



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD61/2015
NNTT Number: DCD2017/003

Determination Name: [Bloomfield on behalf of the members of the Akerte, Atwele, Irrerlerre, Ulpmerre and Warrtharre Landholding Groups v Northern Territory of Australia](#)

Date(s) of Effect: 6/04/2017

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: 06/04/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Tywele Aboriginal Corporation RNTBC
Agent Body Corporate
Po Box 3321
Alice Springs Northern Territory 0872

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 five estate areas associated with the Akerte, Atwele, Irrerlerre, Ulpmerre and Warrtharre landholding groups (the **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 subparagraph (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. Tywele Aboriginal Corporation (ICN:8558) 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 Sch C of the determination.

DETERMINATION:

The Determination Area

1. The Determination Area comprises NT Portions 2453, 3676, 5136 and 7578 being the land and waters more particularly described in Sch A and depicted on the map comprising Sch B.
2. Native title exists in the Determination Area.
3. Native title does not exist in those parts of the Determination Area described in Sch C.

The native title holders

4. The Determination Area comprises five estate areas associated with the Akerte, Atwele , Irrerlerre, Ulpmerre and Warrtharre landholding groups (the **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 subparagraph (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. 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 Lease No. 989;
- (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.

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) NT Portions 2453, 3676, 5136 and 7578 - the interest of Steven Phillip Cadzow as trustee of the Steven Cadzow Family Trust No 1 of Mt Riddock Station under Perpetual Pastoral Lease No. 989;

(b) the interests of the holders of the following mining and petroleum tenements granted pursuant to the *Mineral Titles Act 2010* (NT) (or its predecessor) and the *Petroleum Act 1984* (NT) respectively:

No.	Expiry Date	Holder
EL 24360	14/09/2016	Australian Abrasive Minerals
EL 24817	17/04/2016	Genesis Resources
EL 25063	19/11/2016	Barfuss Corporation Pty Ltd
EL 25430	13/03/2015	Barfuss Corporation Pty Ltd
EL 25764	15/09/2016	Barfuss Corporation Pty Ltd
EL 28696	11/10/2017	Australian Abrasive Minerals
EL 29481	09/12/2018	Gempart (NT) Pty Ltd
EL 29511	09/12/2018	Gempart (NT) Pty Ltd
EL 29689	19/08/2019	DBL Blues Pty Ltd
EL 29690	03/12/2019	Barfuss Corporation Pty Ltd
EL 29920	22/04/2020	Barfuss Corporation Pty Ltd
EL 29950	22/04/2020	Barfuss Corporation Pty Ltd
EL 30090	27/01/2021	Davenport Resources Pty Ltd
EL 30138	13/05/2020	Australian Abrasive Mineral
EL 30834	10/12/2021	Startpart Holdings Pty Ltd
EL 31214	09/10/2022	Universal Rare Earths Pty Ltd
EL 31147	06/09/2022	Gempart (NT) Pty Ltd
MC 24748	21/08/2017	Barfuss Corporation Pty Ltd
MC 24749	21/08/2017	Barfuss Corporation Pty Ltd
MC 24750	21/08/2017	Barfuss Corporation Pty Ltd
MC 24751	21/08/2017	Barfuss Corporation Pty Ltd

MC 24752	21/08/2017	Barfuss Corporation Pty Ltd	
MC 24753	21/08/2017	Barfuss Corporation Pty Ltd	
MC 24754	21/08/2017	Barfuss Corporation Pty Ltd	
MC 24755	21/08/2017	Barfuss Corporation Pty Ltd	
MC 24756	21/08/2017	Barfuss Corporation Pty Ltd	
MC 24760	21/08/2017	Barfuss Corporation Pty Ltd	
MC 25308	21/08/2017	Barfuss Corporation Pty Ltd	
MC 25309	21/08/2017	Barfuss Corporation Pty Ltd	
MC 25310	21/08/2017	Barfuss Corporation Pty Ltd	
MCS 235	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 236	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 237	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 238	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 239	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 240	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MCS 241	20/06/2011	Barfuss Corporation Pty Ltd	Renew Retained
MLS 155	31/12/2018	In Minerals Pty Ltd	
MLS 156	31/12/2018	In Minerals Pty Ltd	
MLS 157	31/12/2018	In Minerals Pty Ltd	
MLS 158	31/12/2018	In Minerals Pty Ltd	
MLS 159	31/12/2018	In Minerals Pty Ltd	
MLS 160	31/12/2018	In Minerals Pty Ltd	
MLS 161	31/12/2018	In Minerals Pty Ltd	
MLS 162	31/12/2018	In Minerals Pty Ltd	
MLS 177	08/08/2022	In Minerals Pty Ltd	
MLS 182	08/08/2022	In Minerals Pty Ltd	
MLS 183	08/08/2022	In Minerals Pty Ltd	
MLS 184	08/08/2022	In Minerals Pty Ltd	
ML 22624	05/08/2032	Clarence River Finance Group Pty Ltd	
ML 23868	11/08/2030	Australian Abrasive Minerals Pty Ltd	
ML 28614	21/11/2038	Australian Abrasive Minerals Pty Ltd	
ML 31400	19/02/2027	Barfuss Corporation Pty Ltd	

(c) 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 Act 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 telecommunications facilities within the Determination Area.
- (d) NT Portions 2453, 3676, 5136 and 7578 - 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 1992* (NT);
 - (e) the rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT);
 - (f) 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;
 - (g) 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

10. To the extent that the continued existence, enjoyment or exercise of the native title rights and interests referred to in paragraph 6 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.

Other matters

11. 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)).

12. 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.

13. 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

1. The Determination Area comprises NT Portions 2453, 3676, 5136 and 7578 comprising an area of 2,754 square kilometres held under Perpetual Pastoral Lease No. 989.

2. The following areas within the external boundaries of NT Portion 2453 are not included in the Determination Area:

- (a) NT Portion 2431;
- (b) NT Portion 3371;
- (c) NT Portion 3400;
- (d) NT Portion 3401;
- (e) NT Portion 4166;
- (f) NT Portion 4167;
- (g) Town of Hart Range;
- (h) The following roads constructed by or on behalf of the Northern Territory as public roads:
 - (i) a road 100 metres wide (Plenty Highway) which traverses NT Portion 2453 and 3673 from the boundary

with Alkwert Aboriginal Land Trust (NT Portion 4029) to the boundary of Huckitta Station (NT Portion 2454);

- (ii) a road 100 metres wide (Aranpunya Road) which traverses NT Portions 2453 and 7578 from the Plenty Highway to the boundary of Dneiper Station (NT Portion 742);
- (iii) a road 100 metres wide which traverses NT Portion 2453 from the boundary with NT Portion 7578 to the boundary of Delny Station (NT Portion 756) and MacDonald Downs Station (NT Portion 3120) respectively.

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

1. Those parts of the Determination Area covered by public works as defined in section 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 section 251D of the *Act*), 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 above native title has been wholly extinguished over that part of NT Portion 2453 covered by:

- (a) the Old Harts Range Police Station (including land and waters within the meaning of section 251D of the *NTA*); and

(b) a road 20 metres wide (Harts Range access road) which traverses NT Portion 2453 from the Plenty Highway to the boundary of Alkwert ALT (NT Portion 4029) - en route to NT Portion 1503 within NT Portion 4029.

REGISTER ATTACHMENTS:

1. Schedule B - Map of Determination Area, 1 page - A4, 06/04/2017

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.