



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NTD3/2020
NNTT Number: DCD2023/001

Determination Name: [Mumu v Northern Territory of Australia](#)

Date(s) of Effect: 5/04/2023

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: 05/04/2023

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Iyanka Kularta Aboriginal Corporation
Agent Body Corporate
PO Box 3321
Alice Springs Northern Territory 0871

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:

The Native Title Holders

4. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who, as *ngurraritja* for the Determination Area, have a spiritual connection to that area and to the *Tjukurpa* associated with it by virtue of (usually more than one of):

- (a) birth on or near the area or a Dreaming track that crosses the area;
- (b) close kin or an ancestor having a connection to the area (including through birth or long-term association);
- (c) adoption by a claimant or a claimant's ancestor;

(d) knowledge of the physical landscape of the area and its sites and Dreamings;

(e) caring for the physical and spiritual attributes of the area;

(f) long-term association with the area;

(g) burial of close kin on or near the area,

and they are recognised by other *ngurraritja* as having rights and interests in the area under the traditional laws and customs of the Western Desert.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in the terms of the Determination set out at Attachment A.

2. The native title is not to be held on trust.

3. Iyangka Kularta Aboriginal Corporation (ICN: 9136) shall:

(a) be the prescribed body corporate for the purposes of s 57(2) of the NTA; and

(b) 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 Three of the Determination.

ATTACHMENT A

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

The Determination Area

1. The Determination Area comprises NT Portions 326, 1107, 1975, 1978, 2452, 3350, 3351, 5740, 6300 and 6301 being the land and waters more particularly described in Schedule One and depicted on the map comprising Schedule Two.

2. Native title exists in the Determination Area as follows:

(a) NT Portions 326, 3350 and 3351: the native title rights and interests in paragraph 5;

(b) NT Portions 1975, 1978, 2452, 5740, 6300 and 6301: the native title rights and interests in paragraph 5; but they are wholly ineffective in relation to the relevant acts due to the operation of section 238(3) of the NTA.

3. Notwithstanding paragraph 2, native title does not exist in those parts of the Determination Area described in Schedule Three.

The Native Title Holders

4. The persons who hold the common or group rights comprising the native title are the Aboriginal persons who, as *ngurraritja* for the Determination Area, have a spiritual connection to that area and to the *Tjukurpa* associated with it by virtue of (usually more than one of):

(a) birth on or near the area or a Dreaming track that crosses the area;

(b) close kin or an ancestor having a connection to the area (including through birth or long-term association);

(c) adoption by a claimant or a claimant's ancestor;

(d) knowledge of the physical landscape of the area and its sites and Dreamings;

(e) caring for the physical and spiritual attributes of the area;

(f) long-term association with the area;

(g) burial of close kin on or near the area,

and they are recognised by other *ngurraritja* as having rights and interests in the area under the traditional laws and customs of the Western Desert.

The Native Title Rights and Interests

5. The native title rights and interests in relation to the Determination Area comprise:

(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 access, take and use for any purpose the natural resources of the land and waters, and natural water on or in the land and waters, including the right to share or exchange natural resources obtained on or from the land and waters;

Note: To avoid doubt, the term “natural water” is defined at paragraph 17.

(d) the right to light fires for domestic purposes, but not for the clearance of vegetation;

(e) 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;

(f) 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.

(g) 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;

(h) 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.

(i) the right to conduct activities necessary to give effect to the rights referred to in (a) to (h) hereof.

6. The native title rights and interests do not confer:

(a) possession, occupation, use and enjoyment of the land and waters on the native title holders to the exclusion of all others; or

(b) any right to control access to, or the use of, the Determination Area or its resources.

7. 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.

Other Interests in the Determination Area

8. The nature and extent of the other interests in those parts of the Determination Area where native title exists are the interests created by the Crown or otherwise as follows:

(a) NT Portion 326:

(i) the rights and interests of Ashley Armstrong Severin under Perpetual Pastoral Lease No. 1092;

(ii) the interest of the Commonwealth of Australia under Right of Way Easement (Dealing No. 211648 registered on 22 December 1988);

(iii) the interest of the Commonwealth of Australia under Powerline Easement (Dealing No. 026356 registered on 6 November 1969);

(b) NT Portion 3350 – the rights and interests of John Garnaut Stanes under Perpetual Pastoral Lease 1088;

(c) NT Portion 3351:

(i) the rights and interests of Eridunda Pty Ltd as trustee for the Eridunda Land Trust and as trustee for the Eridunda Land Trust No 2 under Perpetual Pastoral Lease 1031;

(ii) the interest of the Karu Mutu Aboriginal Corporation under Right of Way “C” Easement (Dealing No. 660815 registered on 29 November 2007);

(d) NT Portion 1975 – the rights and interests of Amplitel Pty Ltd as the holder of an estate in fee simple;

(e) NT Portion 1978 – the rights and interests of Telstra Corporation Limited (as successor to the Australian Telecommunications Corporation) as the holder of an estate in fee simple;

(f) NT Portion 2452 – the rights and interests of Amplitel Pty Ltd as the holder of an estate in fee simple;

(g) NT Portion 5740 – the rights and interests of the Karu Mutu Aboriginal Corporation as the holder of an estate in fee simple (subject to the Karu Mutu Community Living Area Agreement, DI2003/003 entered on the Register of Indigenous Land Use Agreements on 30 June 2003);

(h) NT Portion 6300 – the rights and interests of the Pulkurru Aboriginal Corporation as the holder of an estate in fee simple (subject to the Pulkurru Community Living Area Agreement, DI2003/002 entered on the Register of Indigenous Land Use Agreements on 30 June 2003);

(i) NT Portion 6301 – the rights and interests of the Umalka Tjintjira Aboriginal Corporation as the holder of an estate in fee simple (subject to the Umalka Tjintjira Community Living Area Agreement, DI2003/001 entered on the Register of Indigenous Land Use Agreements on 30 June 2003);

(j) the rights and interests of the holders of the following titles granted under the **Petroleum Act 1984** (NT):

No.	Date Granted	Expiry date	Holder
EP112	21 July 2005	20 December 2024	Santos QNT Pty Ltd and Frontier Oil & Gas Pty Ltd
EP125	7 December 2005	6 June 2024	Santos QNT Pty Ltd and Ordiv Petroleum Pty Ltd

(k) the rights and interests of the holders of the following titles granted under the **Mineral Titles Act 2010** (NT) (or its predecessor):

No.	Date Granted	Expiry date	Holder
ML22854	17 November 2004	16 November 2029	Victory Gypsum Pty Ltd
EL32249	30 November 2021	29 November 2027	Territory Potash Pty Ltd
EL32250	30 November 2021	29 November 2027	Territory Potash Pty Ltd
EL32251	30 November 2021	29 November 2027	Territory Potash Pty Ltd
EL32369	13 August 2020	12 August 2026	Enigma Mining Ltd
EL32858	8 April 2022	7 April 2028	Havelock Mining Pty Ltd
EL32859	8 April 2022	7 April 2028	Havelock Mining Pty Ltd

(l) the rights and interests (if any) of Telstra Corporation Limited and its related bodies corporate (including Amplitel Pty Ltd) and successors in title:

(i) as the owners or operators of telecommunications facilities within the Determination Area;

(ii) created pursuant to the *Post and Telegraph Act 1901* (Cth), *Telecommunications Act 1975* (Cth), *Australian Telecommunications Corporation Act 1989* (Cth), *Telecommunications Act 1991* (Cth) and under sch 3 to the *Telecommunications Act 1997* (Cth), including rights:

A. to inspect land;

B. to install, occupy and operate telecommunication facilities; and

C. to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunication facilities; and

(iii) for their employees, agents or contractors to access their telecommunications facilities in, and in the vicinity of, the Determination Area in the performance of their duties;

(iv) under any lease, licence, permit, access agreement or easement relating to their telecommunications facilities in the Determination Area;

(m) NT Portions 326, 3350 and 3351 – the rights of Aboriginal persons (whether or not native title holders) pursuant to the reservation in favour of Aboriginal people contained in Perpetual Pastoral Lease Nos 1092, 1088 and 1031, respectively, set out in ss 38(2) to (6) of the *Pastoral Land Act 1992* (NT);

(n) the rights of Aboriginal persons (whether or not native title holders) by virtue of the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT);

(o) rights of access by an employee, servant, agent or instrumentality of the Northern Territory of Australia, Commonwealth of Australia or other statutory authority as required in the performance of his or her statutory duties;

(p) the rights to water lawfully captured by the holders of other interests;

(q) 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 the Native Title Rights and Interests and the Other Interests

9. In relation to NT Portions 326, 3350 and 3351, the other rights and interests referred to in paragraph 8 and the doing of an activity in giving effect to them or of an activity required or permitted by them, prevail over but do not extinguish the native title rights and interests referred to in paragraph 5 and the existence and exercise of the native title rights and interests do not prevent the carrying on of any such activity.

10. In relation to NT Portions 1975 and 2452, the relationship between the native title rights and interests referred to in paragraph 5 and the rights and interests of Amplitel Pty Ltd referred to in paragraph 8 as the holder of two estates in fee simple is that the non-extinguishment principle applies. The estates in fee simple:

(a) are 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 grants or their effects are wholly removed or otherwise wholly cease to operate, the native title rights and interests again have full effect;

(d) if the grants or their effects are 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.

11. In relation to NT Portion 1978, the relationship between the native title rights and interests referred to in paragraph 5 and the rights and interests of Telstra Corporation Limited referred to in paragraph 8 as the holder of an estate in fee simple is that the non-extinguishment principle applies. The estate in fee simple:

(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 effects are wholly removed or otherwise wholly cease to operate, the native title rights and interests again have full effect;

(d) if the grant or its effects are 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.

12. In relation to NT Portion 5740, the relationship between the native title rights and interests referred to in paragraph 5 and the rights and interests of the Karu Mutu Aboriginal Corporation referred to in paragraph 8 as the holder of a fee simple estate in the land as set out in the Karu Mutu Community Living Area Agreement, DI2003/003 entered on the Register of Indigenous Land Use Agreements on 30 June 2003, is that the non-extinguishment principle applies:

(a) the grant of the estate in fee simple 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 effects are wholly removed or otherwise wholly ceases to operate, the native title rights and interests again have full effect;

(d) if the grant or its effects are removed to an extent, or otherwise ceases to operate only to an extent, the native title rights and interests again have effect to that extent.

13. In relation to NT Portion 6300, the relationship between the native title rights and interests referred to in paragraph 5 and the rights and interests of the Pulkurru Aboriginal Corporation referred to in paragraph 8 as the holder of a fee simple estate in the land as set out in the Pulkurru Community Living Area Agreement, DI2003/02 [sic] entered on the Register of Indigenous Land Use Agreements on 30 June 2003, is that the non-extinguishment principle applies:

(a) the grant of the estate in fee simple 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 effects are wholly removed or otherwise wholly ceases to operate, the native title rights and interests again have full effect;

(d) if the grant or its effects are removed to an extent, or otherwise ceases to operate only to an extent, the native title rights and interests again have effect to that extent.

14. In relation to NT Portion 6301, the relationship between the native title rights and interests referred to in paragraph 5 and the rights and interests of the Umalka Tjintjira Aboriginal Corporation referred to in paragraph 8 as the holder of a fee simple estate in the land as set out in the Umalka Tjintjira Community Living Area Agreement, DI2003/001 entered on the Register of Indigenous Land Use Agreements on 30 June 2003, is that the non-extinguishment principle applies:

(a) the grant of the estate in fee simple 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 effects are wholly removed or otherwise wholly ceases to operate, the native title rights and interests again have full effect;

(d) if the grant or its effects are removed to an extent, or otherwise ceases to operate only to an extent, the native title rights and interests again have effect to that extent.

15. In relation to the titles granted under the *Petroleum Act* and the *Mineral Titles Act* (or its predecessor) referred to in paragraph 8: the relationship between the native title rights and interests and those titles is that the titles and the doing of an activity in giving effect to them, or of an activity required or permitted by them, prevail over but do not extinguish the native title rights and interests, and the existence and exercise of the native title rights and interests do not prevent the carrying on of any such activity.

Other matters

16. 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*;
- (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).

17. In this determination, the term:

- (a) “**natural resources**” does not include minerals, petroleum and prescribed substances; and
- (b) “**natural water**”:
 - (i) includes springs and rockholes;
 - (ii) does not include any water deriving from, or in relation to, the Determination Area which, from time to time, is captured by a lessee of Perpetual Pastoral Lease Nos 1031, 1088 and 1092.

18. 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.

REGISTER ATTACHMENTS:

1. DCD2023/001 Schedule One – Description of the Determination Area, 2 pages - A4, 05/04/2023
2. DCD2023/001 Schedule Two – Map of Determination Area, 1 page - A4, 05/04/2023
3. DCD2023/001 Schedule Three – Areas Where Native Title Does Not Exist, 1 page - A4, 05/04/2023

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.