



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): SAD6022/1998
NNTT Number: SCD2006/001

Determination Name: [Yankunytjatjara/Antakirinja Native Title Claim Group v The State of South Australia](#)

Date(s) of Effect: 28/08/2006

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: 28/08/2006

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Yankunytjatjara Native Title Aboriginal Corporation RNTBC
Agent Body Corporate
South Australian Native Title Services
4th floor, 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:

Under the relevant traditional laws and customs of the Western Desert Bloc, the native title holders comprise those Aboriginal people who have a spiritual connection to the Determination Area and the Tjukurpa associated with it because:

- (a) the Determination Area is his or her country of birth (also reckoned by the area where his or her mother lived during the pregnancy); or
- (b) he or she has had a long term association with the Determination Area such that he or she has traditional geographical and religious knowledge of that country; or
- (c) he or she has an affiliation to the Determination Area through a parent or grandparent with a connection to the

Determination Area as specified in sub-paragraphs (a) or (b) above;

and are recognised under the relevant Western Desert traditional laws and customs by other members of the native title claim group as having rights and interests in the Determination Area.

MATTERS DETERMINED:

Note: On 7 March 2007, the Yankunytjatjara Native Title Aboriginal Corporation was nominated as the Prescribed Body Corporate for this determination and subsequently registered on 10 July 2007.

THE COURT ORDERS, DECLARES AND DETERMINES BY CONSENT THAT:

1. In this determination, including its schedules, unless the contrary intention appears, the words and expressions used have the same meaning as they are given in Part 15 of the Native Title Act.
2. In this determination including its schedules, in the event of an inconsistency between a description of an area in a schedule and the depiction of that area on the map in Schedule 2 (see Attachment 1), the written description shall prevail.
3. Subject to Orders 8, 9, 10, 11 and 12 below, native title exists in the areas described in Schedule 1 ("the Determination Area").

4. Under the relevant traditional laws and customs of the Western Desert Bloc, the native title holders comprise those Aboriginal people who have a spiritual connection to the Determination Area and the Tjukurpa associated with it because:

(a) the Determination Area is his or her country of birth (also reckoned by the area where his or her mother lived during the pregnancy); or

(b) he or she has had a long term association with the Determination Area such that he or she has traditional geographical and religious knowledge of that country; or

(c) he or she has an affiliation to the Determination Area through a parent or grandparent with a connection to the Determination Area as specified in sub-paragraphs (a) or (b) above;

and are recognised under the relevant Western Desert traditional laws and customs by other members of the native title claim group as having rights and interests in the Determination Area.

5. The nature and extent of the native title rights and interests in relation to the Determination Area are non-exclusive rights to use and enjoy in accordance with the native title holders' traditional laws and customs the land and waters of the Determination Area, being:

(a) the right to access and move about the Determination Area;

(b) the right to hunt and fish on the land and waters 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 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 native title holders 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 native title holders, are:

(i) spouses of native title holders; or

(ii) people required by traditional law and custom for the performance of ceremonies or cultural activities on the Determination Area; or

(iii) people who have rights in relation to the Determination Area according to the traditional laws and customs acknowledged by the native title holders; or

(iv) people required by native title holders 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 the native title holders.

6. The native title rights and interests are for personal, domestic and non-commercial communal use.

7. 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.

8. Native Title does not exist in the areas described in Schedule 3 and in the areas and resources described in Orders 9, 11 and 12 herein.

9. Native title rights and interests do not exist in respect of those parts of the Determination Area being any house, shed or other building or airstrip or any dam or other stock watering point constructed pursuant to the pastoral leases referred to in Order 14(a) below. These areas comprise the land on which the improvements of the kind referred to herein 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.

10. For the avoidance of doubt, Order 9 does not preclude the possibility of further extinguishment, according to law, of native title over other limited parts of the Determination Area by reason of the construction of new pastoral improvements of the kind referred to in Order 9 after the date of this determination.

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

12. Native title rights do not exist in the areas covered by Public Works (including the land defined in section 251D of the Native Title Act) which were:

(a) constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date; or

(b) constructed, established or situated after 23 December 1996, where section 24JA of the Native Title Act applies.

13. Native title rights and interests are subject to and exercisable in accordance with:

(a) the traditional laws and customs of the native title holders;

(b) the valid laws of the State and Commonwealth, including the common law.

14. The nature and extent of other interests to the Determination Area are:

(a) the interests within the Determination Area created by:

(i) Crown Lease Pastoral No 2408;

(ii) Crown Lease Pastoral No 2418;

(iii) Crown Lease Pastoral No 2476;

(iv) Crown Lease Pastoral No 2533;

(v) Crown Lease Pastoral No 2446;

(vi) Crown Lease Pastoral No 2430;

(vii) Crown Lease Pastoral No 2532; and

(viii) Crown Lease Pastoral No 2532a;

(b) the interests of the Crown in right of the State of South Australia;

(c) the interests of persons to whom valid or validated rights and interests have been granted or recognised by the Crown in right of the State of South Australia or by the Commonwealth of Australia pursuant to statute or otherwise in the exercise of executive power;

(d) rights and interests held by reason of the force or operation of the laws of the State or Commonwealth;

(e) 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;

(f) the rights and interests of Telstra Corporation Ltd:

(i) as the owner or operator of telecommunications facilities within the Determination Area, including customer radio terminals and overhead and underground cabling;

(ii) as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);

(iii) 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 the Telecommunications Act 1997 (Cth); and

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

(g) the rights and interests of Airservices Australia:

(i) rights and interests created pursuant to the Air Navigation Act 1920 (Cth), the Civil Aviation Act 1988 (Cth) and the Airservices Act 1995 (Cth); and

(ii) rights of access by employees, agents or contractors of Airservices Australia to the Oodnadatta Satellite Ground Station Site in the performance of their duties; and

(h) the rights and interests under the Todmorden Pastoral ILUA dated 14 April 2004 and registered on 29 March 2005 (SI 2002/002) between Douglas Lillecrapp, Gordon Keith Lillecrapp, Mary Lizbeth Lillecrapp, the State of South Australia and representatives of the native title holders.

15. Subject to Order 6, the relationship between the native title rights and interests in the Determination Area that are described in Order 5 and the other rights and interests that are referred to in Order 14 ("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 which prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them.

AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS:

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

17. An Aboriginal corporation, the name of which must be provided to the Court within 6 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.

18. 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 Order.

19. The Application to the extent to which it relates to the area of land and waters excluded from the Determination Area as described in Schedule 1 of this Order is adjourned to a directions hearing on 14 September 2006 at 9.30 am.

SCHEDULE 1 - Location of and areas comprising the Determination Area

The Determination Area is located wholly within and comprises all land and waters bounded by the following line:

Commencing at the northernmost north-western corner of Parcel B1161 on Plan H831200 (being Lambina Pastoral Lease) and extending easterly, southerly, again easterly and again southerly along northern and eastern boundaries of that parcel to the northernmost north-western corner of Parcel A2005 on Plan D30223 (being Todmorden Pastoral Lease); then easterly, southerly, again easterly, again southerly, westerly and again southerly along northern and eastern boundaries of that parcel to the north-eastern corner of Parcel A2006 on Plan D30223 (being part Allandale Pastoral Lease); then southerly and westerly along eastern and southern boundaries of that parcel to the north-eastern corner of Parcel B1215 on Plan H831300 (being Coorikiana Pastoral Lease); then southerly along the eastern boundary of that parcel to Latitude 27.839209° South (being the prolongation easterly of a southern boundary of Parcel Q3 on Plan D45289); then westerly to the easternmost south-eastern corner of Parcel Q3 on Plan D45289; then westerly along the said southern boundary to Longitude 134.061109° East; then westerly to a corner of Parcel Q1 on Plan D45289 (being part Wintinna Pastoral Lease) at Longitude 133.675301° East, Latitude 27.841662° South; then northerly along a western boundary of that parcel to a south-eastern corner of Parcel Q2043 on Plan D43520 (being part Welbourn Hill Pastoral Lease); then westerly, northerly, easterly and again northerly along western boundaries of that parcel to a corner of Parcel A51 on Plan F217277; then northerly along the western boundary of that parcel to a corner of Parcel Q2044 on Plan D43520 (also being part Welbourn Hill Pastoral Lease); then northerly and easterly along the western and northern boundaries of that parcel to a corner at Longitude 133.517438° East; then easterly to the north-western corner of Parcel Q2048 on Parcel D43520 (also being part Welbourn Hill Pastoral Lease); then easterly along the northern boundary of that parcel to the south-western corner of again Parcel B1161 on Plan H831200 (Lambina Pastoral Lease); then generally north-easterly along western and northern boundaries of that parcel back to the commencement point.

With the exclusion of the township of Marla as defined in Government Gazette dated 21 May 1981 at page 1498 and the land dedicated in Government Gazette dated 18 July 1996 at page 131 for Golf course and Race course Purposes (Allotment 2046 on Deposited Plan No. 43520, Out of Hundreds (Wintinna)) extracts of which are reproduced below:

The South Australian Government Gazette - 21 May 1981

The portion of the State of South Australia, out of hundreds (Wintinna), bounded as follows:

Commencing at a point situate in block 1184, out of hundreds (Wintinna), being at latitude 27°18'19.7", longitude 133°36'50.3"; thence north-westerly at a bearing of 323°40'16" for 825.82 metres; north-easterly at right angles for 1 700.00 metres; south-easterly at right angles for 1 700.00 metres; south-westerly at right angles for 1 729.85 metres; thence north-westerly at a northern angle of 88°02'40" to the point of commencement.

The South Australian Government Gazette - 18 July 1996

Allotment 2046 of DP 43520, Out of Hundreds (Wintinna), exclusive of all necessary roads, being the whole of the land comprised in Crown Record Volume 5337, Folio 563.

Reference datum

Geographical coordinates have been provided by NNTT Geospatial Services and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time.

Data Reference and source

Cadastral data sourced from the South Australian Department for Environment and Heritage (May 2006)

Prepared by Geospatial Services, National Native Title Tribunal, 7 June 2006.

SCHEDULE 3 - Areas within the Determination Area where native title does not exist

1. Areas of freehold grants

1.1 The land comprised in the following Certificates of Title:

a) Volume 4397 Folios 121, 122 and 123; and

b) Volume 5817 Folio 682

2. The area of the Odnadatta Satellite Ground Station Site operated by Airservices Australia, being an area of approximately 625m², the Station Mark of which is located at Latitude 27°30'30.9"S Longitude 135°26'39.1"E.

3. Dedicated Land

3.1 Section 1517 Out of Hundreds Wintinna dedicated for Digital Radio Concentrator purposes.

4. Public Roads

4.1 the Stuart Highway, being the land depicted in Survey for road purposes on Survey Diagram Book - Out of Hundreds (North) pages 922 to 927 and 978 to 980 (inclusive);

4.2 all other public roads.

REGISTER ATTACHMENTS:

1. Attachment 1 SCHEDULE 2 - Map of the Determination Area, 1 page - A4, 28/08/2006

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.