



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD6/2013
NNTT Number: DCD2016/002

Determination Name: [Katakarinja on behalf of Imperlknge, Urlatherrke, Parerrule, Yaperlpe, Urlampe, Lwekerreye and llewerr landholding groups and those persons with rights and interests in the area of land and waters known as Kwerlerrethe v Northern Territory of Australia](#)

Date(s) of Effect: 15/06/2016

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: 15/06/2016

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

WALA 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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

4. The Determination Area comprises seven estate areas associated with the Imperlknge, Urlatherrke, Parerrule, Yaperlpe, Urlampe, Lwekerreye and llewerr landholding groups (the "landholding groups") respectively and the area of land and waters known as Kwerlerrethe.

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 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;
- (c) have rights and interests in Kwerlerrethe by virtue of descent or their knowledge of, or authority and responsibility for, shared Dreaming tracks.

**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. Wala Aboriginal Corporation (ICN: 7855) 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 727, NT Portion 1607 and part of NT Portion 4284 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 Portion 1607: exclusive native title rights and interests exist - s 47B applies;
 - (b) NT Portions 727 and 4284 (part): the native title rights and interests in paragraph 7 (below) apply.
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 Imperlknge, Urlatherrke, Parerrule, Yaperlpe, Urlampe, Lwekerreye and llewerr landholding groups (the "landholding groups") respectively and the area of land and waters known as Kwerlerrethe.
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 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;
 - (c) have rights and interests in Kwerlerrethe by virtue of descent or their knowledge of, or authority and responsibility for, shared Dreaming tracks.

Native title rights and interests

6. In relation to NT Portion 1607, where any prior extinguishment of native title must be disregarded pursuant to s 47B(2) of the Act, the native title rights and interests are:
 - (a) the right to possession, occupation, use and enjoyment of the land to the exclusion of all others except

in relation to flowing and subterranean waters; and

(b) in relation to flowing and subterranean waters, the right to use those waters, including the right to:

(i) hunt on, gather and fish from; and

(ii) to take and use;

the flowing and subterranean waters in accordance with their traditional laws and customs for personal and communal needs of the native title holders which are of a domestic or subsistence nature and not for any commercial or business purpose.

7. In relation to NT Portions 727 and 4284 (part) 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. 1019;

(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.

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

9. 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

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

(a) NT Portion 727 - the interests of Anthony Woodley Davis and Pamela Ruth Davis as the leaseholders of Perpetual Pastoral Lease No. 1019;

(b) NT Portion 727 - the interest of Paradigm Investments Pty Ltd in a sub-lease of a portion of Narwietooma Station Perpetual Pastoral Lease No. 1019, comprising an area of approximately 42 square kilometres 7 hectares being the Mt Zeil Campground;

(c) NT Portion 1607 - rights and interests held by reason of the force and operation of the *Water Act 1992* (NT);

(d) NT Portion 4284 (part) - valid rights of use for the passage of travelling stock;

(e) the interests of the holders of the following mineral 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
EL25794	10/06/2014	Legend International Investment Pty Ltd
EL27283	16/11/2015	Crossland Nickel Pty Ltd
EL28964	25/07/2018	Crossland Nickel Pty Ltd / Panconoz Pty Ltd

- (f) 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.
- (g) NT Portion 727 - 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);
- (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

11. 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 Portion 1607 and paragraph 7 in relation to NT Portions 727 and 4284 (part) is inconsistent with the existence, enjoyment or exercise of the other rights and interests referred to in paragraph 10, 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

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)(now repealed)).

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) “flowing water” means:

- (iii) water which flows, whether permanently, intermittently or occasionally within any river, creek, stream, watercourse or natural channel; and

- (iv) any natural collection of water into, through, or out of which a river, creek, stream, watercourse or natural channel flows;

- (c) “natural channel” includes a spring or rockhole;

- (d) “waters” has the same meaning as in the Act and includes flowing and subterranean waters.

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 the following areas of land and waters:

- (a) NT Portion 727 comprising an area 2,590 square kilometres held under Perpetual Pastoral Lease No. 1019.

- (b) NT Portion 1607 comprising an area of 28 hectares 1,100 square metres located within the boundaries of NT Portion 1224 being Crown land containing part of the channel of Dashwood Creek.

(c) That part of NT Portion 4284 comprising an area of 31 square kilometres located within the boundaries of NT Portion 727 which is Crown land being part of the North West Stock Route.

2. The following areas are excluded from the Determination Area:

(a) NT Portion 1224 comprising an area of 2 square kilometres 30 hectares 7,000 square metres held for an estate in fee simple by the Mbunghara Community Incorporated.

(b) NT Portion 3727 comprising an area of 2 hectares 2,400 square metres held for an estate in fee simple by the Australian & Overseas Telecommunications Corporation Ltd.

(c) A road 100 metres wide (Tanami Road) which traverses NT Portion 4284 in a north-westerly direction across NT Portion 727 from the boundary with Amburla Station (NT Portion 4443) in the east to the boundary with Napperby Station (NT Portion 747) in the north.

(d) A road 100 metres wide (Kintore Road) which traverses NT Portion 727 from the boundary with Amburla Station (NT Portion 4443) in the east to the boundary with Derwent Station (NT Portion 241) in the west.

(e) A road 100 metres wide (Glen Helen Station Road) which traverses part of NT Portion 727 from the junction with the Kintore Road in a south-westerly direction to the boundary with Glen Helen Station (NT Portion 719).

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, 15/06/2016

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.