sustainable Rangelands Monitoring (ESRM) station management plan jointly with the Yawuru Indigenous Protected Area (IPA) team for the identification of the cultural, ecological, social and economic values on the premises.

The Lessee agrees that it will work with the IPA team also in accordance with the IPA Plan of Management to ensure the adaptive management strategies contained therein are implemented in accordance with mutually agreeable budget and resource allocation.

18. Lessor's Powers of Entry

18.1 Compliance by Lessor with requirements of competent authority

Subject to giving the Lessee reasonable notice the Lessor may enter the premises for the purpose of complying with any requirement of a competent authority or with any requirements of any Law where the Lessee is not obliged under this Lease to comply with the requirements of the Law.

18.2 Lessor May Enter to View the Land

Subject to giving the Lessee seven days' notice, the Lessor or any person authorised by the Lessor, may enter the Premises and view the state of repair and condition of the Land. The Lessor may notify the Lessee of any defects and require the Lessee to remedy them as required by the Lease within a reasonable time.

18.3 Lessor may enter for the purposes of IPA land management work

The Lessor or any person authorised by the Lessor may enter onto the premises for the purpose of carrying out on ground works under the IPA Plan of Management

19. Quiet enjoyment

Subject to complying with the provision of the Lease, the Lessee may peaceably possess and enjoy the premises for the term of the Lease without any interruption or disturbance from the Lessor except where such interruption or disturbance is permitted by other provisions of the Lease or by law.

20. Lessee to effect insurance

20.1 Lessee to Insure Improvements

Subject to the Special Conditions, the Lessee must at its cost insure and keep insured during the term of the Lease the Premises for not less than their full replacement or reinstatement

value against loss, damage or destruction from any insurance risk against which the Lessee is reasonably required to insure by the Lessor from time to time including but not limited to loss, damage or destruction from fire, explosion, cyclone, storm, tempest, lightning, wind, hail, earthquake, water, smoke, sprinkler leakage, flood, riot, civil commotion, malicious damage, impact by vehicles or aircraft, objects falling from aircraft, theft and vandalism.

20.2 Public Liability Insurance

- (a) The Lessee must at its cost effect and keep current in relation to the premises during the term of the Lease a public risk insurance policy for an amount insured in respect of each occurrence of at least twenty million dollars (\$20,000,000.00).
- (b) Such a policy must be with an insurer approved by the Lessor, and must note the interests of the Lessor.

20.3 Workers' Compensation Insurance

The Lessee is required to maintain appropriate Workers' Compensation Insurance.

20.4 Certificate of Currency

A Certificate of Currency is to be provided to the Lessor on renewal of the policy each year for each of the policies described in clauses 20.1, 20.1and 20.3.

21. Lessee to release and indemnify Lessor

21.1 Indemnity

The Lessee releases to the full extent permitted by law and indemnifies and shall keep indemnified the Lessor from and against all actions, claims and demands made against the Lessor in respect of any damage to or loss of property, personal injury or death sustained in or in connection with the Premises or the Lessee's use or occupation thereof.

21.2 Lessor's negligence

Sub-clause 21.1 shall not apply in respect of damage, loss, injury or death caused by a wilful or negligent act or omission of the Lessor.

22. Notices

22.1 Method

A notice given by a party under the Lease must be in writing and hand delivered or sent by pre-paid ordinary or certified post to the other party at the address set out in Item 2 unless and until a party gives notice to the other of another address for the giving of notices.

22.2 Date of Service

Any notice given by post shall be deemed to have been duly given on the second day after the day it was posted.

23. Costs, Stamp duty and registration**23.1 Legal costs**

The parties shall pay their own legal costs and expenses in relation to this Lease.

23.2 Duty and Registration Fees

The Lessor shall pay any duty payable on this Lease, the cost of producing any title at the Land Titles Office of Western Australia to enable registration of the Lease and the cost of registration.

23.3 Consent and Approval Fees

- (a) The grant of this Lease is subject to and conditional upon the consent of the Minister under section 18 of the LAA.
- (b) Where under this Lease the doing or executing of any act, manner or thing by the Lessor or the Lessee is dependent on the approval or consent of the Minister, such approval or consent will not be effective unless it is given in writing and may be given or withheld by the Minister in the Minister's absolute discretion and may be given subject to such conditions as the Minister may determine unless otherwise provided in this Lease.
- (c) The Lessor must obtain the Ministers consent to this Lease.
- (d) The Lessee must pay the reasonable legal costs and expenses which the Lessor incurs in consequence of or in connection with granting its approval or consent under the Lease.

23.4 Parties Responsible For Own Costs

Whenever a party is required under the Lease to do any act, the doing of such act shall, unless the Lease otherwise provides, be at the sole risk and expense of that party.

23.5 Changes to sublease

The Lessee must pay the costs for the preparation, negotiation and execution of any variations to this Lease agreed by the parties during the term or any further term of this Lease.

24. Head Lease

24.1 Inclusion of terms of Head Lease

Except as to the Term and the Rent and otherwise herein expressly or by necessary implication excepted or modified, this Lease is made upon the same terms as the Head Lease which shall apply *mutatis mutandis* as between the Lessee and the Lessor as if the terms, agreements, covenants and conditions of the Head Lease were expressly set out herein as an exception to this clause

24.2 Lessor to observe the Head Lease

The Lessor covenants with the Lessee to comply with and observe all the terms agreements covenants and conditions of the Head Lease.

24.3 Termination of Head Lease

If the Head Lease is terminated for any reason whatsoever then this Lease shall also terminate simultaneously with the termination of the Head Lease and the Head Lessor shall be entitled to enter into possession of the Premises and the Lessee shall have no claim whatsoever against the Head Lessor.

24.4 Assignment & Subletting

- (a) The Lessee must not, without the prior written consent of the Lessor (which consent must not be unreasonably withheld or delayed) or, without limiting the generality of section 18 of the LAA, without the prior written consent of the Minister:
 - (i) part with possession of, share possession of or sublet the Premises; or
 - (ii) mortgage, charge or in any way encumber the Lessee's estate or interest in the Premises or its rights and powers as Lessee under this Lease; or
 - (iii) dispose of, deal with, or assign its estate or interest in the Premises or its rights and powers as Lessee under this Lease; or
 - (iv) otherwise deal with any interest whatsoever in the Premises or the Lessee's estate or interest under this Lease.
- (b) Any consent of the Minister under clause 24.4(a) may be subject to such terms and conditions as the Minister in its absolute discretion may impose.
- (c) For the purposes of clause 24.4(a)(iii) where the Lessee is a corporation (not being a corporation where shares are listed on any Stock Exchange in Australia) any change in the beneficial ownership of a substantial shareholding (within the meaning of section 50 of the Corporations Law) in the corporation or any related body corporate (within the meaning of section 50 of the Corporations Law) shall be deemed to be an assignment of the Premises and the benefit of this Lease and must require prior approval in writing of the Minister.

- (d) The Lessee acknowledges:
 - (i) the provisions of section 18 of the LAA relating to the Lessee's obligation to obtain the Minister's prior written approval to deal with any interests in the Premises or the Lessee's interest in this Lease; and
 - (ii) the Minister may, before giving approval under section 18 of the LAA, in writing require:
 - (A) such information concerning the transaction for which approval is sought as the Minister specifies; and
 - (B) information furnished in compliance with this clause to be verified by statutory declaration.
- (e) The provisions of sections 80 and 82 of the *Property Law Act 1969* (WA) are hereby excluded.

24.5 Waiver negatived

No waiver by the Lessor of a breach of any provision on the part of the Lessee in this Lease shall operate as a waiver of another provision in the Lease and the Lessor's failure to take advantage of or act upon any breach on any provision on the part of the Lessee shall not be or be construed as a waiver thereof.

24.6 Partnership negatived

Nothing contained in this Lease shall be deemed or construed by the parties, nor by any third party as creating the relationship of a partnership or of principal and agent or joint venture between the parties to this Lease.

24.7 Dispute resolution

- (a) Any dispute arising under clause 3.2 as to the compensation payable to the Lessee is to be determined by a properly qualified member of the Australian Property Institute appointed by the president at the request of either the Lessor or the Lessee.
- (b) In making a determination, the appointed member must act as an expert and not as an arbitrator.
- (c) The appointed member must make a written determination containing reasons as soon as possible after appointment, but the member must give each party the opportunity to make written submissions.
- (d) The cost of the determination must be paid by both parties in equal shares unless otherwise decided by the member.

25. GST**25.1 GST payable**

The Lessee must pay to the Lessor any GST payable by the Lessor in accordance with the requirements of the GST Act. Such payments are to be made by the Lessee prior to the date for payment of the GST by the Lessor or on the dates for the payment of Rent, and other moneys payable under this Lease whichever is the earlier.

25.2 GST exclusive

Any Rent or other payment obligation stated or referred to in this Lease does not include GST unless it is expressly included and GST must be paid in addition to that Rent or payment obligation. Unless GST is expressly included, the consideration for any supply by the Lessor to the Lessee is increased by an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of that supply.

25.3 Tax invoice

If registered for GST, the Lessor must provide to the Lessee a GST tax invoice as required by the GST Act.

25.4 Definitions**In this clause/s**

GST means a goods and services tax payable under the GST Act or which is or may be levied or assessed or become payable in respect of Rent, Outgoings or in connection with the supply of the Premises or any goods, services, facilities or other things by the Landlord to the Tenant under this Lease or any extension, renewal or holding over;

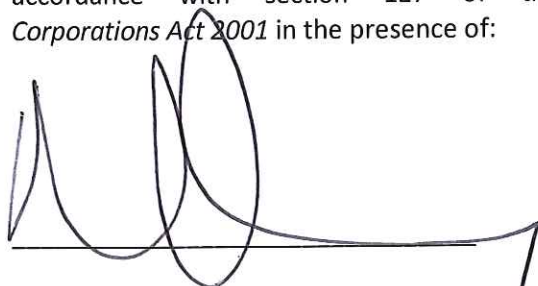
GST Act means *A New Tax System (Goods and Services) Act 1999 (Cth)* and transitional and amending and associated acts and regulations;

26. Special Conditions

Special Conditions in the Reference Schedule apply to this Lease and this Lease is granted subject to and conditional upon those Special Conditions. In the event of an inconsistency between this Lease and the Special Conditions, the Special Conditions are to prevail.

EXECUTED by the parties as a Deed

Executed by **National Indigenous Pastoral**)
Enterprises Pty Ltd (ABN 28 108 266 548) in)
 accordance with section 127 of the)
Corporations Act 2001 in the presence of:)
)
)

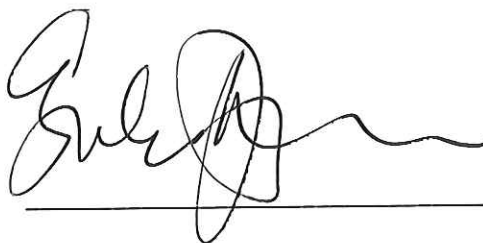


Director

NEIL WESTBURY

Name of Director

(BLOCK LETTERS)



Director

Abraham Atkinson

Name of Director

(BLOCK LETTERS)

Executed by **NYAMBA BURU YAWURU PTY LTD (ACN 137**)
306 917) in accordance with section 127 of the)
Corporations Act 2001 in the presence of:)
)
)
)

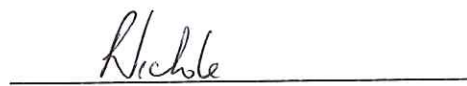


Director

PATRICK LIONEL DODSON

Name of Director

(BLOCK LETTERS)


~~Director~~/Company SecretaryRODNEY FRANCIS NICHOLEName of ~~Director~~/Company Secretary

(BLOCK LETTERS)

Reference Schedule

Item 1 –Description of land

The land in the following Certificates of Title:

Crown lease 516-1997 being Pastoral Lease 3114/499 described as Lot 270 on DP220197 and Lot 524 on DP 72594

Item 2 – Address for Service of Notices

Lessor's address:

Nyamba Buru Yawuru Ltd

55 Reid Road
Broome WA 6725]
[PO Box 425 Broome WA 6725

Lessee's address:

National Indigenous Pastoral Enterprises Pty Ltd
Level 7
121 King William Street
ADELAIDE SA 5000
(PO Box 652 Adelaide)

Item 3 – Term / commencement Date / Termination Date / Option Term

By Deed of Grant dated the 1st September 2014 the Lessor agreed to grant a Sublease to the Lessee commencing immediately upon the effective renewal of the Head lease provided that the Term of the Sublease was to be reduced by 12 months:

Term:	7 years
Commencement Date:	<u>1 July 2014</u>
Terminating Date:	<u>30 June 2015</u>
New Lease term Commencement Date:	<u>1 July 2015</u>
New Lease term Termination Date:	<u>30 June 2021</u>
Further Term:	<u>8 years</u>
Further Term Commencement Date:	<u>1 July 2021</u>
Terminating Date of Further Term:	30 June 2029
Rent:	\$340,000 per annum (exclusive of GST)
Market review dates:	1 st July 2016, 1 st July 2018, 1 st July 2021, 1 st July

2023, 1st July 2025**Item 4 – Permitted Use**

Pastoral activities only consistent with the Head Lease (and as renewed from 1 July 2015) terms and conditions in force for the duration of this Lease and for pastoral purposes pursuant to Section 106 of the LAA.

Item 5 – Outgoings**5(a) Lessor outgoings**

- Council rates, fixed water Fee,
- Lessor must reimburse the Lessee for insurance premiums related to buildings and improvements owned by the Lessor taken out by the Lessee pursuant to clause 20.1.

5(b) Lessee outgoings

- All outgoings other than the Lessor outgoings.
- Lessee must also pay:
 - » Pastoral Lease annual rental;
 - » All services separately metered to the property;
 - » All stock and domestic water charges (except for fixed licence fees);
 - » All waste disposal charges;
 - » Any other utilities or consumables used or consumed on the Property; and
 - » Other rates, charges imposed directly on the Property, the Lessee's pastoral operations, Lessee's property and the Lessee's occupation of the Property.

Item 6 Special Conditions

1. Stocking

- (a) It is agreed by the Lessee that the Premises will be stocked with quality and marketable breeds of cattle and at appropriate levels to ensure the sustainable good stewardship of the Premises in accordance with the DAFWA Best Management Practice Guidelines for the Grazing of Cattle in the Northern Pastoral Areas of Western Australia.
- (b) It is agreed by the Lessee that the average stocking levels on the property over any three year period will not exceed 18,000 Cattle Units (annualised). A Cattle Unit is as defined by the Pastoral Lands Board.
- (c) It is agreed that the Lessee may use the land for grazing of cattle, horses and other livestock on the land.
- (d) The Lessor must promptly submit all required livestock returns to the Pastoral Lands Board as required.

2. De-stocking at the end of the Lease

The Lessee, subject always to good animal husbandry practice and its obligations under relevant Animal Welfare legislation must, at the termination or sooner determination of this Lease, if so directed by the Lessor, fully destock the Premises of all livestock in the control of the Lessee. The Lessee agrees to grant the Lessor the right of first refusal to purchase the livestock at market value (with a period of offer of not less than 60 days to exercise the right).

3. Change of Permitted Use of the Premises.

The Lessor reserves the right to allow or deny the Lessee's application for any permits pursuant to Division 5 (Permits) of the LAA. Any consent of the Lessor under this special condition may be subject to such terms and conditions as the Lessor may in its absolute discretion impose including but not limited to varying the rent and other lease terms and conditions.

4. Structure Expenditure - Lessor

The Lessor will be required during the term and any further term to replace, renew, upgrade and/or make good, all structures on the Premises which have reached the end of their useful life, or require one off major repairs to preserve or extend their useful life. It is acknowledged by the Lessor and Lessee that several of the existing buildings (namely the training room; trainee accommodation rooms; swimming pool and trainees' recreation room as identified in the plan attached) are an overcapitalisation of the premises for pastoral purposes due to the pastoral training activities currently undertaken by the Lessee. This fact must be considered when assessing the Lessor's obligation to replace, renew, upgrade or make good all structures on the Premises and in which respect such an obligation only arises on the Lessor where such an obligation is reasonable in light of this fact.

If the parties cannot agree on whether a required activity is the Lessor's obligation for Structure Expenditure or a Lessee's obligation to maintain, repair, replace, upgrade or make good Structures under this Lease then:

- (a) either party may notify the other party of the dispute in writing and provide written reasons of dispute within 30 days of giving the notice of dispute. The other party must provide a response in writing within 30 days of receipt of the written reasons for dispute;
- (b) the parties must meet to resolve the dispute within 30 days of the written response being provided;
- (c) if agreement is not reached, either party can refer the matter to an independent expert for a decision. If parties cannot agree on an expert then the dispute will be determined by a properly qualified member of the Australian Property Institute who is appointed by the President at the request of either the Lessor or the Lessee and who shall act as an expert.
- (d) both parties agree that the expert's decision is final;
- (e) each party must pay 50% of the expert's costs.

The Lessee shall pay for any structural expenditure for a period of three (3) years from the 1st July 2014 to the 30th June 2017.

5. Structure Expenditure – Lessee

Special Condition 5 overrides and replaces Special Condition 4 to the extent of any inconsistency between this Special Condition 5 and Special Condition 4.

The Lessee will be required to maintain and repair all structures impacted by wear and tear or incidents associated with their operation of or residence at the Premises. In addition, where a structure has naturally reached the end of its useful life, or requires a major one off repairs, upgrade or part replacement to extend or preserve its useful life, and the cost to address this item does not exceed the Structure Repair and Replacement Threshold of \$20 000 (Twenty Thousand Dollars) per year, the Lessee is also required to make good the structure or item at its own cost, regardless of the nature of the work for the balance of the term of the Lease from the 1st July 2017 and for any further terms. The Lessee will also be required, at its cost whether or not the Lessee has received proceeds of insurance to repair any structure impacted by an act, omission, negligence or default of the Lessee, its agents, employees and/or contractors.

For the avoidance of doubt the Lessee shall pay for any structural expenditure for the premises for a period of three years (3) from the 1st July 2014 to 30th June 2017 and thereafter for the remainder of the first term and any further term, the Lessee shall pay for any structure expenditure not exceeding the Structure repair and replacement of \$20 000 (Twenty Thousand Dollars) per year.

6. Further Special Conditions

- (a) The Lessee is to provide the Lessor each year upon request and no later than the anniversary of the commencement date of the term of this Lease with all essential information associated with pastoral activities on the Premises. In particular and including but not limited to
 - (i) a Station Operational Plan estimates provided annually;
 - (ii) a Station Operational Plan actuals provided annually;

- (iii) any relevant information procured or utilised by the Lessee in the preparation of the Operating Plan including stocking history, soil tests, weed management plan, feral control, water use, weed resistance tests and agronomic advice,
- (iv) Annual Actual versus Budget cash report as provided annually to the Board of the Indigenous Land Corporation

to the satisfaction of the Lessor, acting reasonably.

7. Rental Increase For Capital Improvements and Investments during the further term of the Lease.-

The Lessee will pay 6.25% of the cost of any mutually agreed capital Improvements and investments to the premises as an increase of rent from the date on which the capital improvements and Investments are made and completed until the date of the next rent review when the value of the capital improvements and investments will be included in the assessment of the review of the market rent for the premises.

- (a) The Lessee must promptly submit all required livestock returns to the Pastoral Lands Board as required and must operate the Premises in a manner which is in compliance with the Pastoral Lease Conditions and must not do anything that would lead to the Lessor being in breach of the Pastoral Lease Conditions or any other Law.

8. Work Health and Safety

The Lessee will be required to:

- (a) acknowledge that it has management and control of the Premises for the purposes of the WH&S Laws;
- (b) comply with all its obligations under WH&S Laws;
- (c) have in place appropriate WH&S Systems;
- (d) co-operate with any all relevant authorities and the Lessor in relation to compliance issues, hazards or incidents occurring on the Premises; and
- (e) release and indemnify the Lessor from and against any damage, expense, loss, liability or claim associated with a breach by the Lessee of the Lessee's obligations under this Lease.

For the purposes of this Special Condition:

WH&S Laws means the Workplace Health and Safety Act 2011 (Cth) and related regulations.

WH&S Systems means those safe systems, procedures, standards and policies as prescribed by the relevant State and Commonwealth Laws and Regulations/

9. Life Cycle Asset Plan

The Lessee must prepare a Life Cycle Asset Plan for the Premises at the Lessee's cost for the term/s of the Lease to assist the parties in planning for the capital expenditure required during the term/s. The Parties agree to jointly brief the selected expert and jointly attend any on ground assessment on or before the 30th day of June 2015.

The Life Cycle Asset Plan shall record and/or contain details of the current state of assets on the premises, including an inventory and description of the assets, their location and those critical

assets to the sustained performance of the premises, an assessment of their condition, an assessment of remaining useful life and a determination of asset values and replacement costs, and an assessment of the costs of one off replacements of assets.

10. Annual Meetings

The parties must meet at the end of the wet season or at such other times during the year as the parties may otherwise agree to discuss the operations of the premises under the Permitted Uses and any future use proposals, employment and training opportunities, the Life Cycle Asset Plan, structure expenditure and any other relevant matters.

11. Surrender of Land

In the event that Lot 524 on Deposit Plan 72594 is surrendered by the Lessor to the State Government of Western Australia for the purposes of the Broome Road Airport Site, the rent shall be reduced in proportion to the reduction in the area of the Premises as a result of the surrender.

12. Lessor – Sole Contact

- (a) For the avoidance of doubt the Lessor remains the sole contact for all matters pertaining to land administration and operation of the lease including but not limited to the receipt of correspondence in relation to Rangeland Conditions Assessments/Audits and Follow Up Inspections and directives from the Pastoral Lands Board, the receipt of rent invoices from and the payment of rent to the Pastoral Lands Board, the submission of Annual Returns to the Pastoral Lands Board and formal advice of the change of contact details of the Lessor.
- (b) The Lessor will promptly provide all relevant correspondence and documents to the Lessee on receipt from the Pastoral Lands Board.

13. Lessor's liability for breach.

The Lessor remains liable to the Minister for Lands and the Pastoral Lands Board for any breaches of its obligations under Headlease and the Lessee releases to the full extent permitted by law and indemnifies and shall keep indemnified the Lessor from and against all actions, claims and demands made against the Lessor by the Minister of Lands and/or the Pastoral lands Board in respect of any breaches of the Lease in connection with the Premises or the Lessee's use or occupation thereof.