

## EXTRA



# Mining for answers

For years, details around the millions of dollars in mining royalties paid to the Adnyamathanha people were shrouded in secrecy. Now they want answers, writes **Riley Walter**.

For some, the royalty payments arrived years apart. Almost always, they were for different amounts, paid sporadically without explanation.

Some received hundreds of dollars, others thousands, and some nothing at all. Often, years passed between payments.

When the payments came, the amount was never clarified, nor was any indication given of when a future sum could be expected. Uncertainty became the norm.

But as murmurs about the disparity of payments within the community grew louder, people started to ask aloud questions that had long troubled them privately. Many had one in particular: where was the money?

For years, details around the millions of dollars worth of mining royalties paid to the Adnyamathanha people were shrouded in secrecy, wrapped in a web of trusts managed by an opaque entity responsible for dispersing equal shares of the fortune.

Since 2003, the company, Rangelea Holdings Pty Ltd, had controlled the royalties, a byproduct of lucrative agreements struck with uranium mining outfits in and around South Australia's Flinders Ranges.

For several years, Reginald Wilton, an Adnyamathanha elder, had asked for access to Rangelea's financial records showing royalty payments, and to attend the company's meetings. He was told that only

Rangelea's directors could attend these meetings. What was discussed was "all confidential", he was told.

He wondered: "Why are they afraid of opening their books?"

Like many, Wilton had received irregular payments, ranging in his case from \$95 to \$550, every six months.

"We wondered why weren't we getting the same amount," he says. "It's hard to believe. Why were they doing that? I thought, we need to do something about it."

Those simple questions have led from the Flinders Ranges to a long-awaited High Court ruling that could set a precedent for the management of fortunes generated under native title laws intended for poverty-stricken Indigenous communities.

Just how much money is at stake for the Adnyamathanha traditional owners is difficult to ascertain (in the past four years, \$25 million in royalties have flowed into a court-controlled bank account).

But the fight for the right to find out has been a costly one. Hundreds of thousands of taxpayer dollars have been spent in a pursuit of answers that has divided a community and turned family members against one another.

At the head of Rangelea's push to keep its records from the community was its most prominent director – celebrated Adnyamathanha elder Vince Coulthard.

Coulthard, who was heavily involved in the Adnyamathanha people's successful native title claims, has long been lauded by senior politicians for his advocacy and community leadership. His standing within the Adnyamathanha community and SA's Indigenous community more broadly allowed him, until recent years, to remain in a position of power. In 2015, he was named SA's Local Hero in the Australian of the Year Awards.

From February 2001 to July 2019, Coulthard simultaneously held roles as a director of Rangelea and, at various times, chief executive and chair of the Adnyamathanha Traditional Lands Association, the body representing Adnyamathanha native titleholders' rights.

A month after the association was incorporated and Coulthard appointed its chair in 2001, the body engaged lawyers to stop payment of mining royalties to individual members of the Adnyamathanha community. By mid-2003, Rangelea, with Coulthard as a director, was appointed trustee of the Adnyamathanha Master Trust and took control of the royalties. Rangelea's establishment as a private company ensured it remained beyond the remit of regulators tasked with policing native title representative bodies.

Seven years later in 2010, Coulthard was

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**Adnyamathanha elder Charlie Jackson has pushed for government intervention in the management of the mining royalties for more than a decade.**  
Photo: Asher Milgate

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## EXTRA

# Inside the long fight for the truth

## From cover

involved in negotiations with US-owned company Heathgate Resources and its affiliate, Quasar, to strike new mining deals.

Still, Rangelea has argued it has no financial involvement with the Adnyamathanha Traditional Lands Association. On paper, the two are separate entities, but many community members have observed Coulthard's influence on both over almost two decades.

In March 2020, the Office of the Registrar of Indigenous Corporations, the regulator of native title bodies, placed the association into administration after an audit revealed governance issues and a lack of record keeping of meetings, memberships and spending. It appointed an administrator, Peter McQuoid.

Describing the operation of Rangelea and the Adnyamathanha Traditional Lands Association in an affidavit to the SA Supreme Court, McQuoid observed that Coulthard was the "dominant individual behind both entities".

## A long path to answers

In 2021, Wilton and two other native titleholders, Sarah Taylor and Ivan McKenzie, joined an Adnyamathanha Traditional Lands Association application in the SA Supreme Court to prise open Rangelea's records. The trio was among many native titleholders calling for transparency around the way royalty payments were calculated and distributed from the Adnyamathanha Master Trust by Rangelea.

Throughout 2021, Rangelea refused repeated requests to inspect and make copies of trust documents, arguing that the trust was a charitable trust rather than a private discretionary trust,

meaning the traditional owners seeking documents were not beneficiaries entitled to the closely guarded information.

Coulthard has long denied any wrongdoing on both his and Rangelea's part, insisting how the royalties are managed is community business.

Coulthard said Rangelea directors had several times offered to show native titleholders the company's financial records. Several community members to whom *The Age* has spoken deny this.

On the eve of hearings in the Supreme Court, Rangelea offered to allow Wilton, Taylor and McKenzie to view trust documents, on the condition they did not make copies of them, not take anyone, including lawyers, with them to inspect the documents, not share the information with anyone, and discontinue the court action.

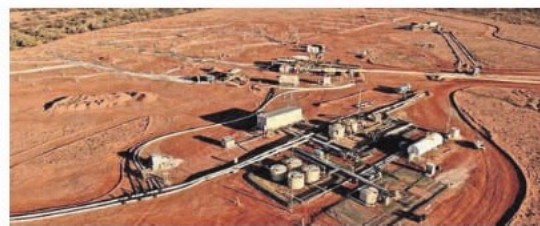
"We've offered [for] the members to come and look at them, but we didn't want the white administrator looking at them," Coulthard says.

He maintains financial documents were not shared with native titleholders because of concerns they would be shared with "non-Aboriginal people".

"We don't think non-members should be looking at our books from the outside," he says. "There's got to be some confidentiality around us."

Rangelea's offer was rejected. "We wanted to take it back to share with our family and tell them," Wilton says. "But they said it's all confidential. Why?"

In April 2023, Wilton and the Adnyamathanha Traditional Lands Association administrator had a win. SA Chief Justice Chris Kourakis ruled in the association's



favour, allowing Wilton, Taylor and McKenzie to inspect the financial records.

Kourakis said the records could be put before the native titleholders so "they might make informed decisions about the assignment of income derived from their native title rights".

Rangelea disagreed. It appealed against that decision, prolonging the search for answers. In March

this year, almost two years after Kourakis' ruling, the SA Court of Appeal upheld the orders forcing open Rangelea's books.

In a last-ditch effort to keep the records shrouded in secrecy, Rangelea, led by Coulthard, sought special leave to appeal to the High Court. Rangelea's final appeal avenue was exhausted on August 7 when the court rejected its application. "There is insufficient

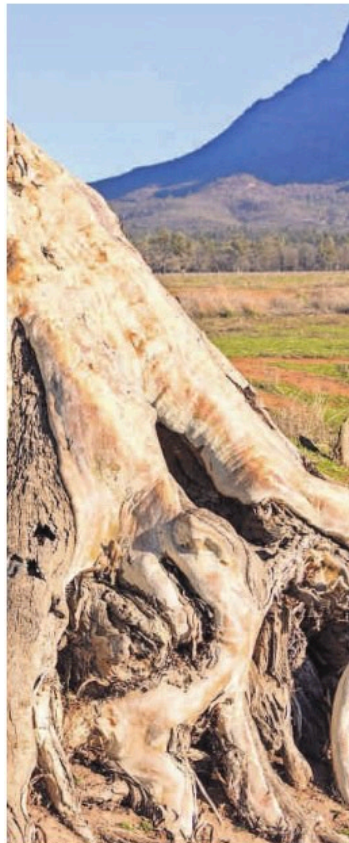
reason to doubt the correctness of the decision of the Court of Appeal to warrant a grant of special leave to appeal," the court said.

Fighting the appeals has cost the Commonwealth - which footed the Adnyamathanha Traditional Lands Association's legal bill - more than \$700,000. The cost of Rangelea's failed appeals is not known, but it has probably been covered with money pulled from the red earth of the Adnyamathanha homelands.

## Calls for reform

Because Rangelea is a private company operating independently of the Adnyamathanha Traditional Lands Association, it is beyond the regulator's reach. Such arrangements have sparked calls for changes to the way native title monies are managed and for the





From main: Elder Charlie Jackson in the famous Cazneaux's Tree near Wilpena Pound; Vince Coulthard; Reginald Wilton; a Flinders Ranges uranium mine. Photos: Asher Milgate, Lincoln Rothall, Heathgate Resources

### ADNYAMATHANHA NATIVE TITLE AREA



regulator to be granted greater powers to probe the companies managing the millions of dollars intended to benefit Indigenous communities.

The head of the regulator, Tricia Stroud, says the High Court decision is hugely important in signalling to the native title sector that community members are "entitled to understand the receipt and disbursement of native title benefits which can be obscured by complex corporate structures".

Mark Koolmatrerie, a Ngarrindjeri elder whose people's native title area stretches from the Coorong region south of Adelaide to Murray Bridge, has long called for native title reform.

Koolmatrerie believes a royal commission into the "broken" native title sector is needed to address issues around the way

monies are managed. To ensure the sector is adequately regulated, he says, an independent ombudsman or similar authority should oversee the administration of native title across the country.

The Rangelea case, Stroud says, will have ramifications for any native title body where money is being held in trust.

But because of the private nature of trusts, determining how many native title bodies are operating under similar arrangements to the Adnyamathanha is a challenge, Stroud says. Koolmatrerie suspects it could be hundreds.

### A community divided

The dispute over the fate of the royalties has divided the Adnyamathanha community, which numbers about 3000, and

the often intertwined families within it. It has sparked years-long grudges between siblings and driven a seemingly immovable wedge between others.

On one side, hundreds have signed petitions calling for Rangelea's financial records to be made public. Some, like Wilton, Taylor and McKenzie, are challenging close relatives in seeking access to the records. Taylor is Coulthard's niece.

Wilton says many people within his subgroup, run by Geraldine Anderson, have reported receiving different amounts without explanation. The lack of information led to arguments with Anderson. He told the Supreme Court he thought he was "not getting paid the right amount and that the payments were not fair". Anderson is his aunt.

Charlie Jackson, a prominent Adnyamathanha elder who was last year named SA's senior Australian of the Year, has fought for transparency and pushed for government intervention in the management of the mining royalties for more than a decade. He says Rangelea should be removed as trustee. He is Coulthard's uncle.

McKenzie, one of the native titleholders who joined the Adnyamathanha Traditional Lands Association's application, told the Supreme Court that although he received what he regarded as "good payments", there were discrepancies in payments received within the community. He is Coulthard's brother-in-law.

Others, including Rangelea directors and those close to them, maintain keeping the records under wraps is in the best interest of the community.

According to Rangelea, about 3000 Adnyamathanha native titleholders are entitled to royalty payments. However, the Adnyamathanha Traditional Lands Association's recorded membership is much lower, numbering about 900.

In some instances, community members have reported small payments being made to deceased native titleholders.

Since the royalty payments to Rangelea were frozen in 2021 (after community members voiced fears the royalties had been squandered), the company has received 15 per cent of the takings – about \$1 million a year – to cover unexplained administrative costs. Community members have questioned what costs the company could have incurred while suspended from carrying out its only function – to distribute royalty payments.

### 'Light at end of the tunnel'

The case will return to the Supreme Court. The court-appointed inspector, Hugh McPharlin, has been given broad powers to investigate Rangelea's administration of the master trust. He can request any person to produce documents and answer questions relevant to its administration. Anyone who refuses faces up to six months' imprisonment unless answering may incriminate them.

On Thursday, the case returned to the Supreme Court, where Kourakis ordered that Rangelea produce financial records for the past seven years, and its list of Adnyamathanha native titleholders by September 4.

Coulthard refused to answer questions about what assistance, if any, Rangelea would provide throughout the investigation. "It's not what we wanted," he said of the High Court decision, adding that it marked a "sad day for trusts".

McPharlin's task is simple, McQuoid says: follow the money.

While McPharlin has powers to follow the cash as it flows from the master trust, tracing it through other accounts to its final destination will prove difficult. How far McPharlin's investigation can reach, and into whose affairs, will be at the discretion of the Supreme Court. If, as many native titleholders fear, the money has been squandered, recovering it will be near-on impossible.

McPharlin is expected to hand his report, which McQuoid will ask to be released to the community, to the court within three months.

Stroud says native titleholders should have ultimate decision-making power around who manages their money – and how. Legislation to ensure transparency around the native title money could support people like the Adnyamathanha, Stroud says, but where additional powers should be placed is a matter for the government.

"This case is indicative of the importance of ensuring transparency when setting up these structures, or reviewing existing structures, so common law holders are well informed and equipped to make sound decisions about the management of their native title money," she says.

As of July 31, SA's Supreme Court was holding almost \$22.5 million of royalty payments in trust. What happens with that money is up to the Adnyamathanha people, McQuoid says. "That's what we're trying to achieve, really, and let the Adnyamathanha people decide what happens with their money and who manages it and who looks after it."

What is most important to McQuoid is helping to plot a path forward for the community. "Now we can see the light at the end of the tunnel."