

Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD27/2013
NNTT Number: DCD2016/003

Determination Name: Ngal/Jangala on behalf of the Rrwerk/Mamp/Arrwek, Yinjirrpikurlangu, Janyinpartinya, Yanarilyi/Anerely and Ngarliyikirlangu landholding groups v Northern Territory of Australia

Date(s) of Effect: 16/06/2016

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: 16/06/2016

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Mt Denison Aboriginal Corporation RNTBC
Agent Body Corporate
c/ Central Land Council
27 Stuart Hwy
Alice Springs Northern Territory 0870

COMMON LAW HOLDER(S) OF NATIVE TITLE:

4. The Determination Area comprises seven estate areas associated with the Rrwerk/Mamp/Arrwek, Yinjirrpikurlangu, Janyinpartinya, Yanarilyi/Anerely and Ngarliyikirlangu 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:

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

(b) are 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) conception in and/or birthplace affiliation with an estate;

- (ii) long-term residence in an estate;
- (iii) possession of secular and traditional spiritual knowledge, authority and responsibility for an estate or surrounding country, in particular, knowledge of sites and their mythology; and
- (iv) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate.

**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. Mt Denison Aboriginal Corporation (ICN: 7716) 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 Portion 312 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.
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 seven estate areas associated with the Rrwerk/Mamp/Arrwek, Yinjirrpikurlangu, Janyinpartinya, Yanarilyi/Anerely and Ngarliyikirlangu 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:
 - (a) are members of one or more of the landholding groups referred to in paragraph 4 by virtue of descent (including adoption) through father's father, mother's father, father's mother and mother's mother;
 - (b) are 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) conception in and/or birthplace affiliation with an estate;
 - (ii) long-term residence in an estate;
 - (iii) possession of secular and traditional spiritual knowledge, authority and responsibility for an estate or surrounding country, in particular, knowledge of sites and their mythology; and
 - (iv) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate.

Native title rights and interests

6. The native title rights and interests of the native title holders are the rights possessed under and

exercisable in accordance with their traditional laws and customs, 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 No. 1110;
- (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;
 - (v) teaching the physical and spiritual attributes of sites and places on the land and waters that are important under traditional laws and customs,

and, subject to the rights of any person arising under the laws in force in the Northern Territory to be present on the land, the right to privacy in the exercise and enjoyment of those activities;

- (j) the right to speak for and 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;
- (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.

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 312 - the interest of Mount Denison Proprietors Pty Ltd under Perpetual Pastoral Lease No. 1110;

(b) 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 23655	11/06/2015	ABM Resources NL
EL 29202	03/07/2018	Wuhua Mining Corporation Pty Ltd

(c) the rights and interests of Telstra Corporation Limited:

(i) as the owner or operator of telecommunications facilities within the Determination Area;

(ii) created pursuant to the *Post and Telegraph Act 1901* (Cth)(now repealed), *Telecommunications Act 1975* (Cth)(now repealed), *Australian Telecommunications Corporation Act 1989* (Cth)(now repealed), *Telecommunications Act 1991* (Cth)(now repealed) and under Sch 3 to the *Telecommunications Act 1997* (Cth), including the right:

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;

(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 in the Determination Area.

(d) NT Portion 312 - the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal people contained in pastoral leases set out in ss 38(2) to (6) of the *Pastoral Land Act 1992* (NT);

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

(f) 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;

(g) 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.

Other matters

11. 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)(now repealed)).

12. 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 - DETERMINATION AREA

1. The Determination Area comprises NT Portion 312 comprising an area 2,702 square kilometres held under Perpetual Pastoral Lease No. 1110.

2. The following areas within the external boundaries of NT Portion 312 are excluded from the Determination Area:

(a) NT Portion 3408 comprising an area of 2 hectares 2,500 square metres being Crown land set aside to Telstra Corporation Limited.

(b) NT Portion 4153 comprising an area of 2 square kilometres 41 hectares 9,000 square metres located within the boundaries of NT Portion 312 held for an estate in fee simple by the Yurrkuru Aboriginal Land Trust.

(c) NT Portion 4747 comprising an area of 2 square kilometres 25 hectares held for an estate in fee simple by the Kurripi Aboriginal Corporation.

(d) A road 100 metres wide (Yuendumu/Pine Hill Road) which traverses NT Portion 312 from the boundary with the Coniston Station (NT Portion 690) in the east to the boundary with the Yuendumu Aboriginal Land Trust (NT Portion 1633) in the west.

(e) A road 100 metres wide which traverses NT Portion 312 from its junction with the Yuendumu/Pine Hill Road in the east to its junction with the Pine Yuendu-mu/Pine Hill Road in the west.

(f) A road 100 metres wide which traverses NT Portion 312 in a northerly direction from its junction with the Yuendumu/Pine Hill Road to the boundary with the Pawu Aboriginal Land Trust (NT Portion 360).

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

Those parts of the Determination Area being 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 centreline), 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 1500mm or greater (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, 16/06/2016

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.