



## Extract from the National Native Title Register

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### Determination Information:

**Determination Reference:** Federal Court Number(s): NTD8/2014  
NNTT Number: DCD2017/001

**Determination Name:** [Ngwarray on behalf of the members of the Alhankerr, Atwel/Alkwepetye, Ilkewarn, Kwaty, Mpweringke, Ntyerlkem/Urapentye and Tywerl Landholding Groups v Northern Territory of Australia](#)

**Date(s) of Effect:** 5/04/2017

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

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

**Determination Date:** 05/04/2017

**Determining Body:** Federal Court of Australia

#### ADDITIONAL INFORMATION:

Please note, there appears to be typographical errors contained in the Matters Determined section. It appears that references to Schedules may not be correct, and should read as follows:

1. The Determination Area comprises part of NT Portion 703 and NT Portions 1281, 1282 and 5014 being the land and waters more particularly described in Sch A and depicted on the map comprising Attachment A to Sch B.
3. Native title does not exist in those parts of the Determination Area described in Sch C.

#### REGISTERED NATIVE TITLE BODY CORPORATE:

Irretyepwenty Ywentent Pwert Aboriginal Corporation RNTBC  
Agent Body Corporate  
C/- Central Land Council  
27 Stuart Highway  
Alice Springs Northern Territory 0870

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

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

4. The Determination Area comprises seven estate areas associated with the Alhankerr, Atwel/Alkwepetye,

Ilkewarn, Kwaty, Mpweringke, Ntyerlkem/Urapentye and Tywerl landholding groups (the landholding groups) respectively.

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

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

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

(i) spiritual identification with and responsibility for an estate;

(ii) conception and/or birthplace affiliation with an estate;

(iii) long-term residence in an estate;

(iv) close kinship ties, including intermarriage;

(v) shared section/subsection and/or moiety affiliation ;

(vi) a more distant ancestral connection to an estate, for example, mother's father's mother;

(vii) possession of secular knowledge of an estate;

(viii) possession of traditional religious knowledge, authority and responsibility for an estate;

(ix) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate;

(x) seniority in traditional matters concerning the claim group and/or the estate.

(c) Recognised as members of the Kwaty landholding group in accordance with traditional succession processes;

(d) Those persons with a connection to the Kwaty estate on the basis of shared Dreaming track affiliation who have responsibility for a segment of the *Atyel/p* (Western Quoll or Native Cat) Dreaming and associated Men's Law.

#### **MATTERS DETERMINED:**

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

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

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

3. Irretyepwenty Ywentent Pwert Aboriginal Corporation (ICN:7999) is:

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

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

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

## THE COURT DETERMINES THAT:

### The Determination Area

1. The Determination Area comprises part of NT Portion 703 and NT Portions 1281, 1282 and 5014 being the land and waters more particularly described in Sch B and depicted on the map comprising Attachment A to Sch C.

2. Native title exists in the Determination Area.

3. Native title does not exist in those parts of the Determination Area described in Sch B.

### The native title holders

4. The Determination Area comprises seven estate areas associated with the Alhankerr, Atwel/Alkwepetye, Ilkewarn, Kwaty, Mpweringke, Ntyerlkem/Urapentye and Tywerl landholding groups (**the landholding groups**) respectively.

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

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

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

(i) spiritual identification with and responsibility for an estate;

(ii) conception and/or birthplace affiliation with an estate;

(iii) long-term residence in an estate;

(iv) close kinship ties, including intermarriage;

(v) shared section/subsection and/or moiety affiliation ;

(vi) a more distant ancestral connection to an estate, for example, mother's father's mother;

(vii) possession of secular knowledge of an estate;

(viii) possession of traditional religious knowledge, authority and responsibility for an estate;

- (ix) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate;
  - (x) seniority in traditional matters concerning the claim group and/or the estate.
- (c) Recognised as members of the Kwaty landholding group in accordance with traditional succession processes;
- (d) Those persons with a connection to the Kwaty estate on the basis of shared Dreaming track affiliation who have responsibility for a segment of the *Atyelp* (Western Quoll or Native Cat) Dreaming and associated Men's Law.

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

6. The native title rights and interests of the native title holders are the non-exclusive native title rights and interests possessed under and exercisable in accordance with the traditional laws acknowledged and traditional customs observed, being:

- (a) the right to access and travel over any part of the land and waters;
- (b) the right to live on the land, and for that purpose, to camp, erect shelters and other structures;
- (c) the right to hunt, gather and fish on the land and waters ;
- (d) the right to take and use the natural resources of the land and waters;
- (e) the right to access, take and use natural water on or in the land, except water captured by the holders of Perpetual Pastoral Lease No. 1097;
- (f) the right to light fires for domestic purposes, but not for the clearance of vegetation;
- (g) the right to share or exchange natural resources obtained on or from the land and waters, including traditional items made from the natural resources;
- (h) the right to access and to maintain and protect sites and places on or in the land and waters that are important under traditional laws and customs;
- (i) the right to conduct and participate in the following activities on the land and waters:
  - (i) cultural activities;
  - (ii) ceremonies;
  - (iii) meetings;
  - (iv) cultural practices relating to birth and death including burial rites; and
  - (v) teaching the physical and spiritual attributes of sites and places on the land and waters that are important under traditional laws and customs;
- (j) the right to make decisions about the use and enjoyment of the land and waters by Aboriginal people who recognise themselves to be governed by the traditional laws and customs acknowledged by the native title holders provided that the right does not extend to making any decision that purports to control the access of such persons to the determination area;

- (k) the right to be accompanied on the land and waters by persons who, though not native title holders, are:
- (i) people required by traditional law and custom for the performance of ceremonies or cultural activities on the land and waters;
  - (ii) people who have rights in relation to the land and waters according to the traditional laws and customs acknowledged by the native title holders;
  - (iii) people required by the native title holders to assist in, observe, or record traditional activities on the areas.
- (l) the right to conduct activities necessary to give effect to the rights referred to in (a) to (k) hereof.

7. The native title rights and interests referred to in paragraph 6 do not confer possession, occupation, use and enjoyment of the land and waters on the native title holders to the exclusion of all others.

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

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

#### **Other rights and interests**

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

- (a) NT Portion 703:
  - (i) the interest of Aileron Pastoral Holdings Pty Ltd (ACN 605 457 421) under Perpetual Pastoral Lease No 1097;
  - (ii) the rights and interests of APT Pipelines (NT) Pty Ltd as the beneficiary of the rights and interests under Energy Supply Easement Dealing No 189875 granted to the Northern Territory of Australia;
  - (iii) the rights and interests of APT Pipelines (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 600280 granted to the Northern Territory of Australia;
  - (iv) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 598372 granted to the Northern Territory of Australia;
  - (v) the interests of APT Pipelines (NT) Pty Ltd in Sublease Dealing No 819590.
- (b) NT Portion 1281 - the interest of the Conservation Land Corporation in Reserve 1346 (Anna's Reservoir Conservation Reserve) and valid rights of use as a place of historic interest;
- (c) NT Portion 1282 - the interest of the Conservation Land Corporation in Reserve 1343 (Ryan Well Historical Reserve) and valid rights of use as a place of historic interest;

(d) NT Portion 5014:

- (i) the interest of AustralAsia Railway Corporation under Crown Lease Term 1877;
- (ii) the rights and interests of APT Pipelines (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 600280 granted to the Northern Territory of Australia;
- (iii) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 598372 granted to the Northern Territory of Australia;
- (iv) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 600279 granted to the Northern Territory of Australia;
- (v) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 600278 granted to the Northern Territory of Australia;
- (vi) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 598371 granted to the Northern Territory of Australia;
- (vii) the rights and interests of APT Pipeline (NT) Pty Ltd as the beneficiary of the rights and interests under Access Easement Dealing No 491495 granted to the Northern Territory of Australia;
- (viii) the rights and interests of APT Pipeline (NT) Pty Ltd as the holder of Pipeline Licence No 4 granted under the Energy Pipelines Act (NT);
- (ix) the interests of GWA (North) Pty Ltd in Sublease Dealing No 465439.

(e) The interests of the holders of the following titles granted pursuant to the *Mineral Titles Act* (or its predecessor) and the *Petroleum Act* respectively:

| No.      | Expiry Date | Holder                                  |
|----------|-------------|---|
| EL 28340 | 03/07/2017  | Jinka Minerals Limited                  |
| EL 28473 | 04/10/2017  | Arafura Resources Limited               |
| EL 28498 | 11/08/2017  | Arafura Resources Limited               |
| EL 28945 | 4/03/2018   | Australian Mining & Gemstone Co Pty Ltd |
| EL 28967 | 2/07/2018   | Australian Mining & Gemstone Co Pty Ltd |
| EL 29509 | 1/01/2019   | Arafura Resources Limited               |
| EL 30779 | 22/10/2021  | Territory Exploration Pty Ltd           |
| EL 31096 | 24/08/2022  | Arafura Resources Limited               |
| EL 31097 | 24/08/2022  | Arafura Resources Limited               |
| EL 31224 | 11/10/2022  | Arafura Resources Limited               |
| EL 31284 | 14/12/2022  | Arafura Resources Limited               |
| EL 31286 | 05/01/2023  | Territory Exploration Pty Ltd           |

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

- (i) as the owner or operator of telecommunications facilities within the Determination Area;
  - (ii) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth) and under Schedule 3 to the *Telecommunications Act 1997* (Cth), including rights:
    - A. to inspect land;
    - B. to install and operate telecommunication facilities; and
    - C. to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunication facilities; and
  - (iii) for its employees, agents or contractors to access its telecommunication facilities in and in the vicinity of the Determination Area in the performance of their duties; and
  - (iv) under any lease, licence, access agreement or easement relating to its telecommunications facilities within the Determination Area.
- (g) In relation to NT Portion 703 the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal people contained in pastoral leases identified in section 38(2) to (6) of the *Pastoral Land Act 1992* (NT);
- (h) the rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT);
- (i) rights of access by an employee, servant, agent or instrumentality of the Northern Territory, Commonwealth or other statutory authority as required in the performance of his or her statutory duties;
  - (j) the interests of persons to whom valid or validated rights and interests have been:
    - (i) granted by the Crown pursuant to statute or otherwise in the exercise of its executive power; or
    - (ii) conferred by statute.

### **Relationship between rights and interests**

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

11. In relation to NT Portion 5014 the relationship between the native title rights and interests referred to in paragraph 6 and the interest of the AustralAsia Railway Corporation referred to in paragraph 9 is that the lease granted to the Corporation:

- (a) is wholly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests;

- (b) the native title continues to exist, but has no effect in relation to the grant;
- (c) if the grant or its effect is wholly removed or otherwise wholly ceased to operate the native title rights and interests again have full effect;
- (d) if the grant or its effect is removed to an extent or otherwise cease to operate only to an extent the native title rights and interests again have effect to that extent.

### Other matters

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

- (a) minerals (as defined in s 2 of the *Minerals Acquisition Act 1953* (NT));
- (b) petroleum (as defined in s 5 of the *Petroleum Act 1984* (NT));
- (c) prescribed substances (as defined in s 5 of the *Atomic Energy Act 1953* (Cth) and s 3 of the *Atomic Energy (Control of Materials) Act 1946* (Cth)).

13. In this determination the term:

(a) 'natural resources' means:

- (i) animals *ferae naturae*, birds, fish and plants, including timber, wax, resin and gum; and
- (ii) surface soils, clays, stone, rocks and ochre,

but does not include minerals, petroleum and prescribed substances;

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

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

### Schedule A

1. The Determination Area comprises the following areas of land and waters:

- (a) That part of NT Portion 703 comprising an area of 3,997 square kilometres 25 hectares 5,828 square metres held under Perpetual Pastoral Lease 1097 that is not included in the Aileron native title application NTD20/2007.
- (b) NT Portion 1281 comprising an area of 84 hectares 9,586 square metres being Reserve 1346 (Anna's Reservoir Conservation Reserve).
- (c) NT Portion 1282 comprising an area of 2 hectares 3,927 square metres being Reserve 1343 (Ryan Well Historical Reserve).



(d) Part of NT Portion 5014 comprising an area of 3 square kilometres 64 hectares held under Crown Lease Term 1877.

2. The following areas within the external boundaries of the Determination Area are excluded from the Determination Area:

(a) NT Portion 378 comprising an area of 8,090 square metres held for an estate in fee simple by Benregal Pty Ltd (ACN 009 632 875)

(b) NT Portion 379 comprising an area of 41 hectares 4,271 square metres being Reserve 1223 (Aileron Racecourse).

(c) NT Portion 1812 comprising an area of 4,090 square metre held for an estate in fee simple by the Australian Telecommunications Commission.

(d) NT Portion 3697 comprising an area of 7 square kilometres 83 hectares 9,000 square metre held for an estate in fee simple by the Alyuem Aboriginal Corporation.

(e) NT Portion 4356 comprising an area of 30 hectares 3,500 square metres held for an estate in fee simple by Benregal Pty Ltd (ACN 009 632 875).

(f) NT Portion 6664 comprising an area of 10 hectares 9,900 square metres held for an estate in fee simple by the Arrelte Twatye Park Land Trust.

(g) A road 200 metres wide which traverses NT Portion 703 from the boundary with Yambah Station (NT Portion 641) north to the boundary with Pine Hill Station (NT Portion 725).

(h) A road 100 metres wide which traverses NT portion 703 from the Stuart Highway to the boundary with Napperby Station (NT Portion 747).

(i) A road 150 metres wide (Plenty Highway) which traverses NT Portion 703 from the boundary with Yambah Station (NT Portion 641) north and east to the boundary with Bushy Park Station (NT Portion 687).

(j) A road 100 metres wide (Sandover Highway) which traverses NT Portion 703 from the Plenty Highway north to the boundary with the Bushy Park Station (NT Portion 687).

(k) A road 100 metres wide from Aileron Homestead to the Stuart Highway.

(l) A road 20 metres wide from the Stuart Highway to NT Portion 1812.

### **Schedule B - Map of Determination Area**

[See NNTR attachment 1: "Schedule B - Map of Determination Area"]

### **Schedule C - Areas where native title does not exist**

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

### **Public works**

1. Those parts of the Determination Area covered by public works as defined in section 253 of the *Act* that were constructed or established before 23 December 1996 or commenced to be constructed or established on or before that date (including land and waters within the meaning of section 251D of the *Act*), including:

- (a) public roads, namely, rural public roads (50m either side of the centre line), rural arterial roads and national highways and associated road infrastructure;
- (b) community, pastoral access and other roads (including access roads and tracks to public works referred to in this clause) which are not otherwise public roads;
- (c) gravel and fill pits established to maintain the roads referred to in (a) and (b) above;
- (d) government bores and associated works;
- (e) river and rain gauges;
- (f) transmission water pipes (adjacent area 5 metres either side of the centreline);
- (g) distribution water pipes measuring 150mm diameter or less (adjacent area of 1.5 metres either side of the centreline) and greater than 150mm diameter (adjacent area 5 metres either side of the centreline);
- (h) sewer pipes measuring 150mm diameter or less (adjacent area 1.5 metres either side of the centreline) and greater than 150mm diameter (adjacent area 5 metres either side of the centreline);
- (i) bores, sewer pump stations and overhead power lines.

**REGISTER ATTACHMENTS:**

1. Schedule B - Map of Determination Area, 1 page - A4, 05/04/2017

*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.*