

1. The native title claim group comprises the members of the Kwaty and Tywerl landholding groups (“the landholding groups”) and those persons with a connection to the Kwaty estate who have responsibility for a segment of the *Atyelp* (Western Quoll or Native Cat) Dreaming and associated Men’s Law. Those persons according to the traditional laws acknowledged and customs observed by them:
 - (a) have spiritual, physical and/or historical associations with the area described in Schedule B (“the application area”) and are traditionally connected to the area through:
 - (i) descent from ancestors (including adoption) connected with the application area as described in paragraph 7(a) below; or
 - (ii) non-descent based connections as described in paragraphs 7(b), 7(c), 9 and 10 below;
 - (iii) non-descent based connections as described in paragraph 7(d) below,
 - (b) hold the common or group rights and interests comprising the native title in the application area.
2. The application area is part of Anmatyerr territory. The common body of traditional laws acknowledged and customs observed by members of the native title claim group govern how rights and interests in land are acquired and who holds them in particular parts of Anmatyerr territory, including the application area. The landholding groups, which together comprise the native title claim group, constitute a community or group whose members hold the common or group rights comprising the native title over the application area as a whole.
3. The term “estate” is used to describe the land and waters associated with a landholding group. The landholding groups are named after their respective estate areas and are affiliated to the following parts of the application area:
 - (a) **Kwaty**: south-eastern; and
 - (b) **Tywerl**: western, northern and north-eastern.
4. The application area is located in Anmatyerr linguistic territory. Under the traditional laws acknowledged and customs observed by members of the native title claim group rights in land are not acquired through membership of a language group. Accordingly, linguistic affiliation or language group identity is not necessarily indicative of a person’s connection to particular land and waters.
5. Members of the Tywerl landholding group have been recognised as native title holders of neighbouring land under the *Native Title Act 1993* (Cth):

Pine Hill Native Title Determination (NTD6004/1999). See *Ampetyane v Northern Territory of Australia* [2009] FCA 834.

Napperby Native Title Determination (NTD4/2011). See *Lynch on behalf of the members of the Alherramp/Rrweltyapet, Ilewerr, Mamp/Arrwek, Tywerl, Arrangkey, Anentyerr/*

Anenkerr and Ntyerlkem/Urapentye Estate Groups v Northern Territory of Australia [2013] FCA 636.

Members of the Tywerl landholding group are claimants in the Aileron Pastoral Lease (NTD08/2014) and Aileron (Nolan Bore) (NTD20/2007) applications.

6. The persons authorised to make the application are members of the following landholding groups:

Eric Penangk:	Kwaty
Mary Cole Ngal:	Tywerl
Dorothy Ross Ampetyan:	Tywerl
Archie Glenn Ngal:	Tywerl and Kwaty
Samuel Charles Peltharr:	Tywerl
Walker Potter Peltharr:	Kwaty

Membership of the native title claim group

7. In accordance with the claimants' system of traditional laws and customs in relation to membership of a landholding group and the possession of rights and interests in land the native title claim group comprises all those persons who are:

- (a) descendants (by birth or adoption) of one or more of the following named and unnamed ancestors of the landholding groups ("the ancestors"):

KWATY (Ngwarray/Peltharr)

There are no living descendants in the patriline of the Kwaty landholding group. See below for non-descent based members of the landholding group recruited in accordance with traditional succession processes.

Charlie Quartpot Ngwarray

Awengker Peltharr – no known descendants.

Aperalentyey Ngwarray

Johnny Hamble Mpetyan – Archie Glenn Ngal, Charlie Glenn Ngal [FM] and siblings and their descendants.

Nellie Lynch Mpetyan – Huckitta Lynch Penangk [MM] and siblings and their descendants.

TYWERL (Mpetyan/Ngal)

Descendants of unnamed Mpetyan male.

Tywenp-arwengeny Angal

Percy Mpetyan – Lena Ngal (dcd) (Samuel Peltharr and Rachel Peltharr [MFF]) and Hilda Ngal (dcd) (Sambo Charles Peltharr and siblings [MFF]) and their descendants.

Ned Mpetyan – Mary Cole Ngal [FF] (Millie Cole Peltharr, Peter Cole Peltharr and Jake Cole Peltharr [MFF]) and their descendants.

Larry Mpetyan – Harry Scrutton Ngal and siblings [FF] and their descendants.

Lily Mpetyan – Maudie Penangk [MF].

Kitty Mpetyan – no known descendants.

Nellie Lynch Mpetyan – Huckitta Lynch Penangk, Hilda McMillan Penangk and siblings [MF] and their descendants.

Peggy Tywelp Mpetyan – no known descendants.

Weetakatyen Mpetyan – no known descendants.

Johnny Hamble Mpetyan – Archie Glenn Ngal, Charlie Glenn Ngal [FF] and siblings and their descendants.

Tyartepwet-arrwengeny (Kwaty Jim) Angal

Michael Mpetyan and siblings (all dcd) – Daisy Ngal and siblings [FF], Christopher Forrester and Shakira Davis [MFF], Darren Forrester Mpetyan and siblings [FFF], Edgar Forrest Ngal [FF], Matthew Brown Ngal and Frank Brown Ngal [FF], Patrick Singleton Ngal and Queenie Singleton Ngal [FF] and their descendants.

Maudie Nelson Penangk [MF] – Geraldine Nelson [MMF].

Aileen Mpetyan – Valerie Ross Penangk and Margaret Price Penangk [MF] and their descendants.

Dorothy Ross Mpetyan [F].

Tywel-arrwengeny (20 Mile Jake) Angal

Rosie Mpetyan – Davey George Penangk, Abbott George Penangk and Stanley George Penangk [MF] and their descendants.

Toby Mpetyan – no known descendants.

Elsie/Glay Mpetyan – no known descendants.

Louis Ankerr Mpetyan – Kathleen McCormack Ngal [FF] and descendants.

Pwetew Angal

Lawrence Peltharr – no known descendants.

Barney Peltharr – no known descendants.

Albert Peltharr – no known descendants.

Unnamed Peltharr female – Elizabeth Pwerrerle [MM] and descendants.

- (b) accepted as members of one (or more) of the landholding groups by senior descent based members of the native title claim group on the basis of their non-descent connections to an estate:

KWATY

Lesley Stafford Pwerl – religious knowledge of the *Atyelp* (Western Quoll or Native Cat) and *Anthep* (Dancing Women) Dreaming traditions associated with the estate.

Harry Scrutton Ngal – religious knowledge of the *Atyelp* (Western Quoll or Native Cat) Dreaming associated with the estate.

Peter Cole Peltharr – religious knowledge of the *Atyelp* (Western Quoll or Native Cat) Dreaming associated with the estate.

Eric Penangk – shared patri-moiety affiliation, geographical knowledge, religious knowledge of Kwaty country and sites and of the *Kwaty* (Rain) and *Irrety* (Wedge-tailed Eagle) and *Atyelp* (Western Quoll or Native Cat) Dreaming traditions, long-term residence within the estate and birthplace affiliation.

- (c) incorporated into a landholding group on the basis of their non-descent based connections to the estate and in accordance with traditional succession processes:

KWATY

Bestowal of knowledge and responsibility

Charlie Quartpot Ngwarray was the last known *apmerek-artwey* for the Kwaty estate. He passed on knowledge of the estate to Tommy Pengart and George Yerramp. They assumed responsibility for the estate and became non-descent based *apmerek artwey*. Tommy Pengart taught his son Eric Penangk (see also above) the Kwaty traditions. Through his father and on the basis of his knowledge, ceremonial participation in Kwaty traditions and long-term connection with the estate, including residence, Eric Penangk is now accepted as a senior non-descent based *apmerek-artwey* for the estate. George Yerramp had no descendants.

Recognition of interests based on descent connections other than through one of the four grandparents

Descendants of Aperalerentyey Ngwarray

Paul Glenn Peltharr, Andrew Glenn Peltharr, Casey Glenn Peltharr and Richard Glenn Peltharr, Nola Glenn Peltharr and Matilda Glenn Peltharr (MFM); Gregwyn Glenn Mpetyan, Jackson Glenn Mpetyan, Timothy Glenn Mpetyan and James Glenn Mpetyan, Edwina Glenn Mpetyan (adopted) and Lizzie Glenn Mpetyan (adopted) (FFM).

Acquisition of interests and entitlements in atywerreng – Irrety men's sacred object

Paul Glenn Peltharr, Andrew Glenn Peltharr, Casey Glenn Peltharr and Richard Glenn Peltharr (*apmerek-artwey*); Gregwyn Glenn Mpetyan, Jackson Glenn Mpetyan, Timothy Glenn Mpetyan and James Glenn Mpetyan (*kwertengerl*).

Birthplace affiliation

Andrew Glenn Peltharr; Eric Penangk's daughters, Doris and Josie Pengart; June Ross Pengart, Phyllis Ngal and Judith Ngal; Ronnie Ross Pengart.

Knowledge of sites and Dreamings and other non-descent connections

Andrew Glenn Peltharr, Paul Glenn Peltharr, Tony Scrutton Ngwarray/Ngal, Roy Campbell Penangk and Ronnie Ross Pengart.

- (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 track that traverses the application area and the associated Men's Law:

Ronnie Hagen Pwerl

Adrian Dixon Pwerl

Walker Potter Peltharr

Comet Fishook Peltharr

Tony Scrutton

Wayne Scrutton Senior

8. The ancestors identified in paragraph 7(a) are the uppermost generation of the known ancestors of members of the native title claim group.
9. Under the claimants' system of traditional laws and customs a person who is not descended from the ancestors becomes a member of a landholding group when accepted by senior descent based members of the group on the basis of non-descent connections to an estate or when recruited in accordance with traditional succession processes on the basis of such connections. The non-descent connections considered relevant in the recruitment of a particular individual are:
- (a) spiritual identification with and responsibility for an estate;
 - (b) conception and/or birthplace affiliation with an estate;
 - (c) long-term residence in an estate;
 - (d) close kinship ties, including intermarriage;
 - (e) shared sub/section and/or moiety affiliation;
 - (f) more distant ancestral connections to an estate, for example, mother's father's mother;

- (g) possession of secular knowledge of an estate;
 - (h) possession of traditional spiritual knowledge, authority and responsibility for an estate;
 - (i) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate;
 - (j) seniority in traditional matters concerning the landholding group and/or the estate.
10. Succession rules form part of the claimants' system of traditional laws and customs and are directed to ensuring the maintenance of both knowledge and connections to land, and its spiritual properties. The land and identity of the original group is safeguarded and re-established in accordance with traditional laws and customs, a process which commonly includes transmission of interests, entitlements and cultural knowledge to descendants of the succeeding group. The following elements usually form the basis for succession:
- (a) increased role for existing *kwertengerl* in the event that *apmerek-artwey* are small in number or all deceased;
 - (b) activation of interests and entitlements based on descent connections other than through one or other of the four grandparents (such as through one or other great grandparent);
 - (c) knowledge of shared Dreaming track or other spiritual affiliations;
 - (d) acquisition of interests and entitlements in *atywerreng* (such as through spiritual conception);
 - (e) other personal history factors including spiritual bestowal, initiation, adoption, conception/birth place affiliation or intermarriage;
 - (f) shared subsection and moiety affiliation.

Traditional succession processes have been documented in relation to land in the region of the application area (see Elliott, C. *Pine Hill Native Title Application: Consent Determination Report* (2004) pp. 58–60, appended at 'Attachment A') and these processes have informed recruitment of members to the Kwaty landholding group whose descent based membership is limited to Archie Glenn Ngali, Charlie Glenn Ngali [FM] and Huckitta Lynch Penangk who act as *kwertengerl* for the estate. As there were no *apmerek-artwey* for the estate Eric Penangk's father, Tommy Pengart, and other senior knowledgeable men of his generation were recruited to look after Kwaty country and to become *apmerek-artwey*. Eric Penangk was taught about the Kwaty traditions by his father and those other men and is now accepted as *apmerek-artwey* for the estate through his father and on the basis of his own non-descent connections to the estate.

11. Under the claimants' system of traditional laws and customs descent is the most important basis for the possession of rights and interests in land. Subject to individual circumstances members of the landholding groups who are descended from one of the ancestors possess and transmit a wide range of traditional rights and interests in their respective estates.
12. Under the claimants' system of traditional laws and customs rights and interests in land are inherited through all four grandparental lines. However, the members of a landholding group with descent connections through father's father and mother's father are generally able to activate the widest range of rights and interests in relation to the estate.
13. Under the claimants' system of traditional laws and customs the range of rights and interests in land possessed by members of a landholding group who are not descended from the ancestors depends on individual circumstances, including the nature and extent of their non-descent connections to the estate. Although such rights and interests are usually limited to the individual there are instances of transmission to succeeding generations (e.g. Eric Penangk in relation to Kwaty).
14. A number of members of the native title claim group are members of more than one landholding group, for example, due to different grandparental links to multiple estates, and/or a mix of descent and non-descent based affiliations.