



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): SAD32/2015  
NNTT Number: SPD2017/001

**Determination Name:** [Pearson on behalf of the Tjauwara Unmuru Native Title Holders v State of South Australia \(Tjauwara Unmuru Native Title Compensation Claim\)](#)

**Date(s) of Effect:** 20/12/2017

**Determination Outcome:** Native title does not exist

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

**Determination Date:** 20/12/2017

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

The Court has determined that compensation is payable for the past extinguishment, diminution or impairment of native title in the Determination Area for De Rose v State of South Australia [2013] FCA 687 (16 July 2013) (National Native Title Register entry SCD2013/001).

### MATTERS DETERMINED:

#### THE COURT ORDERS, DECLARES AND DETERMINES THAT:

##### Interpretation and declaration

1. In this determination, including its schedules:
  - (a) unless the contrary intention appears, the words and expressions used have the same meaning as they are given in Pt 15 of the NT Act;
  - (b) in the event of an inconsistency between a description of an area in this determination and the depiction of that area on the map in Schedule 2, the written description shall prevail;
  - (c) **Agreement Area** means the whole of the area within the external boundaries of the Tjauwara Unmuru Determination, including the area of the Application (the Determination Area) as depicted on the map attached at Schedule 2;
  - (d) **Compensation Agreement** means the written agreement signed by the Applicant and the Tjauwara Unmuru Aboriginal Corporation RNTBC (ICN 7854) on behalf of all the persons entitled to compensation under the NT Act for any extinguishment within the Agreement Area and the Attorney-General for the State of South Australia on behalf of the Respondent and annexed hereto at Schedule 3;

- (e) **RNTBC** means the Tjauwara Unmuru Aboriginal Corporation RNTBC ICN 7854;
- (f) **Tjauwara Unmuru Determination** means the native title determination made on 16 July 2013 and recorded in *De Rose v State of South Australia* [2013] FCA 687;
- (g) **Tjauwara Unmuru Native Title Holders** means the native title holders as defined in clause 3 of the Tjauwara Unmuru Determination.

#### **Compensation for extinguishment of native title**

2. The Court determines that compensation is payable by the Respondent for the past extinguishment, diminution or impairment of native title in the Determination Area in accordance with the terms of the Compensation Agreement.

3. Payment of the full compensation sum under the Compensation Agreement to the RNTBC on behalf of the Tjauwara Unmuru Native Title Holders shall be taken as full discharge of the Respondent's obligations under this Order.

#### **Compensation Agreement**

4. The Compensation Agreement is attached at Schedule 3 in a redacted form removing the amount of compensation to be paid, and is also attached at Schedule 4 in an unredacted form in a sealed envelope which is not to be opened without the leave of a Judge of this Court or the written agreement of both the Applicant and the Respondent to its disclosure.

#### **Entitlement to compensation**

5. The persons entitled to the compensation, the amount or kind of compensation to be given to each person and any dispute regarding the entitlement of a person to an amount of the compensation shall be determined in accordance with the decision making processes of the RNTBC as set out in its constitution lodged from time to time with the Office of the Registrar of Indigenous Corporations.

#### **AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS PURSUANT TO S 87(4) OF THE NT ACT:**

6. This Order fully disposes of both the Compensation Application and its subject matter.

7. The amount to be paid by the Respondent is in full and final settlement of any compensation liability of the Respondent to the Tjauwara Unmuru Native Title Holders pursuant to the NT Act in relation to the past extinguishment, diminution or impairment of native title in the Agreement Area in accordance with the terms of the Compensation Agreement, including, for the avoidance of doubt, any diminution caused by any act to rights and interests to native title in areas outside the immediate area of the act.

#### **AND THE COURT MAKES THE FOLLOWING FURTHER ORDER PURSUANT TO S 37AG(1)(A) OF THE FEDERAL COURT OF AUSTRALIA ACT 1976 (CTH):**

8. Being satisfied that it is necessary to prevent prejudice to the proper administration of justice to do so, the amount of the compensation to be paid pursuant to the Compensation Agreement not be published except in the circumstances set out herein, the unredacted Compensation Agreement be placed in a sealed envelope as Schedule 4 to these Orders which is not to be opened by any person without the leave of a Judge of this Court or the written agreement of both the Applicant and the Respondent to its disclosure.

#### **SCHEDULE 1 - EXTERNAL BOUNDARY DESCRIPTION AND MAP OF THE AGREEMENT AREA AND THE DETERMINATION AREA**

##### **Part A - External Boundary Description [see Note 1]**

##### **Agreement Area**

The Agreement Area covers all the land and waters within the external boundary described as:

Commencing at the north-western corner of Piece 3000 in Deposited Plan 35731, Out of Hundreds (Alberga), Pastoral Lease 2491 (Ayers Range South), being a point on the State Border between the State of South Australia and the Northern Territory; thence easterly to the north-eastern corner of the said Piece 3000; easterly to the north-western corner of Piece 3001 in Deposited Plan 35731, Out of Hundreds (Alberga), Pastoral Lease 2491 (Ayers Range South); easterly to the north-eastern corner of the said Piece 3001; easterly along the

northern boundary of Section 1319, Out of Hundreds (Alberga) to the north-western corner of Piece 3002 in Deposited Plan 35731, Out of Hundreds (Alberga), Pastoral Lease 2491 (Ayers Range South); easterly to the north-eastern corner of the said Piece 3002; easterly to Longitude 133.900000° east, being a point on the northern boundary of Block 1227, Out of Hundreds (Abminga), Pastoral Lease 2495 (Tieyon); generally southerly to Longitude 133.850000° east, being a point on the southern boundary of the said Block 1227; westerly to the south-eastern corner of Block 1213, Out of Hundreds (Abminga); northerly to the north-eastern corner of Block 1212, Out of Hundreds (Abminga); westerly to the north-western corner of the said Block 1212; northerly to the south-eastern corner of the aforementioned Piece 3002; generally westerly to the south-western corner of the said Piece 3002; generally westerly to the south-eastern corner of the aforementioned Piece 3001; generally westerly to the south-western corner of the said Piece 3001; generally westerly to the south-eastern corner of the aforementioned Piece 3000; generally westerly to the south-western corner of the said Piece 3000; thence northerly along the western boundary of the said Piece 3000 to the point of commencement.

**Note 1:** Boundary data compiled by National Native Title Tribunal based on data sourced from the Department for Transport, Energy & Infrastructure, SA. Pastoral lease data sourced from the Department for Transport, Energy & Infrastructure, SA (Feb 2011). Prepared by Geospatial Services, National Native Title Tribunal (5 April 2011)

## **Part B - Compensation Determination Area**

The Compensation Determination Area covers the following land and waters:

1. being that portion of the Stuart Highway corridor that traverses the Tjajuwara Unmurur Determination area (approximately 4.153km<sup>2</sup>), shown on Deposited Plan 23548 including:
  - a. an area (approximately 4.13km<sup>2</sup>) surrendered from Pastoral Lease No. 2941 (Crown Lease Volume 1433 Folio 13) on 10 November 1983 (partial surrender No. 5133842) for the road corridor (labelled "Stuart Highway" on the map at Schedule 2); and
  - b. Allotments 63 and 64 (totalling 0.023km<sup>2</sup>) in Deposited Plan 23548 excised from Pastoral lease No. 2941 (Crown Lease Volume 1433 Folio 13) on 19 July 1990 (Partial surrender No. 6957655) being two car parks or rest stops. (Allotment 63 is now allotment 1 in Filed Plan 252365 but allotment 64 remains as it was) (Parcel Identifiers F252365A1 and D23548A64 on the map at Schedule 2); and
2. Allotment 3003 (approximately 0.0225 km<sup>2</sup>) in Deposited Plan 35731 being an area excised from Pastoral lease No. 2941 (Crown Lease Volume 1433 Folio 13) for a digital radio concentrator tower on 29 September 1994 (Partial surrender No. 7800975) and dedicated for Digital Radio Concentrator purposes under the care, control and management of Telstra Corporation Limited on 9 January 1995 (Parcel Identifier D35731A3003 on the map at Schedule 2).

## **SCHEDULE 2 - MAP SHOWING AGREEMENT AREA**

[See NNTR attachment 1: "Schedule 2 - Map showing Agreement Area"]

## **SCHEDULE 3 - COMPENSATION AGREEMENT (REDACTED)**

[See NNTR attachment 2: "Schedule 3 - Compensation Agreement (Redacted)"]

## **SCHEDULE 4 - COMPENSATION AGREEMENT**

**TO BE VIEWED ONLY BY A JUDGE OF THE FEDERAL COURT FOR THE PURPOSE OF MAKING THIS ORDER UNLESS THE COURT OTHERWISE ORDERS.**

[See Order 8]

## **REGISTER ATTACHMENTS:**

1. Schedule 2 - Map showing Agreement Area, 2 pages - A4, 20/12/2017
2. Schedule 3 - Compensation Agreement (Redacted), 11 pages - A4, 20/12/2017

*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.*