



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD20/2014
NNTT Number: DCD2018/002

Determination Name: [Doolan on behalf of the Andado, Pmere Ulperre, New Crown and Therreyererte Family Groups v Northern Territory of Australia](#)

Date(s) of Effect: 24/05/2018

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

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

Determination Date: 24/05/2018

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Tyatyekwenhe Aboriginal Corporation RNTBC
Agent Body Corporate
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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The native title holders

4. The Determination Area comprises the countries associated with four family groups: Andado (Allen Family), Pmere Ulperre (Doolan (south) Family), New Crown (Doolan(west) Family) and Therreyererte (Hayes Family) (the family groups).
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 family groups referred to in paragraph 4 by virtue of descent (including adoption) from a member of a family group through father's father, father's mother, mother's father and mother's mother;

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

- (i) birthplace affiliation and/or conception site affiliation; and
- (ii) long-term residence in a country.

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. Tyatyekwenhe Aboriginal Corporation (ICN: 7888) 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 Schedule C of the determination.

THE COURT DETERMINES THAT:

The Determination Area

1. The Determination Area comprises NT Portions 1102, 1103, 1104, 1361, 1378, 1602, 4209, 4403, 5171, 5172, 5739 and part of NT Portion 261 being the land and waters more particularly described in Schedule A and depicted on the map comprising Schedule B.
2. Native title exists in the Determination Area as follows:
 - (a) NT Portions 1102, 1103, 1104, 1361, 1378, 4209, 5171, 5172 and part of NT Portion 261: the native title rights and interests in paragraph 6;
 - (b) NT Portion 1602, 4403 and 5739: the native title rights and interests in paragraph 6 would apply were they not wholly ineffective due to the operation of s 238 of the Act.
3. Native title does not exist in those parts of the Determination Area described in Schedule C.

The native title holders

4. The Determination Area comprises the countries associated with four family groups: Andado (Allen Family), Pmere Ulperre (Doolan (south) Family), New Crown (Doolan (west) Family) and Therreyererte (Hayes Family) (the family groups).
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 family groups referred to in paragraph 4 by virtue of descent (including adoption) from a member of a family group through father's father, father's mother, mother's father and mother's mother;
 - (b) recognised as members of one or more of the family groups referred to in paragraph 4 by senior members of a family group referred to in subparagraph (a), by virtue of the following non-descent connections to a country:
 - (i) birthplace affiliation and/or conception site affiliation; and
 - (ii) long-term residence in a country.

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, including the right to conduct activities necessary to give effect to them, 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 Nos 1104 and 1132 respectively;
- (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; and
 - (iii) people required by the native title holders to assist in, observe, or record traditional activities on the areas.

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 Portions 261 and 1102 - the interest of Panchek Pty Ltd and Costello Holdings NT Pty Ltd as trustees for the New Crown Property Trust under Perpetual Pastoral Lease No 1132.
- (b) NT Portions 1103, 1104 and 1361 - the interest of Panchek Pty Ltd and Costello Holdings NT Pty Ltd as trustees for the Andado Property Trust under Perpetual Pastoral Lease No 1104.
- (c) NT Portion 1378 and 4209 - the interest of the Northern Territory of Australia.
- (d) NT Portion 1602 - the interest of the Conservation Land Corporation under Special Purposes Lease 497.
- (e) NT Portion 4403 - the interest of the Irlentye Aboriginal Corporation as the holder of a fee simple estate (subject to the Irlentye Community Living Area Agreement, DI2003/004 entered in the Register of Indigenous Land Use Agreements on 30 June 2003).
- (f) NT Portions 5171 and 5172 - valid rights of use for the passage of travelling stock.
- (g) NT Portion 5739 - the interest of the Akapertatyeke Aboriginal Corporation as the holder of a fee simple estate (subject to the Akapertatyeke Community Living Area Agreement DI2003/005 entered in the Register of Indigenous Land Use Agreements on 30 June 2003).
- (h) The interests of the holders of the following mining and petroleum tenements granted pursuant to the Mineral Titles Act 2010 (NT) (or its predecessor) and the Petroleum Act 1984 (NT) respectively:

| Number | Expiry Date | Holder |
|----------|-------------|--|
| EL 29237 | 03/01/2019 | Pedirka Basin Pty Ltd |
| EL 29239 | 03/01/2019 | Pedirka Basin Pty Ltd |
| EP 93 | 29/01/2021 | Merlin Energy Pty Ltd |
| EP 105 | 27/11/2019 | Merlin Energy Pty Ltd and Santos QNT Pty Ltd |
| EP 107 | 29/01/2021 | Merlin Energy Pty Ltd |
| EP 134 | 25/02/2022 | Tri-Star Energy Company |

- (i) 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 Sch 3 to the *Telecommunications Act 1997* (Cth), including rights:
 - A. to inspect land;
 - B. to install and operate telecommunications facilities; and
 - C. to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities; and
 - (iii) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in the performance of their duties; and
 - (iv) under any lease, licence, access agreement or easement relating to its telecommunications facilities within the Determination Area.
- (j) NT Portions 261, 1102, 1103, 1104, 1361 - 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 ss 38(2) to (6) of the *Pastoral Land Act 1992* (NT).
- (k) The rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT).
- (l) Rights of access by an employee, servant, agent or instrumentality of the Northern Territory of Australia,

the Commonwealth of Australia or other statutory authority as required in the performance of his or her statutory duties.

- (m) 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 in relation to NT Portions 1102, 1103, 1104, 1361, 1378, 4209, 5171, 5172 and part of NT Portion 261 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 1602 the relationship between the native title rights and interests referred to in paragraph 6 and the interest of the Conservation Land Corporation referred to in paragraph 9 as the holder of Special Purposes Lease No 497 is that the non-extinguishment principle applies. 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 effects is wholly removed or otherwise wholly ceases to operate the native title rights and interests again have full effect;
- (d) if the grant or its effects is removed to an extent or otherwise ceases to operate only to an extent the native title rights and interests again have effect to that extent.

12. In relation to NT Portion 4403 the relationship between the native title rights and interests referred to in paragraph 6 and the interest of the Irlentye Aboriginal Corporation referred to in paragraph 9 as the holder of a fee simple estate in the land as set out in the Irlentye Community Living Area Agreement, DI2003/004 entered in the Register of Indigenous Land Use Agreements on 30 June 2003 is that the non-extinguishment principle applies:

- (a) the grant of the estate in fee simple 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 effects are wholly removed or otherwise wholly ceases to operate the native title rights and interests again have full effect;
- (d) if the grant or its effects are removed to an extent or otherwise ceases to operate only to an extent the native title rights and interests again have effect to that extent.

13. In relation to NT Portion 5739 the relationship between the native title rights and interests referred to in paragraph 6 and the interest of the Akapertatyeye Aboriginal Corporation referred to in paragraph 9 as the holder of a fee simple estate in the land as set out in the Akapertatyeye Community Living Area Agreement DI2003/005 entered in the Register of Indigenous Land Use Agreements on 30 June 2003 is that the non-extinguishment principle applies:

- (a) the grant of the estate in fee simple 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 effects are wholly removed or otherwise wholly ceases to operate the native title rights and interests again have full effect;
- (d) if the grant or its effects are removed to an extent or otherwise ceases to operate only to an extent the native title rights and interests again have effect to that extent.

Other matters

14. 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)).

15. 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.

16. 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) NT Portion 261 comprising an area of 3,869 square kilometres held under Perpetual Pastoral Lease No 1132;
- (b) NT Portion 1102 comprising an area of 2,289 square kilometres held under Perpetual Pastoral Lease No 1132;
- (c) NT Portion 1103 comprising an area of 3,537 square kilometres 50 hectares held under Perpetual Pastoral Lease No 1104;
- (d) NT Portion 1104 comprising an area of 2,020 square kilometres held under Perpetual Pastoral Lease No 1104;
- (e) NT Portion 1361 comprising an area of 5,132 square kilometres 16 hectares held under Perpetual Pastoral Lease No 1104;
- (f) NT Portion 1378 comprising an area of 400 square metres is Crown land;
- (g) NT Portion 1602 comprising an area of 30 square kilometres 42 hectares held under Special Purposes Lease 497;
- (h) NT Portion 4209 comprising an area of 1,752 square kilometres is Crown land;
- (i) NT Portion 4403 comprising an area of 15 square kilometres 21 hectares held for an estate in fee simple by the Irlentye Aboriginal Corporation;
- (j) NT Portion 5171 comprising an area of 23 square kilometres is Crown land being part of the Goyder Stock Route;
- (k) NT Portion 5172 comprising an area of 84 square kilometres is Crown land being part of the Southern Stock Route;
- (l) NT Portion 5739 comprising an area of 96 square kilometres 2 hectares held for an estate in fee simple by the Akapertatyeke Aboriginal Corporation.

2. The following areas within the external boundaries of the Determination Area are not included in the Determination Area:

- (a) NT Portions 2447 comprising an area of 46 square kilometres 22 hectares located within the boundaries of NT Portion 1361 and held for an estate in fee simple by Molly Clark (deceased);
- (b) NT Portion 3816 comprising an area of 25 square kilometres 58 hectares located within the boundaries of NT Portion 261 and held for an estate in fee simple by Apatula Aboriginal Land Trust;
- (c) NT Portion 3817 comprising an area of 25 square kilometres 20 hectares held for an estate in fee simple by Apatula Aboriginal Land Trust;
- (d) NT Portion 3818 comprising an area of 9 square kilometres 65 hectares 6,000 square metres held for an estate in fee simple by Apatula Aboriginal Land Trust;
- (e) NT Portion 3819 comprising an area of 75 square kilometres 62 hectares held for an estate in fee simple by Apatula Aboriginal Land Trust;
- (f) NT Portion 3895 comprising an area of 2 hectares 2,500 square metres located within NT Portion 261 and held for an estate in fee simple by the Australian & Overseas Telecommunications Corp. Ltd;
- (g) NT Portion 4517 comprising an area of 5 square kilometres, 91 hectares, 2,000 square metres located within NT Portion 261 being the corridor of the former Central Australia Railway;
- (h) The following roads:
 - (i) a road 100 metres wide (Andado Station Access Road) which traverses NT Portion 261 (New Crown Station) from the boundary of NT Portion 3819 (Apatula Aboriginal Land Trust) to the boundary of NT Portion 1361 (Andado Station).
 - (ii) a road 100 metres wide (Finke Township/Allambi Station Access Road) which traverses NT Portion 1361 from the boundary of NT Portion 261 (New Crown Station) to the boundary of NT Portion 2447.
 - (iii) a road 100 metres wide which traverses NT Portion 261 (New Crown Station) from the boundary of NT Portion 3819 (Apatula Aboriginal Land Trust) to the South Australian border.
 - (iv) a road 100 metres wide (New Crown Station Homestead/Abminga Access Road) which traverses NT Portion 261 (New Crown Station) from the Andado Station Access Road to the South Australian border.
 - (v) a road 100 metres wide (Mt Dare Access Road) which traverses NT Portion 261 (New Crown Station) from the New Crown Station Homestead/Abminga Access Road to NT Portion 5739.
 - (vi) a road 100 metres wide (Finke Road) which traverses NT Portion 261 from the boundary of NT Portion 3817 (Apatula Aboriginal Land Trust) to the border of NT Portion 2869 (Umbeara Station).
 - (vii) a road 100 metres wide (Santa Teresa Road) which traverses NT Portion 1361 (Andado Station) from the boundary of NT Portion 2447 to the boundary of NT Portion 4070 (Pmere Nyente Aboriginal Land Trust).
 - (viii) a road 100 metres wide which traverses NT Portion 1361 (Andado Station) from the boundary of NT Portion 1602 (Mac Clark (Acacia Peuce) Conservation Reserve) to the Finke Township/Allambi Station Access Road.
 - (ix) a road 100 metres wide which traverses NT Portion 1361 (Andado Station) from the Finke Township/Allambi Station Access Road to the South Australian border.
 - (x) a road 100 metres wide which traverses NT Portion 5739 from the border of NT Portion 261 (New Crown Station) to the South Australian border.

Schedule B - Determination Area

[See NNTR Attachment 1: "Schedule B - 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 s 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 s 251D of the Act), including:

- (a) public roads, namely, rural public roads (50 metres 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 150 millimetres in diameter or less (adjacent area of 1.5 metres either side of the centreline) and greater than 150 millimetres in diameter (adjacent area 5 metres either side of the centreline);
- (h) sewer pipes measuring 150 millimetres in diameter or less (adjacent area 1.5 metres either side of the centreline) and greater than 150 millimetres in diameter (adjacent area 5 metres either side of the centreline);
- (i) bores, sewer pump stations and overhead power lines.

2. In addition to the areas referred to in paragraph 1 above native title has been wholly extinguished over those parts of NT Portion 261 that were covered by the Overland Telegraph Line and the Goyder Junction Well (area covered by former Miscellaneous Lease No 58) respectively (including land and waters within the meaning of s 251D of the Act

REGISTER ATTACHMENTS:

1. Schedule B - Determination Area, 1 page - A4, 24/05/2018

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.