



**NATIONAL NATIVE
TITLE TRIBUNAL**

Extract from the National Native Title Register

Federal Court Number: SAD6002/98
Federal Court Name: Adnyamathanha No. 1 Native Title Claim Group v The State of South Australia (No. 2)
Determining Body: Federal Court of Australia
Determination Date: 30/03/2009

Additional Information:

On 30 March 2009 Justice Mansfield made 3 determinations of native title in relation to the Adnyamathanha No 1 and Adnyamathanha No 2 applications in South Australia.

The first determined the area covering the Angepena pastoral lease within the Adnyamathanha No. 1 application (Adnyamathanha No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998) and included non-exclusive rights and interests only.

The second determined a large area of the Adnyamathanha No. 1 application and included areas of both exclusive and non-exclusive rights and interests (Adnyamathanha No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998). The areas where exclusive native title rights and interests were recognised were subject to the operation of s. 47A of the Native Title Act 1993 Cwlth.

These two determinations together determined approximately half of the Adnyamathanha No. 1 application.

The third determined the entire application over the Flinders Ranges National Park (Adnyamathanha No. 2 Native Title Claim Group v The State of South Australia - SAD6002/1998) and included areas of non-exclusive rights and interests only. This is the determination contained in this National Native Title Register extract.

The native title holders and the non exclusive rights and interests recognised were identical in all three determinations.

Just under half of the Adnyamathanha No. 1 application remains on foot to be determined at a later date .

Prescribed Body Corporate:

Adnyamathanha Traditional Lands Association (Aboriginal Corporation)
Agent Prescribed Body Corporate
c/- Johnston Withers
17 Sturt Street
ADELAIDE SA 5000

Common Law Holders of Native Title:

6. The Native Title Holders are those living Aboriginal people who:

(a) are the descendants (whether biologically or by adoption) of the following apical ancestors:

- i. Mt Serle Bob
- ii. Polly, wife of Mt Serle Bob
- iii. Quartpot Tommy
- iv. Mt Serle Bob's sister, wife of Quartpot Tommy
- v. Willy Austin Snr
- vi. Nicholas Demell
- vii. Emily McKenzie, wife of Nicholas Demell
- viii. Sydney Ryan
- ix. Mary, wife of Sydney Ryan
- x. the siblings Angepena Billy or Mary
- xi. Fanny, wife of Angepena Billy
- xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and

(b) identify as Adnyamathanha; and

(c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

Matters Determined:

BY CONSENT THE COURT MAKES THE FOLLOWING DETERMINATION OF NATIVE TITLE:

1. Notwithstanding any previous Orders, the Adnyamathanha No. 2 Claim is to be determined in its own right in Proceeding SAD 6002 of 1998.
2. 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 Part 15 of the Native Title Act;
 - (b) "the Determination Area" means the whole of the area of the Adnyamathanha No. 2 Claim as described in Schedule 1 (and shown in the Map forming part of that Schedule) apart from those excluded areas which are described in paragraph 14 and in Schedule 2;

(c) "the Vesting" means the vesting of the Flinders Ranges National Park ("the Park") in the Crown pursuant to the NPWA as listed in Schedule 3.

3. 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 1, the written description shall prevail.

EXISTENCE OF NATIVE TITLE

4. Native title exists in the Determination Area.

5. Native title does not exist in relation to the areas and resources described in Paragraphs 13 and 14 herein.

THE NATIVE TITLE HOLDERS

6. The Native Title Holders are those living Aboriginal people who:

(a) are the descendants (whether biologically or by adoption) of the following apical ancestors:

- i. Mt Serle Bob
- ii. Polly, wife of Mt Serle Bob
- iii. Quartpot Tommy
- iv. Mt Serle Bob's sister, wife of Quartpot Tommy
- v. Willy Austin Snr
- vi. Nicholas Demell
- vii. Emily McKenzie, wife of Nicholas Demell
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- xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and

(b) identify as Adnyamathanha; and

(c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

NATIVE TITLE RIGHTS AND INTERESTS

7. Subject to Paragraphs 8 and 9, the nature and extent of the native title rights and interests held by all Native Title Holders in relation to the Determination Area are rights to use and enjoy the land and waters of the Determination Area being:

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

- (b) The right to live, to camp and to erect shelters on the Determination Area;
- (c) The right to hunt and fish on the Determination Area;
- (d) The right to gather and use the natural resources of the Determination Area such as food, plants, timber, resin, ochre and soil,
- (e) The right to cook and to light fires for cooking and camping purposes on the Determination Area;
- (f) The right to use the natural water resources of the Determination Area;
- (g) The right to distribute, trade or exchange the natural resources of the Determination Area;
- (h) The right to conduct ceremonies and hold meetings on the Determination Area;
- (i) The right to engage and participate in cultural activities on the Determination Area including those relating to births and deaths;
- (j) The right to carry out and maintain burials of deceased native title holders and of their ancestors within the Determination Area;
- (k) The right to teach on the Determination Area the physical and spiritual attributes of locations and sites within the Determination Area;
- (l) The right to visit, maintain and preserve sites and places of cultural or spiritual significance to Native Title Holders within the Determination Area;
- (m) The right to speak for and make decisions in relation to the Determination Area 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;
- (n) 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 invited by Native Title Holders to assist in, observe, or record traditional activities on the Determination Area.

8. The native title rights and interests described in Paragraph 7 do not confer possession, occupation, use and enjoyment of the Determination Area on the Native Title Holders to the exclusion of others.

9. The native title rights and interests referred to in Paragraph 7 are for personal, domestic and non-commercial communal use.

10. The native title rights and interests referred to in Paragraph 7 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.

NATURE AND EXTENT OF OTHER INTERESTS

11. The nature and extent of other interests in relation to the Determination Area are:

- (a) the interests of the Crown in right of the State of South Australia;
- (b) 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;
- (c) rights or interests held by reason of the force and operation of the laws of the State or of the Commonwealth;
- (d) the rights of the public to use and enjoy the Determination Area in accordance with the provisions of the NPWA and any other valid legislation;
- (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 (in accordance with any valid legislation);
- (f) the rights and interests of Telstra Corporation Limited:
 - (i) as the owner or operator of telecommunications facilities within the Determination Area;
 - (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);
 - (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.

12. The relationship between the native title rights and interests in the Determination Area that are described in Paragraph 7 and the other rights and interests that are referred to in Paragraph 11 ("the other rights and interests") is that:

- (a) the other rights and interests co-exist with the native title rights and interests;
- (b) in the event of inconsistency, 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;
- (c) the existence of the native title rights and interests does not prevent the doing of any activity required or permitted to be done by, in accordance with or under the other rights and interests;
- (d) in the Schedule 3 areas, the native title rights and interests continue to exist but have no effect in relation to the Vesting.

13. 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).

14. 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 constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date.

15. Public works constructed, established or situated after 23 December 1996 have had such effect on native title rights and interests as has resulted from Part 2 Division 3 of the Native Title Act.

AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS:

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

17. Within six months of the date of this Order, a representative of the Native Title Holders is to file and serve a notice nominating:

(a) Adnyamathanha Traditional Lands Association (Aboriginal Corporation) (subject to appropriate amendments being made to its Constitution to enable it to fulfil the role of a prescribed body corporate); or

(b) An alternative Aboriginal and Torres Strait Islander corporation, the Constitution of which enables it to fulfil the role of a prescribed body corporate;

to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act and include with that notice the written consent of the body corporate.

18. Subject to further order, if a prescribed body corporate is nominated in accordance with paragraph 17 there will, without the need for a further Order, be a determination that the prescribed body corporate so nominated is:

(a) to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act; and

(b) to perform the functions referred to in section 57(3) of the Native Title Act.

19. If no nomination is made in accordance with paragraph 17 within the period specified, or any further period the Court may order, the matter is to be listed for further directions.

20. The parties have liberty to apply on 14 days notice to a single Judge of the Court for the following purposes:

(a) to establish the precise location and boundaries of the Public Works and adjacent land and waters referred to in Paragraphs 14 and 15 of this Order;

(b) to establish the effect on native title rights and interests of any public works referred to in Paragraph 15 of this Order; or

(c) to determine whether a particular area is included in the description in Schedule 2 of this Order.

**SCHEDULE 1 - DESCRIPTION AND MAP OF THE DETERMINATION AREA
(See NNTR Attachment 1: 'Schedule 1 - Map of the Determination Area')**

Description of the Determination Area

Comprising the whole of the Flinders Ranges National Park as described in Appendix 1;

Exclusive of the land defined in Appendix 2 (located within the external boundary of the Flinders Ranges National Park).

Appendix 1

Hundred of Bunyeroo
Sections 177, 188 and 189,

Hundred of Edeowie
Section 148,

Hundred of Parachilna
Section 61,

Out of Hundreds (Parachilna)
Sections 333, 473, 480, 988, 989 and 1137,
Allotment 25 in Filed Plan 40683,
Allotment comprising Pieces 20, 21, 22, 23 and 24 in Filed Plan 40683.

Appendix 2

Public roads and the following parcels of land within the external boundary of the Flinders Ranges National Park are excluded from the Determination Area:

Hundred of Bunyeroo
Sections 190 and 191,

Hundred of Edeowie
Section 164,

Hundred of Parachilna
Sections 85 and 122,

Out of Hundreds (Parachilna)
Sections 1527 and 1528.

SCHEDULE 2 - AREAS THAT HAVE BEEN EXCLUDED FROM THE DETERMINATION AREA

Part 1

1. The following areas within the Flinders Ranges National Park external boundaries do not form part of the proclaimed Park and are not covered by the determination:

- 1.1. Section 85 (Hundred of Parachilna)
- 1.2. Section 122 (Hundred of Parachilna)
- 1.3. Section 1527 (Out of Hundreds)
- 1.4. Section 1528 (Out of Hundreds)
- 1.5. Section 190 (Hundred of Bunyeroo)
- 1.6. Section 191 (Hundred of Bunyeroo)
- 1.7. Section 164 (Hundred of Edeowie)

2. The following areas are agreed to have been excluded from the Determination Area by reason of the fact that native title has been extinguished in those areas:

- 2.1. Any areas in relation to which native title has been extinguished pursuant to any of the following sections of the Native Title (South Australia) Act 1994 (SA):
 - a) Sections 33 and 34 (Category A past acts);
 - b) Section 35 (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
 - c) Sections 36B and 36C (Category A intermediate period acts);
 - d) Section 36D (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
 - e) Sections 36F and 36G (previous exclusive possession acts attributable to the State of South Australia other than "excepted acts");

2.2. Any areas in relation to which native title has been extinguished by an act attributable to the Commonwealth of Australia pursuant to any of the following sections of the Native Title Act:

- a) Section 15(1)(a), (b) (Category A past acts);
- b) Section 15(1)(c) (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- c) Section 22B(a), (b) (Category A intermediate period acts);
- d) Section 22B(c) (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- e) Sections 23B and 23C (previous exclusive possession acts).

2.3. Any area in which native title rights and interests have otherwise been wholly extinguished.

3. For the avoidance of doubt and without limiting the above, native title rights and interests have been extinguished over the following areas:

- 3.1. Section 61, Hundred of Parachilna
- 3.2. Section 177, Hundred of Bunyeroo
- 3.3. Section 148, Hundred of Edeowie
- 3.4. Allotment 25 in FP 40683 (formerly Section 106, Out of Hundreds Parachilna)
- 3.5. Section 988, Out of Hundreds Parachilna.

Part 2

4. For the further avoidance of doubt and without limiting the above, native title rights and interests have also been extinguished in the following areas of the Park gazetted prior to 31 October 1975:

- 4.1. Section 333, Out of Hundreds Parachilna
- 4.2. Section 473, Out of Hundreds Parachilna

SCHEDULE 3 - AREAS WHERE THE NON-EXTINGUISHMENT PRINCIPLE APPLIES DUE TO A VESTING

Native title exists but has been entirely suppressed in the following areas of the Park which have been subject to a Category D past act and were reserved under the National Parks and Wildlife Act 1972 (SA) between 31 October 1975 and 1 January 1994:

1. Section 480, Out of Hundreds, Parachilna (added to the Park on 22 January 1976)

2. Section 989, Out of Hundreds, Parachilna (added to the Park on 27 January 1983)
3. Section 188, Hundred of Bunyeroo (added to the Park on 30 May 1985)
4. Section 189, Hundred of Bunyeroo (added to the Park on 30 May 1985)
5. Section 1137, Out of Hundreds Parachilna (added to the Park on 30 May 1985)
6. Pieces 20, 21, 22, 23 and 24 in FP 40683 (Formerly Block 670, Out of Hundreds, Parachilna) (added to the Park on 23 June 1988).

Attachments:

Attachment 1 - SCHEDULE 1 - MAP OF THE DETERMINATION AREA, A4, 1 Page, Attached to National Native Title Register on 15/04/2009.

(If not attached, these are available from the National Native Title Tribunal by phoning freecall 1800 640 501)

End of Entry



**NATIONAL NATIVE
TITLE TRIBUNAL**

Extract from the National Native Title Register

Federal Court Number: SAD6001/98
Federal Court Name: Adnyamathanha No. 1 Native Title Claim Group v The State of South Australia (No. 2)
Determining Body: Federal Court of Australia
Determination Date: 30/03/2009

Additional Information:

On 30 March 2009 Justice Mansfield made 3 determinations of native title in relation to the Adnyamathanha No 1 and Adnyamathanha No 2 applications in South Australia.

The first determined the area covering the Angepena pastoral lease within the Adnyamathanha No. 1 application (Adnyamathanha People No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998) and included non-exclusive rights and interests only.

The second determined a large area of the Adnyamathanha No. 1 application and included areas of both exclusive and non-exclusive rights and interests (Adnyamathanha People No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998). The areas where exclusive native title rights and interests were recognised were subject to the operation of s. 47A of the Native Title Act 1993 Cwlth. This is the determination contained in this National Native Title Register extract.

These two determinations together determined approximately half of the Adnyamathanha No. 1 application.

The third determined the entire application over the Flinders Ranges National Park (Adnyamathanha People No. 2 Native Title Claim Group v The State of South Australia - SAD6002/1998) and included areas of non-exclusive rights and interests only.

The native title holders and the non exclusive rights and interests recognised were identical in all three determinations.

Just under half of the Adnyamathanha No. 1 application remains on foot to be determined at a later date and this portion of the application remains on the Register of Native Title Claims.

Prescribed Body Corporate:

Adnyamathanha Traditional Lands Association (Aboriginal Corporation)
Agent Prescribed Body Corporate
c/- Johnston Withers
17 Sturt Street
ADELAIDE SA 5000

Common Law Holders of Native Title:

6. The Native Title Holders are those living Aboriginal people who:

- (a) are the descendants (whether biologically or by adoption) of the following apical ancestors:
- i. Mt Serle Bob
 - ii. Polly, wife of Mt Serle Bob
 - iii. Quartpot Tommy
 - iv. Mt Serle Bob's sister, wife of Quartpot Tommy
 - v. Willy Austin Snr
 - vi. Nicholas Demell
 - vii. Emily McKenzie, wife of Nicholas Demell
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 - ix. Mary, wife of Sydney Ryan
 - x. the siblings Angepena Billy or Mary
 - xi. Fanny, wife of Angepena Billy
 - xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and
- (b) identify as Adnyamathanha; and
- (c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

Matters Determined:

BY CONSENT AND PURSUANT TO SECTION 87A NATIVE TITLE ACT 1993 THE COURT MAKES THE FOLLOWING DETERMINATION OF NATIVE TITLE:

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,

(a) "the Determination Area" means that part of the area of the Adnyamathanha No.1 Claim as described in Schedule 1 (and shown in the map forming part of that Schedule) apart from those excluded areas which are described in Paragraph 18 and in Schedule 2;

(b) "the Vesting" means the vesting of a Park or Reserve in the Crown pursuant to the NPWA as listed in Schedule 3.

3. 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 1, the written description shall prevail.

EXISTENCE OF NATIVE TITLE

4. Subject to Paragraphs 12 to 18 herein, native title exists in the Determination Area.

5. Native title does not exist in relation to the areas and resources described in Paragraphs 13, 17 and 18 herein.

THE NATIVE TITLE HOLDERS

6. The Native Title Holders are those living Aboriginal people who:

(a) are the descendants (whether biologically or by adoption) of the following apical ancestors:

i. Mt Serle Bob

ii. Polly, wife of Mt Serle Bob

iii. Quartpot Tommy

iv. Mt Serle Bob's sister, wife of Quartpot Tommy

v. Willy Austin Snr

vi. Nicholas Demell

vii. Emily McKenzie, wife of Nicholas Demell

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ix. Mary, wife of Sydney Ryan

x. the siblings Angepena Billy or Mary

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xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and

(b) identify as Adnyamathanha; and

(c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

NATIVE TITLE RIGHTS AND INTERESTS

7. Subject to paragraphs 8, 9, 10 and 11, the nature and extent of the native title rights and interests held by all Native Title Holders in relation to the Determination Area are rights to use, stay on and enjoy the land and waters of the Determination Area being:

- (a) The right to access and move about the Determination Area;
- (b) The right to live, to camp and to erect shelters on the Determination Area;
- (c) The right to hunt and fish on the Determination Area;
- (d) The right to gather and use the natural resources of the Determination Area such as food, plants, timber, resin, ochre and soil;
- (e) The right to cook and to light fires for cooking and camping purposes on the Determination Area;
- (f) The right to use the natural water resources of the Determination Area;
- (g) The right to distribute, trade or exchange the natural resources of the Determination Area;
- (h) The right to conduct ceremonies and hold meetings on the Determination Area;
- (i) The right to engage and participate in cultural activities on the Determination Area including those relating to births and deaths;
- (j) The right to carry out and maintain burials of deceased native title holders and of their ancestors within the Determination Area;
- (k) The right to teach on the Determination Area the physical and spiritual attributes of locations and sites within the Determination Area;
- (l) The right to visit, maintain and preserve sites and places of cultural or spiritual significance to Native Title Holders within the Determination Area;
- (m) The right to speak for and make decisions in relation to the Determination Area 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;
- (n) 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 invited by Native Title Holders to assist in, observe, or record traditional activities on the Determination Area.

8. Subject to paragraph 9, the native title rights and interests described in Paragraph 7 do not confer possession, occupation, use and enjoyment of the Determination Area on the native title holders to the exclusion of others.

9. The nature and extent of native title rights and interests in relation to each part of the Determination Area referred to in Schedule 4 (being areas where extinguishment of native title rights and interests over the areas therein prior to 25 July 1997 is to be disregarded in accordance with section 47A of the Native Title Act) are an entitlement against the whole world to possession, occupation, use and enjoyment of the land and waters of that part.

10. The native title rights and interests referred to in Paragraphs 7 and 9 are for personal, domestic and non-commercial communal use.

11. The native title rights and interests referred to in Paragraphs 7 and 9 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.

NATURE AND EXTENT OF OTHER INTERESTS

12. The nature and extent of other interests in relation to the Determination Area are:

- (a) the interests of the Crown in right of the State of South Australia;
- (b) 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;
- (c) rights or interests held by reason of the force and operation of the laws of the State or of the Commonwealth;
- (d) the rights of the public to use and enjoy the Determination Area in accordance with the provisions of the NPWA and any other valid legislation.
- (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 (in accordance with any valid legislation);
- (f) The rights and interests of the holders of the pastoral leases described in Schedule 5;
- (g) the rights and interests of Telstra Corporation Limited:
 - (i) as the owner or operator of telecommunications facilities within the Determination Area;

(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);
(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;

(h) the rights, interests and entitlements of ETSA Utilities (a partnership of Spark Infrastructure SA (No.1) Pty Ltd, Spark Infrastructure SA (No.2) Pty Ltd, Spark Infrastructure SA (No.3) Pty Ltd, CKI Utilities Development Limited and HEI Utilities Development Limited) and its related and successor entities, including its rights, interests and entitlements:

(i) to exercise its entitlements and discharge its obligations as the owner and/or operator of electricity infrastructure (as defined in the Electricity Act 1996 (SA) ("Electricity Act")) and telecommunications facilities and infrastructure within the Determination Area ("Existing Infrastructure");

(ii) to exercise its entitlements and discharge its obligations as the holder of a licence under the Electricity Act and/or as an electricity entity under the Electricity Act;

(iii) to exercise its entitlements and discharge its obligations as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);

(iv) to install new electricity and telecommunications infrastructure within the Determination Area ("New Infrastructure") and modify, maintain and repair Existing Infrastructure;

(v) under easements, leases or licences (whether registered, unregistered, statutory or otherwise) relating to Existing Infrastructure or New Infrastructure within the Determination Area ("Easements");

(vi) to provide its employees, agents or contractors with access to Existing Infrastructure, New Infrastructure and the Easements within the Determination Area; and

(vii) to the extent permitted by law, to restrain any person from performing any act, or compel any person to perform any act, for the purposes of ensuring that ETSA Utilities complies with its obligations under any law, including, but not limited to, excluding any person from entering an area containing Existing Infrastructure or New Infrastructure for the purposes of maintaining the the safety of any person and the security and protection of such infrastructure;

(i) the rights and interests of Epic Energy South Australia Pty Ltd (formerly Tenneco Gas South Australia Pty Ltd) ("Epic"):

(i) as:

(A) holders of Pipeline Licence No. 1 (PL1) issued pursuant to the Petroleum Act 1940 (SA) on 12 March 1969 and renewed on 27 March 1990 pursuant to the Petroleum Act 1940 (SA) and continuing in force by the operation of clause 2 of the Schedule to the Petroleum Act 2000 (SA); and

(B) owner of the pipeline the subject thereof by virtue of having been a purchaser of the pipeline (as purchaser is defined in section 16 of the Natural Gas Authority Act 1967 (SA) as amended by the Pipelines Authority (Sale of Pipelines) Amendment Act 1995 (SA) ("Sale Legislation") from the former Pipeline Authority of South Australia ("PASA", now the Natural Gas Authority of South Australia ("NGASA")) pursuant to a Sale Agreement dated 30 June 1995 under the Sale Legislation;

(ii) where the licensed pipeline was established pursuant to the Natural Gas Authority Act 1967 and is located within a statutory easement established by section 9 of the Sale Legislation and section 28 of the Sale Legislation provides:

(A) "(1) The creation of the statutory easement under this Act, or the grant of a pipeline lease, does not affect any native title that may exist in the land to which the easement or lease relates.

(B) (2) The statutory easement or a pipeline lease under this Act does not derogate from pre-existing rights of Aboriginal people to enter, travel across or stay on land subject to the easement or lease.";

(iii) the statutory easement entitles Epic, inter alia, to install, maintain and operate the pipeline and to carry out authorised purposes including the installation, operation, inspection, extension, alteration, repair and removal of the pipeline or associated equipment and the carrying out of maintenance work on the pipeline or associated equipment;

(iv) for Epic, its employees, agents and contractors (or any of them) to enter the Determination Area to access Epic's rights and interests and to do all things necessary to exercise those rights and interests and perform all obligations in the vicinity of the Determination Area in performance of their duties;

(j) the rights and interests of the "Producers" as defined in the Cooper Basin (Ratification) Act 1975 (SA):

(i) as holders of Pipeline Licence No. 2 (PL2) granted to the Producers on 26 November 1981 under the Petroleum Act 1940 (SA) and renewed on 3 May 2003 under the Petroleum Act 2000 (SA) and continuing in force by the operation of clause 2 of the Schedule to the Petroleum Act 2000 (SA);

(ii) created pursuant to the Stoney Point (Liquids Project) Ratification Act 1981 (SA);

(iii) granted to the Producers pursuant to the former PASA (now NGASA) and the Producers' Right of Way Agreement dated 26 November 1981;

(iv) for the Producers' employees, agents or contractors to enter the Determination Area to access the Producers' rights and interests and to do all things necessary to exercise those rights and interests in the vicinity of the Determination Area in performance of their duties;

(k) the rights and interests of Perilya Freehold Mining Pty Ltd as holders of Mining Leases 4114, 4368, 4369, 4370, 4371 and 5631, Retention Leases 5, 6 and 7, and Miscellaneous Purposes Licences 38 and 85 and the rights and interests of Perilya Ltd and Minotaur Operations Pty Ltd as holders of Mining Lease 4386 to the extent that these lie within the Determination Area and continue in operation.

13. 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 Schedule 5. 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.

14. For the avoidance of doubt, Paragraph 13 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 Paragraph 13 after the date of this determination.

15. Subject to Paragraph 16, the relationship between the native title rights and interests in the Determination Area that are described in Paragraph 7 and the other rights and interests that are referred to in Paragraph 12 ("the other rights and interests") is that:

- (a) the other rights and interests co-exist with the native title rights and interests;
- (b) in the event of inconsistency, 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;
- (c) the existence of the native title rights and interests does not prevent the doing of any activity required or permitted to be done by, in accordance with or under the other rights and interests;
- (d) in the Schedule 3 Areas, the native title rights and interests continue to exist but have no effect in relation to the Vesting.

16. For the avoidance of doubt, the relationship between the Aboriginal-held interests listed in Schedule 4 and the native title rights and interests in the Determination Area that are described in Paragraphs 7 and 9 is governed by the non-extinguishment principle as defined in section 238 of the Native Title Act.

17. Native title rights and interests do not exist in:

- (a) minerals as defined in section 6 of the Mining Act 1971 (SA); or
- (b) petroleum; or
- (c) a naturally occurring underground accumulation of a regulated substance, other than petroleum; or
- (d) a natural reservoir.

For the purposes of this Paragraph 17 and the avoidance of doubt:

- (i) a geological structure (in whole or part) on or at the earth's surface or a natural cavity which can be accessed or entered by a person through a natural opening in the earth's surface is not a natural reservoir;

(ii) "geothermal energy", "petroleum", "regulated substance" and "natural reservoir" mean those terms as defined in section 4 of the Petroleum Act 2000 (SA);

(iii) the absence from this Order of any reference to a source of geothermal energy is not of itself to be taken as an indication of the existence or otherwise of native title rights and interests in a source of geothermal energy.

18. Native title rights do not exist in the areas covered by public works attributable to the State or Commonwealth (including the land defined in section 251D of the Native Title Act) which were constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date.

19. Public works constructed, established or situated after 23 December 1996 have had such effect on native title rights and interests as has resulted from Part 2 Division 3 of the Native Title Act.

AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS:

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

21. Within six months of the date of this Order, a representative of the Native Title Holders is to file and serve a notice nominating:

(a) Adnyamathanha Traditional Lands Association (Aboriginal Corporation) (subject to appropriate amendments being made to its Constitution to enable it to fulfil the role of a prescribed body corporate); or

(b) an alternative Aboriginal and Torres Strait Islander corporation, the Constitution of which enables it to fulfil the role of a prescribed body corporate;

to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act and include with that notice the written consent of the body corporate.

22. Subject to further order, if a prescribed body corporate is nominated in accordance with Paragraph 21 there will, without the need for a further Order, be a determination that the prescribed body corporate so nominated is:

(a) to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act; and

(b) to perform the functions referred to in section 57(3) of the Native Title Act.

23. If no nomination is made in accordance with Paragraph 21 within the period specified, or any further period the Court may order, the matter is to be listed for further directions.

24. The parties have liberty to apply on 14 days notice to a single Judge of the Court for the following purposes:

(a) to establish the precise location and boundaries of the public works and adjacent land and waters referred to in Paragraphs 18 and 19 of this Order; or

(b) to establish the effect on native title rights and interests of any public works referred to in Paragraph 19 of this Order; or

(c) to determine whether any particular area is included in the description in Paragraph 13 or Schedule 2 of this Order; or

(d) to determine whether any proposed act relating to underground water (as defined in the Natural Resources Management Act 2004 (SA)) may affect the native title rights and interests in natural water; or

(e) to determine the extent to which native title rights and interests exist in underground water under land in which the relevant party or a related corporation has an interest (as defined in the Native Title Act).

**SCHEDULE 1 - DESCRIPTION AND MAP OF THE DETERMINATION AREA
(See NNTR Attachment 1 - 'Map of Native Title Determination - Stage 1')**

The land within the boundary formed by the line commencing at the south-eastern corner of Frome Downs Pastoral Lease; thence westerly along the southern boundaries of Frome Downs, Erudina and Martins Well Pastoral Leases to the eastern boundary of Saltia Pastoral Lease (Block 998); southerly along the eastern boundaries of Saltia (Block 998), Willippa and Bibliando Pastoral Leases; south-westerly and north-westerly along the southern boundaries of Bibliando and Holowilena Pastoral Leases to the eastern boundary of the Hundred of Adams; northerly along the eastern boundaries of the Hundreds of Adams and Warcowie to the northern boundary of Black Hill Pastoral Lease; north-easterly along the northern boundary of Black Hill Pastoral Lease; northerly along the western boundary of Willippa Pastoral Lease; north-westerly along the western boundary of Saltia Pastoral Lease (Section 14, Hundred of French); north-westerly along the southern boundary of Mt Havelock Pastoral Lease; north-westerly along the western boundaries of Prelinna and Mannawarra Pastoral Leases to the Flinders Ranges National Park; north-easterly along the eastern boundary of the Flinders Ranges National Park; westerly along the northern boundary of the Flinders Ranges National Park to the western boundary of Werta Pastoral Lease; north-westerly along the western boundaries of Werta and Alpana Pastoral Leases; westerly along the southern boundaries of Mt Falkland and Motpena Pastoral Leases to the eastern boundary of Motpena Pastoral Lease; southerly along the eastern boundaries of Motpena and Wintabatinyana Pastoral Leases to the south-eastern corner of Wintabatinyana Pastoral Lease; westerly along a southern boundary of Wintabatinyana Pastoral Lease to the northerly production of the eastern boundary of Lake Torrens Pastoral Lease; southerly along an eastern boundary of Wintabatinyana Pastoral Lease and the eastern boundary of Lake Torrens Pastoral Lease to a northern boundary of Wallerberdina Pastoral Lease; generally easterly, south-easterly, north-easterly and easterly along the northern, north-eastern, north-western and northern boundaries of Wallerberdina Pastoral Lease to the western boundary of the Hundred of Woolyana; southerly along the eastern boundary of Wallerberdina Pastoral Lease to the north-eastern corner of the

Hundred of Barndioota; westerly along the northern boundary of the Hundred of Barndioota to the north-western corner of the Hundred of Barndioota; southerly along the western boundary of the Hundred of Barndioota to the southern boundary of Wallerberdina Pastoral Lease; westerly along the southern boundary of Wallerberdina Pastoral Lease to the south-western corner of Wallerberdina Pastoral Lease; northerly along the western boundary of Wallerberdina Pastoral Lease to the southern boundary of Lake Torrens Pastoral Lease; westerly along the southern boundary of Lake Torrens Pastoral Lease to the north-western corner of the Hundred of Warrakimbo; southerly along the western boundary of the Hundred of Warrakimbo to the Adnyamathanha No.1 Native Title Claim (SAD6001/98) boundary; south-westerly and generally northerly and north-easterly along the Adnyamathanha No.1 Native Title Claim (SAD6001/98) boundary to the intersection of the Dieri No.1 Native Title Claim boundary; easterly along the Dieri No.1 Native Title Claim boundary to the intersection of the Dieri No.2 Native Title Claim boundary; easterly along the Dieri No.2 Native Title Claim boundary to a northern boundary of Mount Lyndhurst Pastoral Lease; generally easterly along the northern boundaries of Mount Lyndhurst, Mount Freeling and Moolawatana Pastoral Leases; easterly, northerly, easterly, south-easterly and southerly along the northern and eastern boundaries of Woolatchi Pastoral Lease; generally southerly along the eastern boundaries of Moolawatana and Wooltana Pastoral Leases; generally southerly along the eastern boundary of Lake Frome Regional Reserve to the northern boundary of Frome Downs Pastoral Lease; easterly and southerly along the northern and eastern boundaries of Frome Downs Pastoral Lease to the point of commencement;

1. Inclusive of the land defined in Appendix 1 (located outside of the boundary described above).

2. Exclusive of the land defined in Appendix 2 (located within the boundary described above).

Appendix 1

The following parcels of land are included in the Determination Area, although they are not within the boundary described above.

Sections 85 and 122, Hundred of Parachilna.

Sections 1527 and 1528, Out of Hundreds (Parachilna).

Section 164, Hundred of Edeowie.

Sections 163, 190 and 191, Hundred of Bunyeroo.

Appendix 2

The following parcels of land are within the area covered by the boundary described above, but are excluded from the Determination Area. (See NNTR Attachment 2 - 'Appendix 2 of Schedule 1: Parcels of land excluded from the Determination Area')

SCHEDULE 2 - AREAS THAT HAVE BEEN EXCLUDED FROM THE DETERMINATION AREA

Part 1

1. The following areas are agreed to have been excluded from the Determination Area by reason of the fact that native title has been extinguished in those areas:

1.1 Save for those areas listed in Schedule 4, any areas in relation to which native title has been extinguished by an act attributable to the State of South Australia pursuant to any of the following sections of the Native Title (South Australia) Act 1994 (SA):

- a) Sections 33 and 34 (Category A past acts);
- b) Section 35 (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- c) Sections 36B and 36C (Category A intermediate period acts);
- d) Section 36D (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- e) Sections 36F and 36G (previous exclusive possession acts other than "excepted acts");

1.2 Save for those areas listed in Schedule 4, any areas in relation to which native title has been extinguished by an act attributable to the Commonwealth of Australia pursuant to any of the following sections of the Native Title Act:

- a) Section 15(1)(a), (b) (Category A past acts);
- b) Section 15(1)(c) (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- c) Section 22B(a), (b) (Category A intermediate period acts);
- d) Section 22B(c) (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- e) Sections 23B and 23C (previous exclusive possession acts).

1.3 Save for those areas listed in Schedule 4, any areas in relation to which native title rights and interests have otherwise been wholly extinguished.

2. For the avoidance of doubt and without limiting the above, Native Title has been extinguished in relation to areas in respect of which any of the following acts have been done by the Crown in right of the State of South Australia on or before 23 December 1996:

2.1 Freehold grants (other than pursuant to the Aboriginal Lands Trust Act 1966 (SA));

2.2 Perpetual leases (other than leases which are subject to a reservation or condition expressly for the benefit of Aboriginal people);

2.3 Non-perpetual leases (other than pastoral leases or non-exclusive agricultural leases or leases subject to a reservation or condition expressly for the benefit of Aboriginal people),

where:

2.4 in the case of grants to the Crown or a statutory authority, made prior to 31 October 1975 (or after 1 January 1994, if an "intermediate period act");

2.5 in the case of grants other than to the Crown or a statutory authority, made prior to 1 January 1994 (or after 1 January 1994, if a "past act" or "intermediate period act").

PART 2

3. The following areas have been excluded from the Determination area in order to provide the parties further time to assess tenure and whether section 47B of the Native Title Act applies to them. No part of this Determination applies to these areas:

3.1 The township areas of Farina, Lyndhurst, Leigh Creek, Copley (including section 1289, OH Copley), Beltana, Cadnia, Cadnia East, Oratunga, Parachilna, Blinman and Blinman South (see items 3 to 11 of Appendix 2 of Schedule 1);

3.2 The following areas:

HUNDREDS:

HUNDRED OF CARR:

- Sections 360, 361, 362, 363, 364, 365, 367, 368, 369, 371, 373, 376, and 377

HUNDRED OF NILPENA

- Section 37

OUT OF HUNDREDS:

OH (COPLY)

- DP 34087 Lots 2011, 2012, 2013, and 2017
- DP 44831 Pieces 1-6, 9-10, Lot 7
- Sections 129, 404, 405, 444, 491, 519, 520, 521, 527, 529, 542, 790, 1049, 1051, 1075, 1076 and 1077

OH (MARREE)

- Sections 543, 544 and 545

SCHEDULE 3 - AREAS WHERE THE NON-EXTINGUISHMENT PRINCIPLE APPLIES DUE TO A VESTING

Park or Reserve

Legislation under which Park or Reserve was proclaimed

Lake Frome Regional Reserve

National Parks and Wildlife Act, 1972

SCHEDULE 4 - AREAS WHERE EXTINGUISHMENT OF NATIVE TITLE
MUST BE DISREGARDED BY REASON OF SECTION 47A, NATIVE TITLE
ACT

- Certificate of Title Volume 5508 Folio 53 (held by the Aboriginal Lands Trust ("ALT") and leased to Nepabunna Community Inc.)
- Certificate of Title Volume 5965 Folio 337 (held by ALT and leased to Nepabunna Community Inc.)
- Certificate of Title Volume 5496 Folio 760 (section 85, Hundred of Parachilna, held by ALT)
- Mount Serle Pastoral Lease PE 2290

SCHEDULE 5 - PASTORAL LEASES WHOLLY OR PARTIALLY IN THE
DETERMINATION AREA

Pastoral Lease Name	Pastoral Lease Number	Crown Lease Number Volume/Folio
Alpana	PE 2241	CL 1281/23
	PE 2316A	CL 1402/35
Angorigina	PE 2316	CL 1402/9
Arkaroola	PE 2240	CL 1278/43
Artimore	PE 2275	CL 1283/15
Baldoora	PE 2267	CL 1280/4
Balparana	PE 2512	CL 1439/16
Beltana	PE 2304	CL 1285/37
Bibliando	PE 2262	CL 1280/3
Black Hill	PE 2318	CL 1298/24
Burr Well	PE 2229	CL 1289/1
Ediacara	PE 2312	CL 1294/18
Ediacara East	PE 2306	CL 1429/47
Erudina	PE 2299	CL 1284/9
Farina	PE 2509	CL 1438/43
Frome Downs	PE 2391	CL 1318/8
Gum Creek	PE 2270	CL 1285/19
Holowilena	PE 2260	CL 1437/26
Lake Torrens	PE 2202	CL 1276/42
Leigh Creek	PE 2244	CL 1281/1
Mannawarra	PE 2231	CL 1292/40
Manners Well	PE 2264	CL 1282/44
Martins Well	PE 2245	CL 1281/2
Moolawatana	PE 2271	CL 1438/36
Moolooloo	PE 2209	CL 1268/43
Moorillah	PE 2199	CL 1289/12

Motpena	PE 2319	CL 1291/8
Mount Lyndhurst	PE 2310	CL 1287/13
Mt Falkland	PE 2500	CL 1437/17
Mt Freeling	PE 2271A	CL 1438/31
Mt Havelock	PE 2482	CL 1408/50
Mt Serle	PE 2290	CL 1288/31
Mulga View	PE 2499	CL 1437/19
Mulga View South	PE 2378B	CL 1615/11
Mulgaria	PE 2308	CL 1285/38
	PE 2431A	CL 1379/26
Mundowdna	PE 2298	CL 1294/15
Myrtle Springs	PE 2306A	CL 1429/48
Narrina	PE 2467	CL 1393/28
Nilpena	PE 2297	CL 1289/13
North Moolooloo	PE 2463	CL 1384/20
Oratunga	PE 2276	CL 1283/37
Pinda Springs	PE 2541	CL 1648/13
Prelinna	PE 2540	CL 1647/94
Puttapa	PE 2498	CL 1427/24
Part Saltia	PE 2287A	CL 1609/8
Saltia	PE 2287	CL 1609/7
Shaggy Ridge	PE 2335	CL 1290/34
Umberatana	PE 2230	CL 1282/8
Upalina	PE 2227	CL 1280/2
Wallerberdina	PE 2220	CL 1280/1
Warraweena	PE 2466	CL 1384/32
Werta	PE 2382	CL 1300/10
Wertalona	PE 2378	CL 1615/10
Willippa	PE 2307	CL 1410/10
Willow Springs	PE 2539	CL 1647/95
Wilpoorinna	PE 2210	CL 1287/6
Wintabatinyana	PE 2472	CL 1385/42
Wirrealpa	PE 2317	CL 1289/39
Witchelina	PE 2311	CL 1294/17
Woolatchi	PE 2395	CL 1318/9
Wooltana	PE 2293	CL 1289/38
Worumba	PE 2291	CL 1287/27
Yadlamalka	PE 2277	CL 1282/13
Yankaninna	PE 2481	CL 1406/35

Attachments:

Attachment 1 - Map of Native Title Determination - Stage 1, 1 page, A4, attached to the NNTR on 15/04/2009.

Attachment 2 - Appendix 2 of Schedule 1: Parcels of land excluded from the Determination Area, 12 pages, A4, attached to the NNTR on 15/04/2009

(If not attached, these are available from the National Native Title Tribunal by phoning freecall 1800 640 501)

End of Entry



**NATIONAL NATIVE
TITLE TRIBUNAL**

Extract from the National Native Title Register

Federal Court Number: SAD6001/98
Federal Court Name: Adnyamathanha No. 1 Native Title Claim Group v The State of South Australia (No. 2)
Determining Body: Federal Court of Australia
Determination Date: 30/03/2009

Additional Information:

On 30 March 2009 Justice Mansfield made 3 determinations of native title in relation to the Adnyamathanha No 1 and Adnyamathanha No 2 applications in South Australia.

The first determined the area covering the Angepena pastoral lease within the Adnyamathanha No. 1 application (Adnyamathanha People No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998) and included non-exclusive rights and interests only. This is the determination contained in this National Native Title Register extract.

The second determined a large area of the Adnyamathanha No. 1 application and included areas of both exclusive and non-exclusive rights and interests (Adnyamathanha People No. 1 Native Title Claim Group v The State of South Australia - SAD6001/1998). The areas where exclusive native title rights and interests were recognised were subject to the operation of s. 47A of the Native Title Act 1993 Cwlth.

These two determinations together determined approximately half of the Adnyamathanha No. 1 application.

The third determined the entire application over the Flinders Ranges National Park (Adnyamathanha People No. 2 Native Title Claim Group v The State of South Australia - SAD6002/1998) and included areas of non-exclusive rights and interests only.

The native title holders and the non exclusive rights and interests recognised were identical in all three determinations.

Just under half of the Adnyamathanha No. 1 application remains on foot to be determined at a later date and this portion of the application remains on the Register of Native Claims.

Prescribed Body Corporate:

Adnyamathanha Traditional Lands Association (Aboriginal Corporation)
Agent Prescribed Body Corporate
c/- Johnston Withers
17 Sturt Street
ADELAIDE SA 5000

Common Law Holders of Native Title:

6. The Native Title Holders are those living Aboriginal people who:

(a) are the descendants (whether biologically or by adoption) of the following apical ancestors:

- i. Mt Serle Bob
- ii. Polly, wife of Mt Serle Bob
- iii. Quartpot Tommy
- iv. Mt Serle Bob's sister, wife of Quartpot Tommy
- v. Willy Austin Snr
- vi. Nicholas Demell
- vii. Emily McKenzie, wife of Nicholas Demell
- viii. Sydney Ryan
- ix. Mary, wife of Sydney Ryan
- x. the siblings Angepena Billy or Mary
- xi. Fanny, wife of Angepena Billy
- xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and

(b) identify as Adnyamathanha; and

(c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

Matters Determined:

BY CONSENT THE COURT MAKES THE FOLLOWING DETERMINATION OF NATIVE TITLE PURSUANT TO SECTION 87A OF THE NATIVE TITLE ACT:

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, "the Determination Area" means that part of the area of the Adnyamathanha No.1 Claim as described in Schedule 1 (and shown in the Map

forming part of that Schedule) otherwise known as Angepena Pastoral Station apart from those excluded areas which are described in Paragraph 16 and in Schedule 2.

3. 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 1, the written description shall prevail.

EXISTENCE OF NATIVE TITLE

4. Subject to paragraphs 12 to 16 herein, native title exists in the Determination Area.

5. Native title does not exist in relation to the areas and resources described in Paragraphs 12, 15 and 16 herein.

THE NATIVE TITLE HOLDERS

6. The Native Title Holders are those living Aboriginal people who:

(a) are the descendants (whether biologically or by adoption) of the following apical ancestors:

- i. Mt Serle Bob
- ii. Polly, wife of Mt Serle Bob
- iii. Quartpot Tommy
- iv. Mt Serle Bob's sister, wife of Quartpot Tommy
- v. Willy Austin Snr
- vi. Nicholas Demell
- vii. Emily McKenzie, wife of Nicholas Demell
- viii. Sydney Ryan
- ix. Mary, wife of Sydney Ryan
- x. the siblings Angepena Billy or Mary
- xi. Fanny, wife of Angepena Billy
- xii. the siblings Sara Johnson, Matilda Johnson, Fred Johnson, Natalie Johnson, Jessie Johnson or Sydney Jackson, and

(b) identify as Adnyamathanha; and

(c) are recognised by other Native Title Holders under the relevant Adnyamathanha traditional laws and customs as having maintained an affiliation with, and continuing to hold native title rights and interests in, the Determination Area.

NATIVE TITLE RIGHTS AND INTERESTS

7. Subject to paragraphs 8 and 9, the nature and extent of the native title rights and interests held by all Native Title Holders in relation to the Determination Area are rights to use, stay on and enjoy the land and waters of the Determination Area being:

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

- (b) The right to live, to camp and to erect shelters on the Determination Area;
- (c) The right to hunt and fish on the Determination Area;
- (d) The right to gather and use the natural resources of the Determination Area such as food, plants, timber, resin, ochre and soil;
- (e) The right to cook and to light fires for cooking and camping purposes on the Determination Area;
- (f) The right to use the natural water resources of the Determination Area;
- (g) The right to distribute, trade or exchange the natural resources of the Determination Area;
- (h) The right to conduct ceremonies and hold meetings on the Determination Area;
- (i) The right to engage and participate in cultural activities on the Determination Area including those relating to births and deaths;
- (j) The right to carry out and maintain burials of deceased native title holders and of their ancestors within the Determination Area;
- (k) The right to teach on the Determination Area the physical and spiritual attributes of locations and sites within the Determination Area;
- (l) The right to visit, maintain and preserve sites and places of cultural or spiritual significance to Native Title Holders within the Determination Area;
- (m) The right to speak for and make decisions in relation to the Determination Area 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;
- (n) 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 invited by Native Title Holders to assist in, observe, or record traditional activities on the Determination Area.

8. The native title rights and interests described in paragraph 7 do not confer possession, occupation, use and enjoyment of the Determination Area on the native title holders to the exclusion of others.

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

10. The 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.

NATURE AND EXTENT OF OTHER INTERESTS

11. The nature and extent of other interests in relation to the Determination Area are:

- (a) The rights and interests of the holder of Pastoral Lease No 2259 (Crown Lease number Volume 1280 Folio 24);
- (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 or interests held by reason of the force and operation of the laws of the State or of the 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 (in accordance with any valid legislation);
- (f) the rights and interests of Telstra Corporation Limited:
 - (i) as the owner or operator of telecommunications facilities within the Determination Area;
 - (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);
 - (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, interests and entitlements of ETSA Utilities (a partnership of Spark Infrastructure SA (No.1) Pty Ltd, Spark Infrastructure SA (No.2) Pty Ltd, Spark Infrastructure SA (No.3) Pty Ltd, CKI Utilities Development Limited and HEI

Utilities Development Limited) and its related and successor entities, including its rights, interests and entitlements:

- (i) to exercise its entitlements and discharge its obligations as the owner and/or operator of electricity infrastructure (as defined in the Electricity Act 1996 (SA) ("Electricity Act")) and telecommunications facilities and infrastructure within the Determination Area ("Existing Infrastructure");
- (ii) to exercise its entitlements and discharge its obligations as the holder of a licence under the Electricity Act and/or as an electricity entity under the Electricity Act;
- (iii) to exercise its entitlements and discharge its obligations as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);
- (iv) to install new electricity and telecommunications infrastructure within the Determination Area ("New Infrastructure") and modify, maintain and repair Existing Infrastructure;
- (v) under easements, leases or licences (whether registered, unregistered, statutory or otherwise) relating to Existing Infrastructure or New Infrastructure within the Determination Area ("Easements");
- (vi) to provide its employees, agents or contractors with access to Existing Infrastructure, New Infrastructure and the Easements within the Determination Area; and
- (vii) to the extent permitted by law, to restrain any person from performing any act, or compel any person to perform any act, for the purposes of ensuring that ETSA Utilities complies with its obligations under any law, including, but not limited to, excluding any person from entering an area containing Existing Infrastructure or New Infrastructure for the purposes of maintaining the safety of any person and the security and protection of such infrastructure.

12. 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 lease referred to in Paragraph 11(a). 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.

13. For the avoidance of doubt, Paragraph 12 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 Paragraph 12 after the date of this determination.

14. The relationship between the native title rights and interests in the Determination Area that are described in Paragraph 7 and the other rights and interests that are referred to in Paragraph 11 ("the other rights and interests") is that:

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

(b) in the event of inconsistency, 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;

(c) the existence of the native title rights and interests does not prevent the doing of any activity required or permitted to be done by, in accordance with or under the other rights and interests.

15. Native title rights and interests do not exist in:

(a) minerals as defined in section 6 of the Mining Act 1971 (SA); or

(b) petroleum; or

(c) a naturally occurring underground accumulation of a regulated substance, other than petroleum; or

(d) a natural reservoir.

For the purposes of this Paragraph 15 and the avoidance of doubt:

(i) a geological structure (in whole or part) on or at the earth's surface or a natural cavity which can be accessed or entered by a person through a natural opening in the earth's surface is not a natural reservoir;

(ii) "geothermal energy", petroleum, "regulated substance" and "natural reservoir" mean those terms as defined in section 4 of the Petroleum Act 2000 (SA);

(iii) the absence from this Order of any reference to a source of geothermal energy is not of itself to be taken as an indication of the existence or otherwise of native title rights and interests in a source of geothermal energy.

16. Native title rights do not exist in the areas covered by public works attributable to the State or Commonwealth (including the land defined in section 251D of the Native Title Act) which were constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date.

17. Public works constructed, established or situated after 23 December 1996 have had such effect on native title rights and interests as has resulted from Part 2 Division 3 of the Native Title Act.

AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS:

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

19. Within six months of the date of this Order, a representative of the Native Title Holders is to file and serve a notice nominating:

(a) Adnyamathanha Traditional Lands Association (Aboriginal Corporation) (subject to appropriate amendments being made to its Constitution to enable it to fulfil the role of a prescribed body corporate); or

(b) An alternative Aboriginal and Torres Strait Islander corporation, the Constitution of which enables it to fulfil the role of a prescribed body corporate;

to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act and include with that notice the written consent of the body corporate.

20. Subject to further order, if a prescribed body corporate is nominated in accordance with paragraph 19 there will, without the need for a further order, be a determination that the prescribed body corporate so nominated is:

(a) to be the prescribed body corporate for the purposes of section 57(2) of the Native Title Act; and

(b) to perform the functions referred to in section 57(3) of the Native Title Act.

21. If no nomination is made in accordance with paragraph 19 within the period specified, or any further period the Court may order, the matter is to be listed for further directions.

22. The parties have liberty to apply on 14 days notice to a single judge of the Court for the following purposes:

(a) to establish the precise location and boundaries of the public works and adjacent land and waters referred to in Paragraphs 16 and 17 of this Order;

(b) to establish the effect on native title rights and interests of any public works referred to in Paragraph 17 of this Order; or

(c) to determine whether any particular area is included in the description in paragraph 12 or Schedule 2 of this Order.

SCHEDULE 1 - DESCRIPTION AND MAP OF THE DETERMINATION AREA
(See NNTR Attachment 1: 'Schedule 1 - Description and Map of the Determination Area')

SCHEDULE 2 - AREAS THAT HAVE BEEN EXCLUDED FROM THE DETERMINATION AREA

1. The following areas are agreed to have been excluded from the Determination Area by reason of the fact that native title has been extinguished in those areas:

1.1. Any areas in relation to which native title has been extinguished by an act attributable to the State of South Australia pursuant to any of the following sections of the Native Title (South Australia) Act 1994 (SA):

a) Sections 33 and 34 (Category A past acts);

b) Section 35 (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);

c) Sections 36B and 36C (Category A intermediate period acts);

- d) Section 36D (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- e) Sections 36F and 36G (previous exclusive possession acts other than "excepted acts");

1.2. Any areas in relation to which native title has been extinguished by an act attributable to the Commonwealth of Australia pursuant to any of the following sections of the Native Title Act:

- a) Section 15(1)(a), (b) (Category A past acts);
- b) Section 15(1)(c) (Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- c) Section 22B(a), (b) (Category A intermediate period acts);
- d) Section 22B(c) (Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests);
- e) Sections 23B and 23C (previous exclusive possession acts).

1.3. Any areas in relation to which native title rights and interests have otherwise been wholly extinguished.

2. For the avoidance of doubt and without limiting the above, native title has been extinguished in relation to that part of the public road between Copley and Nepabunna which lies within the external boundaries of the Determination Area.

Attachments:

Attachment 1 - SCHEDULE 1 - DESCRIPTION AND MAP OF THE DETERMINATION AREA, A4, 1 Page, Attached to National Native Title Register on 15/04/2009.

(If not attached, these are available from the National Native Title Tribunal by phoning freecall 1800 640 501)

End of Entry