SUPREME COURT OF SOUTH AUSTRALIA

(Civil)

ADNYAMATHANHA TRADITIONAL LANDS ASSOCIATION & ORS v RANGELEA HOLDINGS PTY LTD (No 2)

[2026] SASC 22

Judgment of the Honourable Chief Justice Kourakis

20 February 2026

EQUITY - TRUSTS AND TRUSTEES - PROCEEDINGS BETWEEN TRUSTEES AND BENEFICIARIES OR THIRD PARTIES

EQUITY - TRUSTS AND TRUSTEES - POWERS, DUTIES, RIGHTS AND LIABILITIES OF TRUSTEES - MISCELLANEOUS OTHER POWERS, DUTIES AND LIABILITIES - DUTY TO DISCLOSE DOCUMENTS

This is an application for an order allowing the publication of a report into the administration of Adnyamathanha Master Trust (the Master Trust) made by an Inspector appointed pursuant to s 84 of the Trustees Act 1936 (the Act) to the beneficiaries of the Master Trust and to the Administrator of Adnyamathanha Lands Association (ATLA).

Orders made on 5 April 2023, pursuant to s 84C of the Act, appointed an Inspector to investigate the administration of the Master Trust, including in respect of any funds distributed by the respondent to the Sub-Groups and the use, application and/or further dissemination of those funds by the Sub-Groups (including to any members of the Sub-Groups and in what amounts and proportions). The beneficiaries of the Master Trust, who are the traditional owners of the Adnyamathanha Lands, can choose the Sub-Group to which they belong, and select another Sub-Group from time to time as they see fit. The Sub-Groups by and large coalesce around kinship ties.

The Inspector provided two interim reports to the Court. The second interim report, delivered on 30 November 2025 sets out financial information and some other material provided by Rangelea and the representatives of several of the Sub-Groups.

The Administrator of ATLA now seeks an order allowing the publication of the inspectors second interim report to the administrator and the beneficiaries of the Master Trust who are traditional owners of the Adnyamathanha Lands.

Applicants: ADNYAMATHANHA TRADITIONAL LANDS ASSOCIATION (ABORIGINAL CORPORATION) RNTBC ICN 3743 (UNDER SPECIAL ADMINISTRATION); REGINALD JAMES WILTON, SARAH FLORENCE TAYLOR, AND IVAN CLYDE MCKENZIE Counsel: MR T MCFARLANE - Solicitor: LK LAW

Respondent: RANGELEA HOLDINGS PTY LTD (AS TRUSTEE OF THE ADNYAMATHANHA MASTER TRUST) Counsel: MR A DAL CIN - Solicitor: TOWNSENDS

Hearing Date/s: 18/12/2025

File No/s: CIV-21-011231

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The publication of report is opposed by Rangelea and the representatives of the Sub-Groups on two primary grounds:

1. The members of one Sub-Group do not have any legitimate interest in the affairs of other Sub-Groups; and

2. The information contained in the report may be found to be inaccurate as the Inspectors investigations continue.

Held, granting the application for publication of the report:

1. Section 84B of the Trustee Act requires that trustees keep comprehensive records of the administration of trusts. The Traditional Owners/beneficiaries, and indeed every beneficiary, has an interest in whether the distributions to the Sub Groups are achieving the objects of the Master Trust.

2. The purpose of the phrase 'documents relevant to the administration of the trust' and the power to require production of such documents extending to 'any person', pursuant to s 84D of the Trustee Act, is directed to ensure a trust is administrated in accordance with the objects of the trust. Having regard to aims and aspirations of the Traditional Owners for self determination, the objectives of the Master Trust cannot be achieved unless the distribution to the members of the Sub Groups is calculated to meet those objectives. Documents recording the distributions made to the members of Sub Groups are critical to the proper administration of the trust because without those records it cannot be known whether the pattern of distributions made by the Representative Corporations and/or Eligible Entities of the Sub-Groups is consistent with those objectives: [30]

3. There is no presumption that the Court will keep information in an inspector's report confidential. The power to order disclosure will be exercised by balancing the relevant considerations affecting the interests of the beneficiaries, on the one hand, and the desirability of encouraging trustees to exercise their discretions according to their conscience, without fear of unmeritorious criticism which might distract them from performing their duties, on the other.

Trustee Act 1936 (SA) s 84B, 84C, s 84D, s 84E, s 84F; *Trustee Regulations 2011* (SA) r 5; *Native Title Act 1993* (Cth); *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth); *Mining Act 1971* (SA), referred to.
Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd [2023] SASC 51; *Rangelea Holdings Pty Ltd v Adnyamathanha Traditional Lands Association & Ors* [2025] SASCA 32, applied.

ADNYAMATHANHA TRADITIONAL LANDS ASSOCIATION & ORS v RANGELEA HOLDINGS PTY LTD (No 2) [2026] SASC 22

Civil

1 **KOURAKIS CJ:** This is an application for an order allowing the publication of a report into the administration of Adnyamathanha Master Trust (the Master Trust) made by an Inspector appointed pursuant to s 84 of the *Trustees Act 1936* (the Act) to the beneficiaries of the Master Trust and to the Administrator of Adnyamathanha Lands Association (ATLA). For the reasons which follow, which should be read together with my reasons given in *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd*,[1] I will so order.

The Appointment of the Inspector

2 On 5 April 2023, I ordered:

> 1. Within 14 days, the respondent is to produce to the applicants by production to their solicitors, LK Law:
>
>   1.1 those records in relation to the administration of the Adnyamathanha Master Trust (Master Trust) as specified in regulation 5(1)(k) of the Trustee Regulations 2011 (SA), for each of the financial years ending 30 June 2018 to 30 June 2022; and
>
>   1.2 to the extent not otherwise produced in compliance with order 1.1 above, the Traditional Owner Register as maintained by the respondent, and as amended from time to time over the same period, for the purposes of the administration of the Master Trust.
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> 2. Mr Hugh McPharlin is appointed, pursuant to section 84C of the Trustee Act 1936 (SA) (Trustee Act), as an inspector (Inspector) to investigate the administration of the Master Trust, including in respect of any funds distributed by the respondent to the Sub-Groups and the use, application and/or further dissemination of those funds by the Sub-Groups (including to any members of the Sub-Groups and in what amounts and proportions).

3 The Sub-Groups referred to in Order 2 are established by the Deed constituting the Master Trust (the Trust Deed). The beneficiaries of the Master Trust, who are the traditional owners of the Adnyamathanha Lands, can choose the Sub-Group to which they belong, and select another Sub-Group from time to time as they see fit. The Sub-Groups by and large coalesce around kinship ties.

4 Mr McPharlin provided his first interim report to inform the Court of the scope of the work he proposed and to provide an estimate of his costs. On 30 November 2025 Mr McPharlin delivered his second interim report (the McPharlin report). The McPharlin report sets out financial information and some other material provided to him by Rangelea Holdings Pty Ltd ('Rangelea') and the

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1 *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd* [2023] SASC 51, (*'ATLA Rangelea No. 1*'.

representatives of several of the Sub-Groups. It provides some analysis of that material which is limited because of the poor compliance with order 1.1 of the orders of 5 April 2025. The McPharlin report foreshadows a third report which will be informed by the provision of additional material which Mr McPharlin has requested from the Sub-Groups.

5 The Administrator of ATLA, Mr McQuoid, now seeks an order allowing the publication of Mr McPharlin's report to him and to the beneficiaries of the Master Trust who are the traditional owners of the Adnyamathanha Lands.

6 The publication of Mr McPharlin's report is opposed by Rangelea and the representatives of the Sub-Groups on two primary grounds:

1. The members of one Sub-Group do not have any legitimate interest in the affairs of other Sub-Groups; and

2. The information contained in the report may be found to be inaccurate as Mr McPharlin's investigations continue.

The Reasons for Mr McPharlin's Appointment

7 In ATLA Ragelea No. 1, I held that the Master Trust was not a charitable trust.

8 I also found that the second, third and fourth applicants, Reginald Wilton, Sarah Taylor and Ivan McKenzie respectively (the Adnyamathanha applicants) are Adnyamathanha people, common law holders of native title in Adnyamathanha land and members of a sub-group of traditional owners identified in the schedule to the Trust Deed. I also found that ATLA is also a prescribed body corporate for the purpose of s 57 of the *Native Title Act 1993* (Cth) (the NTA) and the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth) (the PBC Regulations).

9 I found that in May 2010 ATLA, as agent for the Adnyamathanha people, entered into a Native Title Mining Agreement (NTMA) under the *Mining Act 1971* (SA) (the Mining Act) known as the Beverley 2010 Agreement (the Beverley Agreement) with Heathgate Resources Pty Ltd (Heathgate).

10 Also in May 2010, ATLA entered into a similar NTMA with Quasar Resources Pty Ltd (Quasar).

11 In the 2020 calendar year, approximately $4 million was paid to Rangelea in production payments by Heathgate and Quasar. Approximately $780,000 was paid to Rangelea in the first quarter of 2021.

12 I summarised my reasons for ordering the appointment of an inspector pursuant to s 84C of the *Trustee Act* as follows:[2]

> 13 ATLA and the Adnyamathanha applicants have brought these proceedings seeking orders for access to the records of the Master Trust. For the reasons which follow I find that the Master Trust is a private discretionary trust. I am satisfied that the Adnyamathanha applicants, as beneficiaries of the Master Trust, are entitled to orders allowing them to inspect and make copies of the trust account records showing the receipt of any income, the expenditure on administrative costs and the making of distributions for the financial years ending 2018 to 2022 under the general law as adapted by s 84B of the Trustee Act.
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> ...
>
> 15 I also find that the Adnyamathanha applicants and ATLA have a proper interest in the Master Trust entitling them to seek the appointment of an inspector pursuant to s 84C of the Trustee Act. On the evidence of a director of Rangelea, Mr Vincent Coulthard, there are grounds to suspect that the production of those records alone may not reveal how much of the fund which was distributed to the Sub-Groups was disseminated between the members of the Sub-Groups, and in what proportions. An inspector is likely to discover more information in that respect. I will therefore so order.

The Trust Deed

13 In the course of finding that the Master Trust was not a charitable trust, I made the following observations about the provisions of the Trust Deed:[3]

> 71 The Recital to the Trust Deed records that the Adnyamathanha people have joined together to make the Native Title Claim in Federal Court proceedings SG6001/98 and declares that the trust has been created for the purposes of benefiting the 'Traditional Owners' in the manner set out in its provisions. The declaration of trust itself declares that the trustee stands possessed of the trust fund 'for the benefit of the Traditional Owners' rather than for the advancement of a charitable purpose.
>
> 72 Clause 3 provides that the trust is established 'for the objects of benefiting the Traditional Owners ... and their descendants'. I accept that the traditional owners of the Adnyamathanha lands are a sufficiently large group of people to be a constituent element of Australia's multicultural society and may, therefore, be the object of benefaction of a charitable trust.
>
> 73 Importantly, clause 3.2 directs the trustees 'to the extent practical' to distribute the 'Distributable Funds' in the Trust Fund periodically amongst the Sub-Groups established by the Trust Deed (as contemplated by the Deed) in order for those funds to be managed or distributed by those Sub-Groups. Clause 3.2 does not require or limit the distributions from the Master Trust to a single payment to a representative of each Sub-Group or their 'Eligible Entities'.
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> 74 'Distributable Funds' is defined by clause 30 of the Trust Deed to ... include, inter alia, monies paid under NTMAs. The connection made in the Recital between the Native Title Claim and benefiting Adnyamathanha people, and the direction to

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[2] *ATLA v Rangelea No. 1* 5, [13]-[15].
[3] *ATLA v Rangelea No. 1* 21-27, [71]-[97].

maximise distributions, suggests that the primary purpose of the Master Trust is to distribute monies derived from the Native Title Claim to common law holders.

75 I observe that those terms reflect Mr Coulthard's evidence that it was the consensus of the Adnyamathanha people reached in meeting on the issue that those of them who had most directly suffered from colonial dispossession enjoy some priority in the distribution of funds derived from their native title rights in order to compensate them for that loss. Mr Coulthard testified that there had been some dispute between different members of the Adnyamathanha community in the Native Title Claim as to how the payments made by Heathgate should be distributed. A resolution of their differences was reached at two meetings of the Adnyamathanha people, one held in Copley on 21 July 2003 and one held in Port Augusta on 22 July 2003. It was agreed that the payments would be made to a trust with a corporate trustee. The payments would be divided between the various sub-groups listed in a trust deed and all Adnyamathanha native title holders could choose which sub-group to belong to. The royalty payments would be divided between sub-groups in proportion to the number of members of the sub-groups.

76 Mr Coulthard deposed that there was a strong sentiment amongst the Adnyamathanha people that the royalties, or as much of the royalties as possible, should be distributed to Adnyamathanha people and/or native title holders as soon after the monies were received as was reasonably practicable. There was a view that it should not be invested for future generations. The consensus was that those living Adnyamathanha people who had suffered the greatest loss from the loss of connection to the land should receive the benefits.

77 Guiding principle 5.1(5) of the Trust Deed reflects that consensus. It provides that the general intent is that *all income* comprising Distributable Funds received by the Master Trust will be distributed between the Sub-Groups on a regular basis and as soon as practicable after receipt of any significant payments. It will be noted in this respect that the evidence shows that payments made to Traditional Owners were generally made twice a year and that the NTMAs made by ATLA require the mining companies to make semi-annual payments of royalties to the Master Trust.

78 The concept of compensation, premised as it is on a moral or legal entitlement, stands in contrast to a gift given as an act of charity.

...

80 Clause 4.3 of the Trust Deed directs the trustee, in performing its functions, to have due and proper regard to the aims and aspirations of the Traditional Owners and, in particular, their desire to 'work towards self-determination (being the control, protection, and development of their own culture and lives)'. It also directs the trustee to have regard to the Traditional Owners' desire to work towards self-management 'within their own respective Sub-Groups'. Those instructions, too, reflect the notion of distributing trust monies in a way which returns to the Adnyamathanha people a level of independence and autonomy which was lost to colonial control. However, they lack any reference to the traditional charitable purposes; they are instead replete with references to material advancement, albeit within a collective, or the collectives, of the Adnyamathanha people.

81 Clause 4.4 empowers the trustee to convene a committee to be know as the 'Advisory Committee, comprising a representative of each Sub-Group, to receive recommendations from the Sub-Groups in relation to matters relating to administration of the Master Trust.

84 It is clause 7 of the Trust Deed which divides the Traditional Owners into the Sub-Groups. It provides the trustees may, from time-time-time, recognise and create additional Sub-Groups. Clause 10 requires the trustee to maintain a 'Traditional Owners Register'.

86 Clause 7.3 charges the trustee with responsibility to determine how Distributable Funds are to be shared between the Sub-Groups and directs it 'to allocate the Distributable Funds in accordance with Guidance Principle 5.1(4)'. Clause 5.1(4) requires the trustee in that allocation to 'generally' treat the Traditional Owners 'equally' in the sense that Sub-Group will participate in benefits in proportion to the size which its membership bears to the total number of Traditional Owners in all Sub-Groups. In order to do so, the trustee is to determine the 'Allocated Share' of each Sub-Group in proportion to the Traditional Owners affiliated with that Sub-Group. Clause 30 defines the Allocated Share to be the share of the Distributed Funds to be enjoyed by each Sub-Group. However, clause 5.1(4) does not mandate equality of distribution to each member of a Sub-Group or as between all of the persons names in the schedule.

…

88 Before proceeding further with a discussion of clause 7, it is necessary to set out some defined terms. Clause 30 defines an 'Eligible Trust' to be a trust or settlement established for the benefit of Traditional Owners generally or of a particular Sub-Group and an 'Eligible Corporation' to be a corporation all of the shares of which are beneficially held by the Traditional Owner members of a Sub-Group. An 'Eligible Entity' is an Eligible Corporation or Eligible Trust which has been nominated by a Sub-Group to receive any part of its Allocated Share. Clause 11 authorises the trustee to assist a Sub-Group to constitute a Representative Corporation to represent the Sub-Group, provide advice to the trustee and mediate between members of the Sub-Group. Clauses 5.3 and 11.2(4) assimilate a Representative Corporation with those Eligible Entities which may receive a payment of part of the Allocated Share of Sub-Group. The provision for payments to be made by Rangelea to an Eligible Entity, which need not have a charitable purpose, and which need not account to Rangelea for the further distribution of the funds, is fundamentally inconsistent with Rangelea's contention that the Master Trust is a charitable trust.

89 Clause 7.4 provides that once the Allocated Share has been determined by the trustee each Sub-Group will direct, through its representative on the Advisory Committee, how it wants the trustee to *apply* its share. Clause 7.5, by way of elaboration, provides that each Sub-Group may direct the trustee to pay its Allocated Share as it determines including to an Eligible Entity or Eligible Trust, or to designated members or any 'mixture of the above'. It follows from the processes established by clauses 7.4 and 7.5, by which a 'Sub-Group's representative on the Advisory Group 'directs the Trustee to apply', and Sub-Groups direct the trustee to 'pay' any part of the Allocated Shared, that it is the application of the Allocated Share in that way which is the distribution from the Master Trust.

…

95 Mr Coulthard gave evidence of the actual practice of Rangelea in making distributions. He testified that Rangelea's accountants, Wakefields, attend meetings of its board with a budget and proposed budgets as to Rangelea's operating costs in order to advise the board of the funds which are available for distribution. That amount is divided by the number of beneficiaries in the Sub-Groups and the

Allocated Share for each Sub-Group is then determined. Rangelea's directors then instruct Wakefields to transfer the respective amounts into the accounts of the Sub-Groups.

...

97 I understand Mr Coulthard's evidence to be that, in practice, a single payment of the Allocated Share is made by Rangelea to a member of a Sub-Group, or to an Eligible Entity, who may then distribute some part of the amount to other members. The nature of the trust or equitable obligations assumed by the recipient in that context, if any, is problematic and was not explored by evidence or submissions in these proceedings.

98 To some extent the difficulty as to the nature of the payment may be resolved by the Trust Deed itself in respect of a payment to a Representative Corporation. Clause 5.3 confers a discretion on the trustee to pay all or part of the benefits to which a Sub-Group is entitled to a Representative Corporation of a Sub-Group 'in its own capacity' or as 'a trustee' for administration and distribution on behalf of the Sub-Group. Presumably, Rangelea may stipulate on the making of a distribution whether it is made to the Representative Corporation in its own capacity or as trustee for the Sub-Group members.

14 For the purposes of this application, it is necessary to refer to some other provisions of the Trust Deed. Clause 5.1 sets out the guiding principles to be observed by the Trustee 'to the extent consistent with the objects' in Clause 3.1. The guiding principles relevantly include:

(3) except to the extent expressly contemplated by these Guiding Principles the Trust will be impartial in sharing benefits between the Sub-Groups and will not favour any Sub-Group over another. However, it is recognised that the Sub-Groups will not necessarily receive their benefits at the same time for administrative or other reasons. For example, if one Sub-Group delays in advising the Trustee how to apply its capital Allocated Share then it may experience a delay in receiving its benefits;

(4) In sharing benefits between the Sub-Groups the Traditional Owner members of each Sub-Group will generally be treated equally in the sense that each Sub-Group will participate in benefits in proportion to the size of its traditional owner membership bears to the total number of traditional owners in all Sub-Groups at the time of the distribution. For example, if the Traditional Owner members of the particular Sub-Group No 100 persons and the total of Traditional Owners in all Sub-Groups is 1000, then the Allocated Share of that particular Sub-Group will in general terms be 10 percent of the Distributable Fund.

...

(6) The views of the Traditional Owners as determined through the Advisory Committee and through such other consultations as the Trustee may consider appropriate will be considered in the administration of the Trust.

15 Clause 5.3 of the Trust Deed provides the Trustee with a discretion to pay all or part of the benefits, to which a Sub-Group is entitled, directly to a Representative Corporation of a Sub-Group.

16 The Trust Deed sets out a number of ways in which the Trustee may consult with Traditional Owners in order to inform its administration of the Trust. Clause (6) of the Master Trust Deed provides that the Trustee must consult regularly with the Traditional Owners in discharge of its duties by:

- informing the Traditional Owners of the activities of the Master Trust;
- gathering information as to the aims and aspirations of the Traditional Owners;
- seeking proposals and ideas from the Traditional Owners as to how funds should be distributed amongst them; and
- seeking the views of the Traditional Owners as to the present and proposed activities of the Trust.

The Trustee may pay, or contribute towards, the reasonable expenses of the Traditional Owners or Sub-Groups, incurred by participating in the consultation.

17 In addition to those express provisions the Trustee would be bound, in equity, to consider such representations as may be made unilaterally by beneficiaries of the Master Trust if they were material to the proper administration of the Trust.

18 The views, opinions and submissions which the Trustee may receive through consulting the beneficiaries may inform decisions on:

- whether to defer payments to an entity nominated pursuant to Clause 7.4 by the representative of the Sub-Group on the advisory committee in the event of a controversy within the Sub-Group over the entity to which its share should be applied;
- the Eligible Entity of the Sub-Group to which the payment should be made having regard to Clauses 7.4 and 7.5 of the Trust Deed;
- whether it should exercise its powers under Clause 11 of the Trust Deed to assist the members of the Sub-Group to constitute a, or another, Representative Corporation or Eligible Entity, to represent a Sub-Group and mediate between its members;
- whether to defer payments to a Sub-Group pending an application for directions by any of its members as to the person to whom Rangelea should pay the Sub-Group's share, in whole or in part, or an application for directions as to the administration of a Trust through which the Sub-Group makes distributions.

19 The Trustee will not be much assisted by its consultations unless the Traditional Owners/beneficiaries are properly informed by a sufficient disclosure of the way in which the Trust has been administered and about the way in which

the person or Entities who receive the distributions disseminate them to the members of the Sub-Group.

20 In *ATLA v Rangelea (No. 1)*, I reached the following conclusions about the way in which the Master Trust has been administered:[4]

> [107] There are several consequences of my finding which should be noted. First, as beneficiaries of a private trust, each of the named group members are entitled to the due administration of the Master Trust by Rangelea. The due administration of the Master Trust includes:
>
> - making distributions to the Sub-Groups in proportion to their membership;
> - making distributions as soon as practicable after receipt of significant payments; and
> - having regard to the aspirations of Traditional Owners for self-determination when making decisions.
>
> [108] If the group members were only objects of benefaction they could not seek the assistance of this Court to ensure that Rangelea administered the Master Trust in that way.
>
> [109] Secondly, it is likely that Rangelea has administered the Master Trust on the premise that it is a charitable trust. Rangelea's solicitor, Townsends, asserted as much in denying the personal applicants' requests for access to trust records. I set out the circumstances of the denial of those requests in paragraphs[156], [165] and [169] below. That is also the position it has put in these proceedings. In the absence of any clear evidence that Rangelea has been duplicitous in denying access on the basis that the Master Trust is a charitable trust I find that it has administered the Trust, including the treatment of taxation matters, on the basis that it is a charitable trust.
>
> [110] Thirdly, and as a necessary consequence of my last finding, there may be adverse consequences for Rangelea and the members of the Sub-Groups and any of their Eligible Entities who have received monies from Rangelea because of the mistaken premise on which the Master Trust has been administered.
>
> [111] Fourthly, the distribution of the Allocated Share of each Sub-Group by a single payment for a member of a Sub-Group or an Eligible Entity means that there is no transparency as to any further distribution. In exercising such discretions as Rangelea may have as to the entity to which the payment is made, or in determining whether to seek the assistance of the Court in the administration of the Master Trust, Rangelea was bound by the fiduciary duty it owed all members of the Sub-Groups to seek and maintain records of the way in which the recipient of the payment for the Sub-Group dealt with the funds. Rangelea's refusal to provide any information as to its management of the Master Trust deprives members of the Sub-Groups of information they would require to determine whether to bring an action against the member of the Sub-Group or an Eligible Entity who received trust funds from Rangelea.

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4 *ATLA v Rangelea No. 1* 27, [107]-[111].

Valid Interests

21 Rangelea appealed against the finding I made that the administration of the Master Trust extended to obtaining information about, and maintaining records of, the use of the money distributed to the Sub-Groups and against the orders I made giving effect to that finding in the appointment of the inspector.

22 In dismissing the Rangelea's appeal, the Court of Appeal held:[5]

> 333. There can be no complaint about the primary judge having regard to the distribution of trust funds to the Sub-Groups, and then the beneficiaries, as relating to the administration of the Trust. Whilst each Sub-Group was to an extent independently managed, this was done under the umbrella of the Trust and the arrangements it established and which Rangelea as trustee supervised. There can be no sharp cleavage between the operation of the Sub-Groups and the Trust more generally. They are necessarily intertwined, particularly as the starting point should be an equality in treatment amongst the beneficiaries, see cl 5.1(4) discussed above.
>
> 334. The evidence from ATLA and the respondents that there was an unexplained disparity in the monies received by the beneficiaries is a matter that calls for explanation and, ultimately, investigation.
>
> 335. The issue could be tested in this way: the trustee has the power to address any failure to adhere to the terms of the Trust Deed by any Sub-Group in connection with the operation of that Sub-Group and its management of Trust Funds. That is the kind of issue that might be addressed under cl 5.1(4), as well as at any regular meeting of the Traditional Owners under clause 6, when the Trustee must consult with the Traditional Owners regarding the discharge of its duties.

23 It necessarily follows from my findings and orders, which were affirmed on appeal, and from the reasons of the Court of Appeal that the beneficiaries/Traditional Owners have a valid reason to receive information about the operations of the Sub-Groups. ATLA, through Mr McQuoid as its Administrator, has a valid interest in receiving the report for the same reasons, given in [32]–[60] of my decision in *ATLA v Rangelea (No. 1)*, that it had a power, and standing, to bring the proceedings.

The Trustee Act

24 Sections 84B of the Act requires that trustees keep comprehensive records of the administration of trusts:

> **84B—Records to be kept by trustee**
>
> (1) A trustee shall keep such records relating to his administration of the trust property as may be prescribed.
>
> Maximum penalty: $500.
>
> (2) A trustee shall, at the request of—

5 *Rangelea Holdings Pty Ltd v Adnyamathanha Traditional Lands Association & Ors* [2025] SASCA 32.

(a) the Public Trustee; or

(b) another trustee of the trust; or

(c) a beneficiary under the trust,

produce the records kept by the trustee in pursuance of this section for inspection and permit the Public Trustee, the other trustee or the beneficiary (as the case may be) to examine and make copies of those records.

Maximum penalty: $500.

25 Regulation 5 of the Trustee Regulations 2011 (SA) relevantly provides:

5—Records to be kept by trustee

(1) For the purposes of section 84B of the Act, the records that a trustee must keep relating to administration of the trust property are as follows:

(a) each document authorising the trustee to act as trustee;

...

(d) each deed, agreement or other instrument varying distribution of the trust property or a stamped duplicate of any such deed, agreement or instrument;

(e) a copy of all returns made as to any form of duty, charge or tax imposed on the trust by the Commonwealth or any State or Territory of the Commonwealth (including trust income tax returns and personal tax returns for beneficiaries where applicable);

...

(g) minutes of the proceedings of all meetings relating to administration of the trust at which the trustee was or was entitled to be present;

...

(k) other records that would enable the receipt and disposition of trust property to be conveniently and properly audited, including the following:

(i) a register of securities recording the following information in respect of all securities received and disposed of:

(A) the date of receipt or disposition;

(B) a description of the securities;

(C) the consideration passing for receipt or disposition;

(D) brief particulars of the purpose of the transaction;

(ii) a property register recording the following information in respect of all other property received and disposed of:

(A) the date of receipt or disposition;

(B) a description of the property;

(C) the consideration passing for receipt or disposition;

(D) brief particulars of the purpose of the transaction;

(iii) a register of all investments of income and capital funds (including redemptions and income accretions) recording the following information in respect of each investment:

(A) the date of investment;

(B) the amount of the funds invested;

(C) brief particulars of the investment;

(iv) a cash receipt book recording the following information in respect of each receipt of trust money:

(A) the date and reference number of each receipt;

(B) the name of the person from whom the money is received;

(C) the trust name or reference to which the transaction relates;

(D) brief particulars of the purpose of the receipt;

(E) the amount of the receipt;

(F) the date the cash receipted is deposited in an ADI account (where applicable);

(v) a cash payments book recording the following information in respect of each payment of trust money:

(A) the date of the payment;

(B) if the payment was made by cheque—the cheque number;

(C) the name of the payee;

(D) the trust name or reference to which the transaction relates;

(E) brief particulars of the purpose of the payment;

(F) the amount of the payment;

(vi) each ADI statement and passbook issued in relation to trust ADI accounts;

(vii) trust statements, prepared not less than annually, showing the following for the period from the end of the last period for which a statement was prepared:

(A) cash receipts and payments;

(B) other property received or transferred;

(C) assets and liabilities as at the last day of the statement period.

26 As we shall see, the information provided by Rangelea does not include any of the primary financial records prescribed by subparagraph (k) or the tax returns contemplated by subparagraph (e).

27 The appointment, powers and reports of inspectors is set out in the Act which provides:

84C—Appointment of inspector

(1) The Supreme Court may, on its own initiative, or on the application of any person who has, in the opinion of the Court, a proper interest in the matter, appoint an inspector to investigate the administration of any trust.

(2) An inspector must be a person who holds prescribed qualifications.

(3) The Supreme Court may make orders for the payment of the whole or part of the costs of an investigation under this Part—

(a) by the applicant for the investigation; or

(b) by a trustee or beneficiary of the trust; or

(c) out of the trust estate.

28 I observe here that the order made by me that Mr McPharlin investigate the administration of the Trust and which was confirmed by the Court of Appeal, extended to payments made to members of the Sub-Groups.

29 Section 84D of the Act confers extensive powers on an inspector and imposes significant penalties for failures to comply with an inspector's requests:

84D—Powers of an inspector

(1) For the purpose of investigating the administration of a trust, an inspector may—

(a) require any person to produce documents relevant to the administration of the trust; and

(b) take copies of, or extract from, any such documents; and

(c) require any person to answer any question relevant to the administration of the trust; and

(d) exercise any other power conferred on him by the Court.

(2) A person who—

(a) refuses or fails to produce documents in his custody or power when required to do so by an inspector; or

(b) refuses or fails to answer to the best of his knowledge, information and belief any question put to him by an inspector under this section; or

(c) hinders an inspector in the exercise of his powers,

shall be guilty of an offence and liable to a penalty not exceeding $2 000 or imprisonment for six months or both.

(3) A person may decline to answer a question put to him by an inspector under this section if the answer to the question would tend to incriminate him of an offence.

30 I draw attention to the width of the phrase 'documents relevant to the administration of the trust' and that the power to require production of such documents extends to 'any person'. The administration of the Master Trust in accordance with its object to 'benefit the Traditional Owner and their descendants' (Clause 3) having regard to aims and aspirations of the Traditional Owners for self-determination cannot be achieved unless the distribution to the members of the Sub-Groups is calculated to meet those objectives. Documents recording the distributions made to the members of Sub-Groups are critical to the proper administration of the trust because without those records it cannot be known whether the pattern of distributions made by the Representative Corporations and/or Eligible Entities of the Sub-Groups is consistent with those objectives.

31 To be blunt, but without in any way suggesting that this is in fact the case, if the bulk of the distribution to a Sub-Group was paid to a handful of Traditional Owners who control the Eligible Entity, to the detriment of the advancement of the members of the Sub-Group generally, without any valid reason for doing so, the objects of the Master Trust would be frustrated. It is the duty of the Trustee to ensure that that is not the case. That duty can only be discharged by requiring reports on how the distributions made to the Sub-Groups are disbursed. There are various mechanisms by which those reports can be obtained. The recipient of the share allocated to a particular Sub-Group is bound to account for the way in which the funds are used because the recipient holds the funds on trust to disseminate them to the members of the Sub-Group in accordance with the objects of the Master Trust.

32 Sections 84E and 84F of the Act provide for the submission of the inspector's report to the Attorney-General and the Supreme Court and imposes a duty of confidentiality on the inspector:

84E—Reports to be made to Attorney-General

(1) Upon completing an investigation under this Part, an inspector shall make a report in writing to the Supreme Court and to the Attorney-General upon the results of the investigation.

(2) An inspector shall make such interim reports to the Supreme Court and to the Attorney-General in relation to an investigation under this Part as the Court may direct.

84F—Confidentiality

An inspector shall not divulge any information that comes to his notice in the course of an investigation under this Part and relates to the administration of the trust subject to the investigation except—

(a) to the Supreme Court and to the Attorney-General; or

(b) as directed by the Court.

Maximum penalty: $2 000.

33 Section 84F of the Act is directed on to the Inspector, ensuring that the Inspector does not pre-empt any decision as to further publication which might be made by the Supreme Court or the Attorney-General. Section 84F of the Act does not purport to limit any use, including publication, by either of the two recipients of the report.

34 The Court must, of course, exercise its powers, within its inherent and statutory jurisdiction to supervise trusts, judicially. In this context that means having regard to, and only to, relevant considerations. The Attorney-General, on the other hand, is not similarly bound and is accountable only to Parliament for his or her use of information communicated in a report. For example, the Attorney-General may table the report in Parliament after which it might be published to the public at large with qualified privilege.

35 The power conferred on the Supreme Court by s 84F of the Act to direct an inspector to divulge information to another person is most apt to cover the disclosure of information in an interim report to other persons in order to further the inspector's investigations or to accord procedural fairness.

36 It follows that there is no presumption that the Supreme Cout will keep the information in an inspector's report confidential. The power to order disclosure will be exercised by balancing the relevant considerations affecting the interests of the beneficiaries, on the one hand, and the desirability of encouraging trustees to exercise their discretions according to their conscience, without fear of unmeritorious criticism which might distract them from performing their duties, on the other.

Mr McPharlin's Report

37 Mr McPharlin's Report discloses that the Sub-Groups recognised in the Master Trust continue to operate, with the names, membership and trust entities listed below:

Main List From Meeting 221217	Master Trust Deed	
Angelina (Villa Mulka Trust)	Angelina Stuart's Group	174

Beverley (Beltana Awi-Utu Trust)	Stewart & Beverley Patterson Group	394
Gordon	Gordon Coulthard Group	34
Vince	Vince Coulthard (ATLA) Group	1754
Johnson (Gertie Johnson Trust)	Aunty Gertie's Group	97
Kuyani (Kuyani Trust)	Kuyani Group (McKenzie) Group	160
Buzzacott	May Group	204
Geraldine – (Adnyamathanha Community Trust)	Geraldine Anderson Group	79

38 Mr McPharlin's report showed that the Trust held cash at bank ranging from a high of $1,820,338 in June 2019, to $360,542 in June 2025. However, in the financial year ending in June 2020 year, $1,274,345 was held as cash at the bank and a further $750,000 on a term deposit. Between the June 2024 financial year and June 2025 financial year cash at the bank fell by $550,235.

39 An analysis of the financial statements showed that trade debtors were nil in most years between June 2018 and June 2025. In the year ending June 2020 trade debtors were $20,000 and in June 2025 were $600,888. The increase in trade debtors may have been due, in part, to a freeze on the payment of royalties to the Trust.

40 The income of the Trust comprises royalties and interest. In the year ending June 2020, royalties totalling $3,609,055 were received, together with interest of $4,164. The total of royalties received between June 2018 and June 2025 was $15,336,535 and the interest received was $29,809.

41 Administration and secretarial fees were generally around, or under, $50,000 until June 2020. They rose steadily from $104,593 in the financial year ending June 2021 to $147,548 in June 2023. In the financial year ending June 2024, administration and secretarial fees more than doubled to $347,493.

42 Distributions ranged from $1,262,400 in June 2018 to $3,227,365 in June 2021 and totalled $10,402,389 in the period June 2018 to June 2025.

43 General expenses were relatively low other than in the June 2020 financial year when they totalled $18,574 and, in the year ending June 2023 when they totalled $23,275.

44 Board meeting expenses varied substantially. They were $109,060 in the year ending June 2023 up from $22,500 in June 2022. The chairperson's expenses were generally under $10,000 until the financial year ending June 2025 when they totalled $47,300.

45 The Trust paid group administration expenses to Sub-Groups ranging from $64,000 to $115,400 between June 2018 and June 2025.

46 Legal fees were $183,859 in June 2022, $181,261 in June 2024 and $161,505 in June 2025.

47 The letters sent by Mr McPharlin to the Sub-Group requested such records as were kept by each of them and sufficient details and explanations to assist an inspection of those documents relating to the receipt of funds from the Trustee and the use, application and/or further dissemination of those funds to any members of the Sub-Groups and in what amounts and proportions. That request accords with the scope of the report Mr McPharlin was ordered to provide.

48 Only four Sub-Groups provided information to Mr McPharlin. They were the Geraldine Anderson Group (the Adnyamathanha Community Trust), the Stewart and Beverley Patterson Group (the Beltana Awi-Utu Trust), the Johnson Group (the Gertie Johnson Trust), the Kuyani (McKenzie) Group (the Kuyani Trust). The information provided was sparse and fell far short of what was requested.

49 No documents were received from the other four Sub-Groups: the Angelina Stuart Group (the Villa Mulka Trust), the Gordon Coulthard Group, the Vincent Coulthard Group and the Buzzacott Group. Those four Sub-Groups account for more than two-thirds of the beneficiaries.

50 Mr McPharlin has requested further information from the Sub-Groups.

51 The Adnyamathanha Community Trust provided financial information which showed that its total equity at the end of the financial year June 2022 was $13,426, most of which was held in a bank account. It showed that it had received income of between $51,500 in the financial year ending June 2018, with its highest income received in the financial year ending June 2020 of $95,864. Its expenses were relatively minor except for payments described as a cultural heritage payment which ranged from a low in the year ending June 2018 of $45,350 to a high of $77,915 in June 2020. All of the income after expenses was distributed other than an amount which in each year was under $10,000 and was likely to be a group administration expense.

52 Information provided by the Beltana Awi-Utu Trust showed that it had assets of $10 or less as of 9 September 2021. In the three months from 30 July 2021 to 9 September 2021, it received $141,478 in royalties and distributed $136,998 to its 394 beneficiaries (or some of them).

53 The Gertie Johnson Trust provided financial information that showed that its assets as at 16 August 2021 totalled $5,749. In the period 4 August 2021 to 18 August 2021, it received royalties of $46,278 and an administration expense of $4,000. It distributed $38,700.

54 The financial information provided to Mr McPharlin by the Kaylene McKenzie and Michael McKenzie Group (the Kuyani Trust) showed that as at 6 September 2021 its assets were $18,112. It showed that between 2 August 2021 and 6 September 2021, it received a distribution from the Trustee of $60,714 and distributed $39,500 to beneficiaries.

55 A statement by Mr Michael McKenzie, described as the group leader, dated 20 July 2021, was provided to Mr McPharlin. It reads:

> I have engaged Wakefield Business Group to make royalty distributions as instructed by me as Group Leader and in the amounts to individuals as directed by me. These payments are made under my instruction and at my direction. I also consent to have accounts prepared and audited and make payments in accordance with the charitable trust deed prepared.

56 In summary:

- no group provided information to Mr McPharlin which disclosed the individual distributions made to Sub-Group members;
- only four Sub-Groups provided financial statements, three of the four Sub-Groups provided financial information for the first quarter of the financial year ending June 2022 and one for the financial years 2018 through to 2022; and
- no Sub-Group provided primary financial records.

Conclusion

57 The financial information provided by the Trustee shows no more, and indeed much less, than the information a trustee is required keep pursuant to s 84B of the Act. It does not disclose any information which is commercially confidential.

58 It does show the total amount of royalties received and their lump sum distributions to Sub-Groups. The Trust Deed dictates the proportions which the distributions to the Sub-Groups should bear in proportion to the total amount distributed. The information therefore cannot disclose the reasons of the Trustee for making those distributions. The information does not disclose any resolutions made by the Trustee.

59 The information provided by the Sub-Groups which complied, in small part, with Mr McPharlin's request is similar in nature. It shows no more than the total income received from Rangelea, their administration costs and the total distribution/dissemination of that income to the members of the Sub-Group.

60 It follows that the McPharlin report does not disclose commercially sensitive information other than in minor respects which counsel informed me might be redacted by consent. Nor does it disclose the reasons for any particular distribution.

61 Even with the disclosure of Mr McPharlin's report, the beneficiaries/Traditional Owners will need to make their own enquiries to complete the picture which would allow them to make informed decisions about the administration of the Master Trust and the Sub-Group which they would like to join.

62 The information, sparse as it is, provided by four of the Sub-Groups is relevant to the administration of the Master Trust for the reasons given in [30]-[31] above.

63 Every beneficiary has an interest in whether the distributions to the Sub-Groups are achieving the objects of the Master Trust referred to in Clause 5. Ultimately when information is supplied to Mr McPharlin on the distributions within Sub-Groups every beneficiary of the Master Trust will have a proper interest in its disclosure so that he or she can make an informed choice as to which Sub-Group to join, and on what steps he or she may wish to take to ensure the proper administration of the Master Trust, and the dissemination of its distributions within the Sub-Group.

64 As to the four Sub-Groups which did not provide any information to Mr McPharlin, their very failure to do so is in itself relevant information which the members of the Sub-Group are entitled to know. So too as to the paucity of information provided by the other four Sub-Groups.

65 I acknowledge that the financial information on the administration of the Master Trust and the management of the funds received by the Sub-Groups is likely to be supplemented and elaborated on in the further reports foreshadowed by Mr McPharlin. If the financial information or analysis in Mr McPharlin's report is amended, it will be because of the poor responses to date to his requests. That is no reason not to publish the information as it comes to hand. The beneficiary/members of the Sub-Groups may wish to take their own measures to obtain the additional information they need in order to ensure that the distributions within the Sub-Groups have been made fairly and in accordance with the Trust Deed. Those actions may result in beneficiaries choosing a different Sub-Group. For too long the Traditional Owners/beneficiaries have been denied the information necessary to make effective that right granted to them by the Master Deed.

66 It was contended that Mr McPharlin's report should not be published because Mr McQuoid has chosen not to publish the records provided to him in accordance with Order 1. I reject this contention. The order was made to facilitate Mr McPharlin's investigation. Mr McPharlin has summarised the information provided to him in a way which makes it more readily comprehensible. There is no reason to require the publication of the financial information provided in partial compliance with Order 1 before publishing Mr McPharlin's report. Indeed, it is more practical and efficient to commence with publication of the report and to consider any application for access to the underlying financial information which might later be made.

67 The balance of considerations strongly favours publication of Mr McPharlin's report to all members of all Sub-Groups and to the Administrator of ATLA. I so order.