



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD20/2015
NNTT Number: DCD2017/004

Determination Name: [Wikilyiri on behalf of the persons who are ngurraritja for Ananta \(Umbeara\), Kalka \(Kulgera\), Watju \(Mount Cavenagh\), Wapirka \(Victory Downs\) and Warnukula \(Mulga Park\) v Northern Territory of Australia](#)

Date(s) of Effect: 4/05/2017

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: 04/05/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Yankunytjara Matutjara Aboriginal Corporation RNTBC
Agent Body Corporate
c/- 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:

4. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who, as *ngurraritja* for the Determination Area, have a spiritual connection to that area and to the *Tjukurrpa* associated with it because:

- (a) it is their country of birth; or
- (b) they have had a long-term association with the area and possess traditional geographical and religious knowledge of the area; or

(c) they have an affiliation to the area through an ancestor with a connection to the area through birth or through long-term association and possession of geographical and religious knowledge of the area

and they are recognised by other *ngurraritja* as having rights and interests in the area under the traditional laws and customs of the Western Desert.

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. Yankunytjara Matutjara Aboriginal Corporation (ICN : 8170) is:
 - (a) to be the prescribed body corporate for the purposes of s 57(2) of the NTA;
 - (b) to perform the functions outlined in s 57(3) of the NTA 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 324, 325, 1091, 2054, 2869, 3154, 4007, 4017, 4018, 4020, 4471 and 4975 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 324, 325, 1091, 2869, 4007, 4017, 4018, 4020 and 4471: the native title rights and interests in paragraph 5 apply;
 - (b) NT Portion 2054, 3154 and 4975: the native title rights and interests in paragraph 5 would apply were they not wholly ineffective due to the operation of s 238 of the NTA.
3. Native title does not exist in those parts of the Determination Area described in Schedule C.

The native title holders

4. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who, as *ngurraritja* for the Determination Area, have a spiritual connection to that area and to the *Tjukurrpa* associated with it because:

- (a) it is their country of birth; or
- (b) they have had a long-term association with the area and possess traditional geographical and religious knowledge of the area; or
- (c) they have an affiliation to the area through an ancestor with a connection to the area through birth or through long-term association and possession of geographical and religious knowledge of the area

and they are recognised by other *ngurraritja* as having rights and interests in the area under the traditional laws and customs of the Western Desert.

Native title rights and interests

5. 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 Leases 999, 1055, 1079 and 1146;
- (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.

6. The native title rights and interests referred to in paragraph 5 do not confer possession, occupation, use and enjoyment of the land and waters on the native title holders to the exclusion of all others.

7. 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

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

- (a) NT Portion 324 - the interest of Colin Bruce Morton under Perpetual Pastoral Lease 1055;
- (b) NT Portions 325 and 1091 - the interest of Shane Anthony Nicolle and Alethea Jayne Nicolle as trustees of the S & A Family Trust under Perpetual Pastoral Lease 1079;
- (c) NT Portions 2869, 4007, 4017, 4018 and 4020 - the interest of Umbeara Holdings Pty Ltd under Perpetual Pastoral Lease 999;
- (d) NT Portion 4471 - the interest of Colin Bruce Morton as trustee of the Morton Family Trust of Victory Downs Station under Perpetual Pastoral Lease 1146;
- (e) NT Portion 2054 - the interest of the Northern Territory Land Corporation under Crown Lease Perpetual 1119;

(f) NT Portion 4975 - the interest of the Northern Territory Land Corporation under Crown Lease Perpetual 1174;

(g) NT Portion 3154 - the interest of Telstra Corporation Limited successor to the Australian Telecommunications Commission;

(h) the interests of the holders of the following mining and petroleum tenements granted pursuant to the Mineral Titles Act (or its predecessor) and the Petroleum Act respectively:

No.	Expiry Date	Holder
EL 27347	3/11/2015	Tri-Star Energy Company
EL 27417	13/01/2018	Globe Mineral Resources Investments Pty Ltd
EL 27418	13/01/2018	Globe Mineral Resources Investments Pty Ltd
EL 27419	13/01/2018	Globe Mineral Resources Investments Pty Ltd
EL 28169	26/04/2017	Kronos Gold LLC
EL 29714	9/08/2016	Tri-Star Energy Company
EL 30041	3/04/2020	Lasico Pty Ltd
EMP 31264	20/10/2021	Alice Springs Sand Supply Pty Ltd
EP 125	6/12/2019	Ordiv Petroleum Pty Ltd and Santos QNT Pty Ltd
EP 134	25/06/2021	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 Acts 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 tele-communications facilities within the Determination Area.

(j) NT Portions 324, 325, 1091, 2869, 4007, 4017, 4018, 4020 and 4471 - 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 s 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, Commonwealth 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

9. To the extent that the continued existence, enjoyment or exercise of the native title rights and interests referred to in paragraph 5 in relation to NT Portions 324, 325, 1091, 2869, 4007, 4017, 4018, 4020 and 4471 is inconsistent with the existence, enjoyment or exercise of the other rights and interests referred to in paragraph 8, 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.

10. In relation to NT Portion 2054 the relationship between the native title rights and interests referred to in paragraph 5 and the interest of the Northern Territory Land Corporation referred to in paragraph 8 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 cease 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.

11. In relation to NT Portion 4975 the relationship between the native title rights and interests referred to in paragraph 5 and the interest of the Northern Territory Land Corporation referred to in paragraph 8 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 cease 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.

12. In relation to NT Portion 3154 the relationship between the native title rights and interests referred to in paragraph 5 and the interest of the successor to the Australian Telecommunications Commission referred to in paragraph 8 is that the freehold estate granted to the Commission and held by Telstra Corporation Limited:

- (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 cease 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

13. 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)).

14. 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.

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

Schedule A

Description of the Determination Area

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

- (a) NT Portion 2869 comprising an area of 3,557 square kilometres 48 hectares held under Perpetual Pastoral Lease 999.
- (b) NT Portion 4007 comprising an area of 9 square kilometres 7 hectares 3,000 square metres held under Perpetual Pastoral Lease 999.
- (c) NT Portion 4017 comprising an area of 3 square kilometres 55 hectares held under Perpetual Pastoral Lease 999.
- (d) NT Portion 4018 comprising an area of 4 square kilometres 57 hectares 4,000 square metres held under Perpetual Pastoral Lease 999.
- (e) NT Portion 4020 comprising an area of 7 hectares 6,000 square metres held under Perpetual Pastoral Lease 999.
- (f) NT Portion 4471 comprising an area of 913 square kilometres 37 hectares held under Perpetual Pastoral Lease 1146.
- (g) NT Portion 324 comprising an area of 3,038 square kilometres held under Perpetual Pastoral Lease 1055.
- (h) NT Portion 325 comprising an area of 2,391 square kilometres held under Perpetual Pastoral Lease 1079.
- (i) NT Portion 1091 comprising an area of 256 square kilometres held under Perpetual Pastoral Lease 1079.
- (j) NT Portion 2054 comprising an area of 4 square kilometres 40 hectares 3,000 square metres held under Crown Lease Perpetual 1119.
- (k) NT Portion 3154 comprising an area of 2 hectares 2,500 square metres held for an estate in fee simple.
- (l) NT Portion 4975 comprising an area of 16 hectares 7,100 square metres held under Crown Lease Perpetual 1174.

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

- (a) NT Portions 611, 808, 809, 898, 1181, 1214, 1221, 1222, 1804, 1816, 1919, 1941, 1954, 2050, 2055, 2185, 3319, 3521, 3880, 4408, 4629 and 4698;
- (b) The following roads constructed by or on behalf of the Northern Territory as public roads:
 - (i) A road 100 metres wide which traverses NT Portion 2869 (Umbeara Station) from the Finke Road to the South Australian border.
 - (ii) A road 100 metres wide (Stuart Highway) which traverses NT Portions 4471 and 2869 from the South Australian border to the boundary of NT Portion 3351 (Erlunda Station).
 - (iii) A road 30 metres wide (Kulgera Crescent) which is located within NT Portion 2869.

- (iv) Coulthard Road which is located within NT Portion 2869.
- (v) A road 100 metres wide (Mulga Park Road) which traverses NT Portions 4471, 324 and 325 from the junction with the Stuart Highway on NT Portion 4471 to the junction with the Amata Road and Curtin Springs Road on NT Portion 325.
- (vi) A road 100 metres wide (SA Border-Kenmore Park Road) which traverses NT Portion 324 from the Mulga Park Road to the South Australian border.
- (vii) A road 100 metres wide which traverses NT Portion 324 from the Mulga Park Road to the South Australian border.
- (viii) A road 100 metres wide (Victory Downs Homestead Road) which traverses NT Portion 324 from the Mulga Park Road to the Victory Downs Station Homestead.
- (ix) A road 100 metres wide (Curtin Springs Road) which traverses NT Portion 325 from the junction with the Mulga Park Road and Amata Road to the boundary of NT Portion 326.
- (x) A road 100 metres wide (Amata Road) which traverses NT Portion 325 from the junction with the Mulga Park Road and Curtin Springs road to the South Australian border.
- (xi) A road 100 metres wide which traverses NT Portion 325 from the Amata Road to NT Portion 3880.

Schedule B

Maps of the Determination Area

[See NNTR attachment: "Schedule B - Maps of the 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 NTA 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 NTA), 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.

2. In addition to the areas referred to in paragraph 1 native title has been wholly extinguished over that part of:

- (a) NT Portion 3154 on which a radio repeater was constructed or established by the Australian Telecommunications Commission (including land and waters within the meaning of s 251D of the NTA); and
- (b) NT Portion 4975 comprising trucking yards and adjoining road that is part of the adjacent land and waters (within the meaning of s 251D of the NTA) to the branch line of the Alice Springs - Tarcoola Railway located on NT Portion 4629.

REGISTER ATTACHMENTS:

1. Schedule B - Maps of the Determination Area, 2 pages - A4, 04/05/2017

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.