

### **3 The schedules to this application contain the following information:**

#### **SCHEDULE A NATIVE TITLE CLAIM GROUP [see Act, s 61]**

The names (including Aboriginal names) of the persons (the **native title claim group**) on whose behalf the application is made or a sufficiently clear description of the persons so that it can be ascertained whether any particular person is 1 of those persons.

1. The native title claim group comprises the members of the Akalperre, Amakweng, Alapanp, Arlwekarr, Arlpawe, Arnerre, Arnmanapwenty, Errene/Warlekerlange, Errweltye, Kwerrkepentye, Rtwerrpe, Tyarre Tyarre and Wake landholding groups ('the landholding groups'). Those persons according to the traditional laws acknowledged and customs observed by them:
  - (a) have spiritual, physical and/or historical associations (as described in Schedule F) with the area described in Schedule B ('the application area') and are connected to the area through:
    - (i) descent from ancestors (including adoption) connected with the application area as described in paragraph 8(a) below; or
    - (ii) non-descent based connections as described in paragraphs 8(b) and 10 below;
  - (b) hold the common or group rights and interests comprising the native title in the application area.
2. The application area is located in Kaytetye, Anmatyerr and Warumungu territory respectively. 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 this territory, including the application area. The thirteen 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 application area is located in Kaytetye, Anmatyerr and Warumungu linguistic territory. However, 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.
4. The term "estate" is used to describe the land and waters associated with a landholding group – which are commonly named after a prominent site or place in the estate concerned. The thirteen landholding groups are named after their respective estate areas and affiliated to the following parts of the application area:
  - (a) Akalperre – central and south-west;
  - (b) Alapanp – western;
  - (c) Amakweng – south-west;

- (d) Arlwekarr – south;
  - (e) Arlpawe – north-east;
  - (f) Arnerre – north-east;
  - (g) Arnmanapwenty – southern;
  - (h) Errene/Warlekerlange –central;
  - (i) Errweltye – north;
  - (j) Kwerrkepentye – eastern;
  - (k) Rtwerrpe – central, eastern;
  - (l) Tyarre Tyarre – western
  - (m) Wake – northern.
5. The persons authorised to make the application are members of the following landholding groups (through father’s father):
- |                           |           |
|---------------------------|-----------|
| Norman Price Pwerle       | Arlwekarr |
| Tommy Thompson Kngwarreye | Rtwerrpe  |
| Tommy Walkabout Thangale  | Akalperre |
| Lenny Nelson              | Errweltye |
6. Members of the following landholding groups have previously been referred to and/or recognised as the traditional Aboriginal owners of neighbouring land under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (‘ALRA’):
- (a) **Arlwekarr** – Not a claimant landholding group. Referred to: *Land Claim by Alyawarra and Kaititja*. Report by the Aboriginal Land Commissioner, to the Minister for Aboriginal Affairs (1979) pars 79, 85 – spelt Alogwara);
  - (b) **Arnmanapwenty** – Claimant group: *Ti Tree Station Land Claim*. Report No. 24. Report by the Aboriginal Land Commissioner, Mr Justice Maurice, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1987) par 72[2] – spelt Alpmanapentye);
  - (c) **Errweltye** (then spelt Wurrulju) – Claimant group: *Kaytej, Warlpiri, Warlmanpa Land Claim*. Report by the Aboriginal Land Commissioner, Mr Justice Toohey, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1982) pars 72-78, 106, 113.
  - (d) **Tyarre Tyarre** (then spelt Jarrajarra) – Claimant group: *Kaytej, Warlpiri, Warlmanpa Land Claim*. Report by the Aboriginal Land Commissioner, Mr Justice Toohey, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1982) pars 57-71, 106, 113);

- (e) **Wake** – Claimant group: *Kaytej, Warlpiri, Warlmanpa Land Claim*. Report by the Aboriginal Land Commissioner, Mr Justice Toohey, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1982) pp.14-15 – as part of the Wakulpu landholding group); *Warumungu Land Claim*. Report No. 31. Report by the Aboriginal Land Commissioner, Mr Justice Maurice, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1988) – this claim dealt in part with the Akwerlpe, spelt Wakurlpu, part of the landholding group); *McLaren Creek Land Claim*. Report No. 32. Findings, Recommendation and Report by the Aboriginal Land Commissioner, Mr Justice Olney, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1991) – spelt Wakurlpu-Waake);
7. Members of the following landholding groups have previously been recognised as native title holders of neighbouring land under the *Native Title Act 1993* (Cth):
- (a) **Arnerre** – Neutral Junction Determination (*Kngwarraye on behalf of the members of the Arnerre, Wake-Akwerlpe, Errene and Ileyarne Landholding Groups v Northern Territory of Australia* [2011] FCA 765);
- (b) **Errene/Warlekerlange** – Neutral Junction Determination (*Kngwarraye on behalf of the members of the Arnerre, Wake-Akwerlpe, Errene and Ileyarne Landholding Groups v Northern Territory of Australia* [2011] FCA 765);
- (c) **Wake** – Singleton Determination (*Rex on behalf of the Akwerlpe-Waake, Iliyarne, Lyentyawel Ileparranem and Arrawatyen People v Northern Territory of Australia* [2010] FCA 911); Neutral Junction Determination (*Kngwarraye on behalf of the members of the Arnerre, Wake-Akwerlpe, Errene and Ileyarne Landholding Groups v Northern Territory of Australia* [2011] FCA 765).

### **Membership of the native title claim group**

8. In accordance with the applicant’s 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”):

**AKALPERRE** (Kaytetye – Mpetyane/Thangale)

Descendants of four classificatory siblings whose father was Akalpere Ampetyane.

**Akalpere Tim Thangale**

Tommy Walkabout Thangale and siblings – FF; Eileen Mpetyane and siblings – FF.

**George Hayes Thangale**

Rowny Hayes and siblings – FF.

**Nancy Thangale**

Ronnie Wilson Kngwarreye – FM.

**Unnamed Thangale female**

Norman Price Pwerle and siblings – MM.

**AMAKWENG** (Anmatyerr – Peltharr/Ngwarray)

**Unnamed Amakweng-areny Ngwarray male**

Comet Peltharr – F.

**ALAPANP** (Anmatyerr – Ngal/Mpetyan)

**Unnamed Alapanp-areny Ngal male**

Raymond Rankin Ngal and Teddy Rankin Ngal – FF.

**ARLWEKARR** (Anmatyerr – Kemarr/Pwerl)

Descendants of four unnamed Arlwekarr-areny Kemarr brothers and one Kemarr sister.

**Unnamed Arlwekarr-areny Kemarr male**

Timothy Price – FFF and Kevin Tilmouth Pengart – MFFF.

**Unnamed Arlwekarr-areny Kemarr male**

Hilda Price Pwerl and Norman Price Pwerl – FFF.

**Unnamed Arlwekarr-areny Kemarr male**

May Kemarr – FFF.

**Unnamed Arlwekarr-areny Kemarr male**

Beryl Gorey Kemarr and Mark Gorey Kemarr – FF.

**Cecelia [Polly] Mpetyalyemp**

Brian Turner Peltharr and Eugene Turner Peltharr – FM.

**ARLPAWE** (Kaytetye – Mpetyane/Thangale)

Descendants of **Jupiter Pwerle**

Ronnie Wilson Kngwarreye and Michael Wilson Kngwarreye – MF.

**ARNERRE** (Kaytetye – Kemarre/Pwerle)

Descendants of four Arnerre-arenye Pwerle males.

**Mick Tywerlame**

No known living descendants.

**Dan Pwerle**

Michael Hayes – adoptive FF.

**Tommy Pwerle**

Amy Pwerle, Hilda Pwerle and Lena Pwerle – FF; Sonny Jakara – FFF.

**Tiger Pwerle**

No known living descendants.

**ARNMANAPWENTY** (Anmatyerr – Penangk/Pengarte)

Descendants of one unnamed Arnmanapwenty-*areny* Pengart male ancestor and his eleven Penangk children.

Mavis Penangk; Ray Penangk and Ray Nelson Pengart – FF.

**ERRENE/WARLEKERLANGE** (Kaytetye – Pengarte/  
Penangk)

Descendants of three Errene-*arenye* Pengarte siblings.

**Trofery Pengarte**

Ivy Penangke – F; Patsy Brown Pengart – FF; Kim Brown Penangk – FFF.

**Chippy Pengarte**

Nancy Peterson Kemarre – MF.

**Elkertelharenye Pengarte**

Winnie Martin Pwerle – M; Mick Wake Mpetyane – FM.

**ERRWELTYE** (Kaytetye/Warumungu – Pwerle/Kemarre [Kaytetye])

Descendants of three classificatory brothers.

**Unnamed Kemarre male**

Ned Womberdi Kemarre – FF.

**Hanson Kemarre**

Johnny Nelson Pwerle – F.

**Unnamed Kemarre male**

Daisy Hateches Trailen Pwerle – FFF.

**KWERRKEPENTYE** (Kaytetye – Kapetye/Kngwarreye)

Descendants of seven classificatory Kwerrkepentye-*areny* Petyarre siblings.

**Annie Petyarre**

Michael Hayes Pwerle – father's adoptive FM.

**Unnamed Petyarre female**

No known descendants.

**Topsy Petyarre**

Tommy Walkabout Jangale – M.

**Alec Petyarre**

No known descendants.

**Unnamed Petyarre female**

Hilda Brett Akemarr and siblings – FM.

**Kitty Petyarre**

Noreen Bredd Kemarre and siblings – FM.

**Mary Anne Mpwelarr Petyarre**

Katie Corbett Apetyarr – MM.

**RTWERRPE** (Kaytetye – Kapetye/Kngwarreye)

Descendants of five classificatory Twerre-*arenye* Kapetye siblings.

**Long Jack Kapetye**

No known descendants.

**One Arm Jack Kapetye**

Tommy Thompson Kngwarreye – F.

**Kwelyayt Kapetye**

Jacob Petyarre – FF.

**Mary Kapetye**

No known living descendants.

**Hilda Angarrenew Kapetye**

No known living descendants.

**TYARRE TYARRE** (Kaytetye – Kapetye/Kngwarreye)

Descendants of five classificatory brothers and one sister.

**Paddy Kngwarraye/Jungarrayi**

Peter Horsetailer Kapetye/Japaljarri – F.

**Unnamed Kngwarraye/Jungarrayi male**

Lady Kapetye/Napaljarri – F.

**Albert Makert Wilpatyenek Kngwarraye/Jungarrayi**

Mona Heywood Kngwarraye/Nungarrayi – FF; Ned Kelly Kngwarraye/Jungarrayi – FF; Billy Pumper Dobbs Kngwarraye/Jungarrayi – FF; Dudley Haines Kngwarraye/Jungarrayi – FF; Johnny Nelson Pwerke/Jupurrula – MF.

**Dora Kngwarraye/Nungarrayi**

Mick Wake Mpetyane – M.

**Albert McDonald Kngwarraye/Jungarrayi**

Graham Scott-McDonald Jungarrayi/Thangala – FF.

**Jinapirda Kngwarraye/Jungarrayi**

Dianne Shannon Kngwarraye/Nungarrayi – FF.

**WAKE (Kaytetye/Warumungu – Thangale/Mpetyane [Kaytetye])**

Descendants of unnamed Wake-*areny* Mpetyane male and his son Jimmy Thangale.

Mick Wake Mpetyane – FF.

- (b) accepted as members of one (or more) of the landholding groups by the senior descent based members of the landholding group on the basis of their non-descent connections to the estate.
9. The named ancestors in paragraph 8(a) are the uppermost generation of the known ancestors of members of the native title claim group.
10. 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 the senior descent based members of the group on the basis of non-descent connections to the estate. The non-descent criteria that senior members of a landholding group have regard to when considering 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 section/subsection and/or moiety affiliation;
  - (f) a more distant ancestral connection to an estate, for example, mother's father's mother;
  - (g) possession of secular knowledge of an estate;
  - (h) possession of traditional religious 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 claim group and/or the estate.

For example, in addition to his descent based affiliation to Rtwerrpe estate, Tommy Thompson Kngwarraye is accepted as a member of Arnerre, Errene/Warlekerlange, Kwerrkepentye and Wake landholding groups through non-descent bases. He is acknowledged as a senior knowledge holder for all of these estates which surround Rtwerrpe estate and he is a long-term resident at Tara community within the Neutral Junction pastoral lease. He acts as *kwertengerl* for Wake on the basis of knowledge and his connection through Ahakeye (Bush Plum) Dreaming; and for Arnerre on the basis of long-term residence, knowledge and close kinship and marriage ties. He also acts as *apmerek-artwey*

for the Errene and Kwerrkepentye due to his knowledge of the sacra affiliated with these estates and because he belongs to the correct patrimoiety for both.

11. The claimants' system of traditional laws and customs includes rules about succession. Traditional succession processes have been recognised in relation to land in the region of the application area: see *Warumungu Land Claim*. Report No. 31. Report by the Aboriginal Land Commissioner, Mr Justice Maurice, to the Minister for Aboriginal Affairs and to the Administrator of the Northern Territory (1988) pars 23.1.1–23.1.2 and 23.3.1–23.4.1. Kaytetye traditional succession processes have been researched and reported in the *Singleton Anthropology Report* (2006:61–63) by Susan Donaldson (Singleton, NTD 6011/2000, determined in 2010: *Rex on behalf of the Akwerlpe-Waake, Iiyarne, Lyentyawel Ileparranem and Arrawatyen People v Northern Territory of Australia* [2010] FCA 911); *Neutral Junction Consent Determination Report* (2010:46) by Harold Koch and Grace Koch (Neutral Junction, NTD 13/2008. Determination 13 July 2011); *Sandover Application Anthropology Report* (2011:54-57) by Craig Elliott and Natalie Kwok (NTD 6069/2001, yet to be determined). There are no known instances of succession in relation to the application area. Additional information about these rules is contained in Schedule F.
12. 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.
13. 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 in relation to the estate.
14. 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. Generally such rights and interests are not transmittable.
15. A number of members of the native title claim group are members of more than one estate group, for example, due to different grandparental links to multiple estates. For example, Norman Price Pwerle is affiliated with Arlwekarr through FF, Arnerre through MF and Akalperre through MM. Tommy Walkabout Thangale is affiliated with Akalperre through FF and with Kwerrkepentye through MF.