



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): SAD6001/1996
NNTT Number: SCD2005/001

Determination Name: [De Rose v State of South Australia](#)

Date(s) of Effect: 08/06/2005

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: 08/06/2005

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

De Rose Hill - Ilpalka Aboriginal Corporation RNTBC
Agent Body Corporate
South Australian Native Title Service Ltd
Level 4, 345 King William Street
ADELAIDE SA 5000

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 persons who hold the group rights comprising native title are the Aboriginal persons who are Nguraritja according to the relevant traditional laws and customs of the Western Desert Bloc people as are applicable to the determination area because for each of them:

- (a) it is his or her country of birth; or
- (b) he or she has a long-term physical association with the determination area; or
- (c) he or she possesses an ancestral connection to the determination area; or
- (d) he or she possesses geographical and religious knowledge of the determination area;

and such person is recognised as Nguraritja by the other Nguraritja.

MATTERS DETERMINED:

Note: On 1 February 2007, the De Rose Hill ' Ilpalka Aboriginal Corporation was nominated as the Prescribed Body Corporate for this determination and subsequently registered on 10 July 2007.

THE COURT MAKES THE FOLLOWING DETERMINATION OF NATIVE TITLE:

1. Native title exists in relation to the land and waters covered by Crown Lease Pastoral No. 2133, Crown Lease Pastoral No. 2138A and Crown Lease Pastoral No. 2190A ('the determination area').

2. The persons who hold the group rights comprising native title are the Aboriginal persons who are Nguraritja according to the relevant traditional laws and customs of the Western Desert Bloc people as are applicable to the determination area because for each of them:

- (a) it is his or her country of birth; or
- (b) he or she has a long-term physical association with the determination area; or
- (c) he or she possesses an ancestral connection to the determination area; or
- (d) he or she possesses geographical and religious knowledge of the determination area;

and such person is recognised as Nguraritja by the other Nguraritja.

3. The nature and extent of the native title rights and interests in relation to the determination area are the non-exclusive rights to use and enjoy the land and waters of the determination area in accordance with the Nguraritjas' traditional laws and customs being:

- (a) the right to access and move about the determination area;
- (b) the right to hunt on the determination area;
- (c) the right to gather and use the natural resources of the determination area such as food, medicinal plants, wild tobacco, timber, stone and resin;
- (d) the right to use the natural water resources on the determination area;
- (e) the right to live, to camp and to erect shelters on the determination area;
- (f) the right to cook on the determination area and to light fires for all purposes other than the clearance of vegetation;
- (g) the right to engage and participate in cultural activities on the determination area including those relating to births and deaths;
- (h) the right to conduct ceremonies and to hold meetings on the determination area;
- (i) the right to teach on the determination area the physical and spiritual attributes of locations and sites within the determination area;
- (j) the right to maintain and protect sites and places of significance to Nguraritja under their traditional laws and customs on the determination area;
- (k) the right to be accompanied on to the determination area by those people who, though not Nguraritja, are:
 - (i) spouses of Nguraritja,
 - (ii) people required by traditional law and custom for the performance of ceremonies or cultural activities on the determination area;
 - (iii) people who have rights in relation to the determination area according to the traditional laws and customs acknowledged by Nguraritja; or
 - (iv) people required by Nguraritja to assist in, observe, or record traditional activities on the determination area; and
- (l) the right to make decisions about the use and enjoyment of the determination area by Aboriginal people who recognise themselves to be governed by the traditional laws and customs acknowledged by Nguraritja.

4. The rights recognised by paragraphs 3(b), (c) and (d) are traditional rights exercised in order to satisfy personal, domestic, or communal needs, but do not include any commercial use of the determination area.

5. The native title rights and interests do not confer possession, occupation, use and enjoyment of those lands and waters on the native title holders to the exclusion of others.

6. Native title rights and interests do not exist in respect of those parts of the determination area being:

(a) any house, shed or other building or airstrip; or

(b) any constructed dam or any other constructed stock watering point.

The areas described by 6(a) and (b) comprise the land on which the improvements have been constructed prior to the date hereof and include any adjacent land or waters the exclusive use of which is necessary for the enjoyment of the improvements referred to therein.

7. Native title rights do not exist in minerals as defined in s 6 of the Mining Act 1971 (SA) or petroleum as defined in s 4 of the Petroleum Act 2000 (SA).

8. Native title rights and interests are subject to and exercisable in accordance with the valid laws of the State and the Commonwealth, including the common law.

9. The nature and extent of other interests to the determination area are:

(a) the interests created by Crown Lease Pastoral No. 2133, Crown Lease Pastoral No. 2138A, and Crown Lease Pastoral No. 2190A;

(b) the interests of the Crown in right of the State of South Australia under the leases that are identified in par (a) hereof;

(c) the interests of persons to whom valid or validated rights and interests have been granted or recognised by the Crown pursuant to the Pastoral Land Management and Conservation Act 1989 (SA) or other statutes or otherwise in the exercise of its executive power;

(d) the rights to access land by an employee or agent or instrumentality of the State, Commonwealth or other statutory authority as required in the performance of his or her statutory or common law duties where such access would be permitted to private land.

10. Subject to par 6, the relationship between the native title rights and interests in the determination area that are described in paragraph 3 and the other rights and interests that are referred to in paragraph 9 ('the other rights and interests') is that:

(a) the other rights and interests co-exist with the native title rights and interests;

(b) the existence of the native title rights and interests does not prevent the doing of any activity required or permitted to be done by or under the other rights and interests; and the other rights and interests and the doing of any activity required or permitted to be done by or under the other rights and interests prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them.

THE COURT MAKES THE FOLLOWING FURTHER ORDERS

11. The native title is not to be held in trust.

12. An Aboriginal corporation, the name of which must be provided within 12 months of the date of this order, is to:

(a) be the prescribed body corporate for the purposes of s 57(2) of the Native Title Act 1993 (Cth); and

(b) perform the functions mentioned in s 57(3) of the Native Title Act 1993 (Cth) after becoming a registered native title body corporate.

13. Liberty to any party to apply on 14 days' notice to a single judge of the Court as to the identification of the Aboriginal corporation referred to in the preceding paragraph.

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.