



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): NTD17/2011  
NNTT Number: DCD2016/001

**Determination Name:** [Pwerle v Northern Territory](#)

**Date(s) of Effect:** 7/04/2016

**Determination Outcome:** Native title exists in parts of the determination area

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## Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

**Determination Date:** 07/04/2016

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Eynewantheyne 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](http://www.oric.gov.au)*

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

4. The determination area comprises 13 estate areas associated with the Akalperre, Amakweng, Alapanp, Arlwekarr, Arlpawe, Arnerre, Arnmanapwenty, Errene/Warlekerlange, Errweltye, Kwerkepentye, Rtwerrpe, Tyarre Tyarre and Wake landholding groups respectively.

5. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who are:

(a) members of one or more of the landholding groups referred to in paragraph 4 by virtue of descent

(including adoption) through father's father, father's mother, mother's father and mother's mother;

(b) 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 sub-paragraph (a), by virtue of the following non-descent connections to an estate:

- (i) spiritual identification with and responsibility for an estate;
- (ii) conception and/or birthplace affiliation with an estate;
- (iii) long-term residence in an estate;
- (iv) close kinship ties, including intermarriage;
- (v) shared section/subsection and/or moiety affiliation;
- (vi) a more distant ancestral connection to an estate, for example, mother's father's mother;
- (vii) possession of secular knowledge of an estate;
- (viii) possession of traditional religious knowledge, authority and responsibility for an estate;
- (ix) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate;
- (x) seniority in traditional matters concerning the claim group and/or the 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. Eynewantheyne Aboriginal Corporation (ICN: 7947) 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 655, 1092, 3375 (part), 4336 (part), 4337, 4338, 4344, 4345, 4346, 5017 (part), 5613 and 5841 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 655, 1092, 3375 (part), 4336 (part), 4337, 4338, 4344, 4345, 4346 and 5841: the native title rights and interests in paragraph 6 apply;

(b) NT Portions 5017 (part) and 5613: the native title rights and interests in paragraph 6 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 determination area comprises 13 estate areas associated with the Akalperre, Amakweng, Alapanp, Arlwekarr, Arlpawe, Arnerre, Arnmanapwenty, Errene/Warlekerlange, Errweltye, Kwerrkepentye, Rtwerrpe, Tyarre Tyarre and Wake landholding groups respectively.

5. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who are:

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

(b) 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 sub-paragraph (a), by virtue of the following non-descent connections to an estate:

(i) spiritual identification with and responsibility for an estate;

(ii) conception and/or birthplace affiliation with an estate;

(iii) long-term residence in an estate;

(iv) close kinship ties, including intermarriage;

(v) shared section/subsection and/or moiety affiliation;

(vi) a more distant ancestral connection to an estate, for example, mother's father's mother;

(vii) possession of secular knowledge of an estate;

(viii) possession of traditional religious knowledge, authority and responsibility for an estate;

(ix) authority and responsibility for shared Dreaming tracks and/or places of significance connected with an estate;

(x) seniority in traditional matters concerning the claim group and/or the estate.

### **Native title rights and interests**

6. In relation to NT Portions 655, 1092, 3375 (part), 4336 (part), 4337, 4338, 4344, 4345, 4346, 5017 (part), 5613 and 5841 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 969 and Perpetual Pastoral Lease 1103 respectively;
- (f) the right to light fires for domestic purposes, but not for the clearance of vegetation;
- (g) 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;
- (h) 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;

- (i) 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;
- (j) the right to share or exchange natural resources obtained on or from the land and waters, including traditional items made from the natural resources;
- (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) in relation to NT Portion 655, NT Portion 1092 and NT Portion 5841 the interests of:

- (i) Stirling Station Pty Ltd as the holder of Perpetual Pastoral Lease No. 1103; and
- (ii) Andrew McCarthy and Helen Elizabeth McCarthy and Matthew McCarthy and Anita Theresa McCarthy as the registered sublessees of part of Perpetual Pastoral Lease No. 1103.

(b) in relation to NT Portion 3375, the interests of Charles Oliver Frith and Elizabeth Ann Frith as the holders of Perpetual Pastoral Lease No. 969.

(c) NT Portions 5017 and 5613 - the interest of AustralAsia Railway Corporation under Crown Lease Term 1879.

(d) NT Portions 4338, 4344, 4345 and 4346 - valid rights of use for the passage of travelling stock in relation to the North-South Stock Route.

(e) The interests of the parties in respect to NT Portion 4336 under the Neutral Junction Locality Indigenous Land Use Agreement.

(f) NT Portion 4337 - valid rights of use for travelling stock.

(g) the interests of the holders of the following mining tenures granted pursuant to the *Mining Act* (NT):

EL 23186 Cleaver, Robert Bruce, Imperial Granite & Minerals Pty Ltd, Goldstake Explorations Inc

EL 24253 Mithril Resources Ltd

EL 26543 Uramet Minerals Limited

EL 26748 Uramet Minerals Limited

EL 27069 Enigma Mining Limited

EL 27070 Enigma Mining Limited

EL 27115 Toro Energy Limited

EL 27138 Toro Energy Limited

EL 27516	Uramet Minerals Limited
EL 27787	Enigma Mining Limited
EL 27941	Enigma Mining Limited
EL 28211	Afmeco Mining And Exploration Pty Ltd
EL 28296	Ao-Zhong International Mineral Resources Pty Ltd
EL 28300	Ao-Zhong International Mineral Resources Pty Ltd
EL 28491	Enigma Mining Limited
EL 28515	ABM Resources NL
EL 28521	Imperial Granite & Minerals Pty Ltd
EL 28615	Lennartz, Rudolf Karl
EL 28727	ABM Resources NL
EL 29285	Ao-Zhong International Mineral Resources Pty Ltd
EL 29382	Ao-Zhong International Mineral Resources Pty Ltd
EL 29578	Enigma Mining Limited
EL 29723	ABM Resources NL
EL 29724	ABM Resources NL
EL 29725	ABM Resources NL
EL 29726	ABM Resources NL
EL 29727	ABM Resources NL
EL 29735	Wuhua Mining Corporation Pty Ltd
EL 29736	Wuhua Mining Corporation Pty Ltd
EL 29867	Enigma Mining Limited
EL 29896	ABM Resources NL
EL 30129	Tom Oates
EL 30130	Tom Oates
ELR 29627	Enigma Mining Limited
SEL 26825	Newmont Tanami Pty Ltd

(h) 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), 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 the right:

- A. to inspect land;
- B. to install and operate telecommunication facilities;
- 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 or easement relating to its telecommunications facilities within the determination area.

(i) the rights and interests of APT Gas Pty Ltd:

(i) as the beneficiary of the rights and interests under an energy supply easement granted to the Northern Territory of Australia for the purpose of the construction, operation and maintenance of the Amadeus Basin to Darwin gas pipeline and related infrastructure; and

(ii) as the holder of Pipeline Licence No. 4 granted under the *Energy Pipelines Act* (NT).

(j) in relation to NT Portions 655, 1092, 5841, 3375 (part) and 4336 (part) 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 section 38(2) to (6) of the *Pastoral Land Act* (NT);

(k) the rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act* (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.

(n) in relation to that part of NT Portion 3375 comprising proposed NT Portion 6058 (Neutral Junction homestead heritage site), the interest of the Northern Territory of Australia under the *Heritage Act* (NT).

10. 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 Portions 655, 1092, 3375 (part), 4336 (part), 4337, 4338, 4344, 4345, 4346 and 5841 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.

11. In relation to NT Portions 5017 (part) and 5613 the relationship between the native title rights and interests referred to in paragraph 6 and the interest of the AustralAsia Railway Corporation referred to in paragraph 9 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.

### Other matters

12. There are no native title rights and interests in:

- (a) minerals (as defined in s 2 of the *Minerals (Acquisition) Act* (NT));
- (b) petroleum (as defined in s 5 of the *Petroleum Act* (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)).

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) “natural waters” includes springs and rockholes.

14. 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

1. The determination area comprises:

- (a) NT Portion 655 comprising an area of 5,790 square kilometres 36 hectares held under Perpetual Pastoral Lease 1103.



(b) NT Portion 1092 comprising an area of 1,428 square kilometres held under Perpetual Pastoral Lease 1103.

(c) NT Portion 5841 comprising an area of 9 hectares 7,300 square metres held under Perpetual Pastoral Lease 1103.

(d) NT Portion 3375 (part) comprising an area of about 2,989 square kilometres 51 hectares held under Perpetual Pastoral Lease 969 the boundaries of which are described as follows:

From the point of commencement at latitude -21.141428 on the western boundary of NT Portion 3375 due east to 133.814907, -21.141428, then south-east to 133.982325, -21.284934; easterly to the south-west corner of NT Portion 4849, then along the southern boundary of that portion to its south-east corner, thence in a north-easterly direction to the north-west corner of NT Portion 4337; east along the northern boundary of NT Portion 4337 to the eastern boundary of the Stuart Highway road corridor; northerly along the eastern boundary of the road corridor for approximately 28 kilometres to the latitude of the north-west corner of that section of NT Portion 3375 that is east of and adjacent to the road corridor; east along the northern boundary of NT Portion 3375 to the north-east corner, being the boundary with NT Portion 599; south along the eastern boundary of NT Portion 3375 to the southern boundary, thence, in a clockwise direction following the boundary of NT Portion 3375 to the point of commencement at latitude -21.141428.

(e) NT Portion 4338 comprising an area of 56 square kilometres 97 hectares being part of the North-South Stock Route.

(f) NT Portion 4344 comprising an area of 13 square kilometres 64 hectares being part of the North-South Stock Route.

(g) NT Portion 4345 comprising an area of 3 square kilometres 15 hectares 7,000 square metres being part of the North-South Stock Route.

(h) NT Portion 4346 comprising an area of 39 square kilometres being part of the North-South Stock Route.

(i) NT Portion 4337 comprising an area of 12 square kilometres 12 hectares being Reserve 1769.

(j) NT Portion 4336 (part) comprising an area of about 6 square kilometres 44 hectares being vacant Crown land that adjoins the eastern boundary of the Stuart Highway road corridor.

(k) NT Portion 5017 (part) comprising an area of 12 square kilometres 80 hectares held under Crown Lease Term 1879.

(l) NT Portion 5613 comprising an area of 354 hectares 2,000 square metres held under Crown Lease Term 1879.

2. The following areas within the external boundaries of the determination area are not included in the determination area:

(a) NT Portions 449, 557, 708, 1480, 1628, 1805, 1806, 1808, 3603, 3604, 3822, 3831, 4339 and 4411;

(b) Stuart Highway road corridor;

(c) Roads constructed by or on behalf of the Territory as public roads, being the following strips of land 100 metres in width:

(i) Stuart Highway to Neutral Junction Homestead;

(ii) from the western boundary of Neutral Junction Station (NT Portion 3375) to the western boundary of Stirling Station (NT Portion 1092).

## SCHEDULE B

## Determination Area Map

[See NNTR attachment 1: "SCHEDULE B - Determination Area Map"]

## 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 the 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 (50 metres either side of the centre line), rural arterial roads and national highways and associated road infrastructure including Taylors Creek Road;
- (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 centre line);
- (g) distribution water pipes measuring 150 millimetre diameter or less (adjacent area of 1.5 metres either side of the centre line) and greater than 150 millimetre diameter (adjacent area 5 metres either side of the centre line);
- (h) sewer pipes measuring 150 millimetre diameter or less (adjacent area 1.5 metres either side of the centre line) and greater than 150 millimetre diameter (adjacent area 5 metres either side of the centre line);
- (i) bores, sewer pump stations and overhead power lines.

2. In addition to the areas referred to in paragraph 2 above native title has been wholly extinguished in the areas covered by the following public works (including land and waters within the meaning of s 251D of the NTA):

- (a) NT Portion 655 - bores RN014351, RN014352 and RN016148 and any access tracks;
- (b) Part NT Portion 3375 - Neutral Junction School and associated buildings and infrastructure;
- (c) Part NT Portion 3375 - access road to NT Portion 4411 contained within an access easement 20 metres

wide;

- (d) Part NT Portion 3375 - bore RN 14833 and access track from Tara Community;
- (e) Part NT Portion 4336 - bores RN000438, RN015176, and RN017182 and any access tracks.

**REGISTER ATTACHMENTS:**

1. Schedule B - Determination Area Map, 1 page - A4, 07/04/2016

*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.*