

SUPREME COURT OF SOUTH AUSTRALIA

(Civil)

DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment. The onus remains on any person using material in the judgment to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court in which it was generated.

ADNYAMATHANHA TRADITIONAL LANDS ASSOCIATION & ORS v RANGELEA HOLDINGS PTY LTD (No 3)

[2026] SASC 151

Decision of the Honourable Justice McIntyre

15 October 2026

g:30 ~ 27/10/26

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

The applicants seek an order that two interim reports into the administration of the Adnyamathanha Master Trust (the 'Master Trust') made by Mr McPharlin, an Inspector appointed pursuant to s 84 of the *Trustee Act 1936* (SA) ('Trustee Act'), be released to the beneficiaries of the Master Trust and to the Administrator of Adnyamathanha Lands Association ('ATLA'). The applicants submit that disclosure should follow the approach adopted by Kourakis CJ in the disclosure decision concerning the second interim report in this matter and that the beneficiaries of the Master Trust have a legitimate interest in information concerning the administration of the trust including the activities of the sub-groups. The eighth interested party supports this position, emphasising that Adnyamathanha law and custom should inform the Court's exercise of discretion and that transparency is consistent with those traditions.

The first to seventh interested parties contend that they were not parties to the proceedings when the Inspector was appointed and have therefore been denied procedural fairness in relation to the proceedings generally. They contend that they ought not be bound by various findings.

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 Counsel: MR A DAL CIN - Solicitor: TOWNSENDS SOLICITORS

Interested Parties 1 to 7: VIRGINIA STEWARD, BEVERLEY PATTERSON, SARAH COULTHARD, LYNELEE SMANS, VINCENT COULTHARD, ROGER JOHNSON, AND MICHAEL MCKENZIE
Counsel: MR T LOVEJOY - Solicitor: LOVEJOY LEGAL PTY LTD

Interested Party 8: GARALDINE ANDERSON GROUP Counsel: MR T CAMPBELL - Solicitor: CAMPBELL LAW

Hearing Date/s: 07/10/2026

File No/s: CIV-21-011231

B

The respondent, supported by first to seventh interested parties, submits that the court ought to resolve various issues at a level of principle before the preparation of a redacted version of the reports for publication.

HELD: In granting the application for publication of the two interim reports:

1. There has been no denial of procedural fairness to the first to seventh interested parties warranting relitigation of matters already determined in these proceedings.
2. The governing principles affecting disclosure of these reports and the approach to be taken to publication has already been determined by Kourakis CJ in the decision relating to the disclosure of the second interim report.
3. Applying those principles, the balance of considerations in this matter strongly favours publication of both the third and fourth interim reports to the beneficiaries of the Master Trust and to the Administrator of ATLA.

Trustee Act 1936 (SA) s 84; *Native Title Act 1993* (Cth), 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; *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd (No 2)* [2026] SASC 22, considered.

**ADNYAMATHANHA TRADITIONAL LANDS ASSOCIATION & ORS v
RANGELEA HOLDINGS PTY LTD (No 3)
[2026] SASC 151**

Civil

McIntyre J:

1 This is an application for an order allowing the publication of two reports ('the third and fourth interim reports') into the administration of the Adnyamathanha Master Trust (the 'Master Trust') made by Mr McPharlin, an Inspector appointed pursuant to s 84 of the *Trustee Act 1936* (SA) ('*Trustee Act*'), to the beneficiaries of the Master Trust and to the Administrator of Adnyamathanha Lands Association ('ATLA').

2 For the reasons which follow, I grant the application for publication of both the third and fourth interim reports to the beneficiaries of the Master Trust and to the administrator of ATLA subject to some redactions. I will hear the parties on the appropriate orders.

Background

3 ATLA is the prescribed body corporate that acts as agent for the Adnyamathanha native title holders. Mining agreements with Heathgate Resources Pty Ltd and Quasar Resources Pty Ltd required compensation payments derived from mining activities on Adnyamathanha land to be paid into the Master Trust. The respondent, Rangelea Holdings Pty Ltd ('Rangelea'), is the trustee of the Master Trust.

4 Three Adnyamathanha people, Reginald Wilton, Sarah Taylor and Ivan McKenzie, sought access to trust records. ATLA, acting through its special administrator, also sought access. Rangelea refused, asserting that the Master Trust was a charitable trust, that it had no beneficiaries and that the applicants therefore had no entitlement to inspect records under the *Trustee Act*.

5 In *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd* ('the primary decision'),¹ Kourakis CJ rejected Rangelea's contention that the trust was charitable. He held that the Master Trust's primary purpose was to distribute mining-derived funds to identified groups of Adnyamathanha traditional owners ('the sub-groups') and their members, not to advance charitable purposes. He found that the members of the relevant sub-groups were beneficiaries with enforceable rights to the due administration of the Master Trust. Although ATLA was not itself a beneficiary, Kourakis CJ held that it was authorised to bring the application because:

- it acts as agent for the native title holders under the *Native Title Act 1993* (Cth) and the prescribed body corporate regulations;

¹ *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd* [2023] SASC 51 ('the primary decision').

- information about trust administration was necessary for it to perform its statutory functions and consult with native title holders; and
- it had a proper interest in how income derived from native title rights was being managed and distributed.

6 Chief Justice Kourakis further found there were legitimate concerns regarding transparency and accountability in the administration of the Master Trust. In particular, there was uncertainty about how distributions were made after funds were paid to sub-groups; whether beneficiaries ultimately received funds in the intended proportions; and broader questions concerning trust administration. Accordingly, he held it was proper to appoint an inspector under s 84C of the *Trustee Act* to investigate the administration of the Master Trust. The following orders were made on 26 April 2023:

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.
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).

7 Rangelea appealed but the appeal was dismissed. The orders for production of trust documents and appointment of an inspector were upheld.²

8 Mr McPharlin provided his first interim report to inform the Court of the proposed scope of the work he would undertake and to provide an estimate of his costs for that work. On 30 November 2025, Mr McPharlin delivered his second interim report. ATLA sought orders allowing the publication of the second interim report to ATLA and to the beneficiaries of the Master Trust. ATLA's application was opposed by Rangelea.

9 Interlocutory applications were filed by various representatives of the sub-groups to be joined as interested parties under rule 21 of the *Uniform Civil Rules*

² *Rangelea Holdings Pty Ltd v Adnyamathanha Traditional Lands Association & Ors* [2025] SASCA 32 ('the appeal decision').

2020 (SA) ('UCR').³ Chief Justice Kourakis made orders on 10 December 2025 granting those applications. There are now eight interested parties as follows:

1. Virginia Stewart as trustee for the Villa Mulka Group
2. Beverley Patterson as trustee for the Beltana Charitable Trust
3. Sandra Coulthard as trustee for the Wooltana Balcanoona Charitable Trust
4. Lynelee Smans as trustee for the Vita Vita Group
5. Vincent Coulthard as trustee for the Vincent Coulthard Group
6. Roger Johnson as trustee for the Gertie Johnson Group
7. Micheal McKenzie as trustee for the Kuyani Charitable Trust
8. Geraldine Anderson Group (Adnyamathanha Community Trust)

10 Interested parties one to seven are represented by the same firm of solicitors and have common interests. Interested party eight is separately represented. As part of the orders joining the interested parties, Kourakis CJ granted access to the second interim report and filed submissions on the question of release of that report and further ordered that:

Any parties claiming some confidentiality to file document specifying or identifying those parts over which confidentiality is claimed by 5:00 pm on 16 December 2025.⁴

11 On 18 December 2025, Kourakis CJ heard submissions from all parties on the issue of publication and redaction of the second interim report.

12 On 20 February 2026, Kourakis CJ published reasons.⁵ In brief, he ordered publication of the second interim report into the administration of the Master Trust. In doing so, he rejected arguments that beneficiaries lacked an interest in the affairs of other sub-groups or that disclosure should await completion of the investigation. Chief Justice Kourakis held that the administration of the Master Trust extended to the way in which trust funds distributed to sub-groups were subsequently applied, because the Trust's objects could not be assessed without understanding those distributions. Sections 84C–84F of the *Trustee Act* conferred broad investigative powers and did not create any presumption of confidentiality. As the report contained primarily financial information relevant to trust administration and little commercially sensitive material, the balance of considerations strongly favoured disclosure to all beneficiaries and the administrator of ATLA.

³ FDN 74 and FDN 76.

⁴ FDN 85.

⁵ *Adnyamathanha Traditional Lands Association & Ors v Rangelea Holdings Pty Ltd (No 2)* [2026] SASC 22 ('the disclosure decision').

The issue for determination

- 13 The issue for determination in this application is whether the third and fourth interim reports should be disclosed beyond the Court and Attorney-General, and if so, to whom and subject to what redactions or restrictions.

The parties' positions in summary

- 14 The applicants,⁶ the respondent,⁷ interested parties 1 to 7⁸ and interested party 8⁹ have all filed detailed written submissions. These were supplemented by oral argument.

- 15 The applicants submit that disclosure should follow the approach adopted by Kourakis CJ in the disclosure decision concerning the second interim report. They contend that the Court has already determined the governing principles and that the respondent and interested parties 1 to 7 are attempting to relitigate issues previously decided. The applicants contend that all beneficiaries of the Master Trust have a legitimate interest in information concerning the administration of the trust, including the activities of the sub-groups. It is said that the reports should be released to beneficiaries, subject only to limited redactions for personal information, commercially sensitive information, and any specific material properly protected by legal professional privilege. They argue that claims to withhold entire categories of information, particularly trustee board minutes, are unsustainable and inconsistent with both the trust records regime and the purpose of the Inspector's appointment.

- 16 The eighth interested party adopts and supports the applicants' position emphasising that the reasoning that led to disclosure of the second interim report applies equally to the third and fourth reports, that the sub-group trusts operate within the framework of the Master Trust and that further delay would prejudice beneficiaries awaiting information. In addition to adopting the applicants' submissions it is contended that Adnyamathanha law and custom should inform the Court's exercise of discretion and that transparency is consistent with those traditions. On that basis, it argues that the Inspector's reports should be available to all Adnyamathanha people and should not remain confidential.

- 17 The respondent opposes broad disclosure and proposes that the Court determine the issues at a level of principle and then permit preparation of a redacted version of the reports consistent with those rulings.

- 18 The respondent submits that the reports form part of a statutory confidentiality regime under part 8A of the *Trustee Act*. Although accepting that the Court has a discretion regarding dissemination of the reports, it argues that the discretion should be exercised cautiously and by analogy with the principles

⁶ FDN 94 and 107.

⁷ FDN 95.

⁸ FDN 106.

⁹ FDN 99.

governing release from a *Harman* undertaking.¹⁰ In relation to the third report, it submits that the board minutes of Rangelea contain confidential trustee deliberations and privileged communications which beneficiaries are not entitled to inspect. In relation to the fourth report, it contends that once funds are distributed to sub-groups they cease to be Master Trust funds and become subject to separate arrangements. Accordingly, it is argued that members of one sub-group have no legitimate interest in the affairs of another sub-group, and the fourth report should not be disclosed to beneficiaries or to ATLA.

19 The first to seventh interested parties support the respondent's submissions. In particular they oppose disclosure of the fourth report. Their principal submission is that the fourth report contains information about individual sub-groups, trustees, personal bank accounts, individual transactions and third-party entities, all of which was obtained under compulsory powers. They submit that disclosure would be tantamount to publication of highly personal financial information and would expose identified individuals to reputational harm. They further contend that the sub-groups were not parties to the proceedings when the Inspector was appointed and have not previously had an opportunity to be heard on fundamental questions concerning the legal status of sub-groups and distributed trust funds. In their submission, those issues remain unresolved and should not be treated as having been conclusively determined by earlier judgments.

20 The first to seventh interested parties also invoke principles of procedural fairness. They submit that the fourth report contains adverse commentary or implications concerning identifiable individuals and trustees. Before any wider dissemination occurs, those persons should be afforded an opportunity to respond, the Inspector should consider those responses, and an addendum or supplementary report should be produced. They seek deferral of any broad disclosure until that process has occurred and the Court has considered further submissions. Alternatively, if disclosure is ordered, they contend it should be confined to members of the relevant sub-group, subject to confidentiality undertakings and extensive redactions of personal information.

21 With respect to the third report, the first to seventh interested parties accept that disclosure may occur but submit that broader redactions are required than those proposed by the applicants. They seek removal of names, sensitive personal information, banking details and all privileged material. They support the respondent's position that legal professional privilege should be maintained over specific communications reflected in trustee minutes and that any protected material should be redacted both from the minutes and from references to the minutes in the body of the report. They have not identified the details of the redactions sought.

¹⁰ FDN 95 [11]–[15].

Procedural fairness and the position of the first to seventh interested parties

22 The first to seventh interested parties contend that they were not parties to the proceedings when the Inspector was appointed and have therefore been denied procedural fairness in relation to the proceedings generally. They contend that they ought not be bound by various findings in those proceedings. I do not accept this contention.

23 The first to seventh interested parties, by this submission, seek to reopen issues which have already been determined, including the construction of the trust deed, the status of the sub-groups, and the principles governing disclosure of the Inspector's reports. Those matters have been resolved and should not be relitigated without good reason.

24 Each of the sub-group representatives were, throughout the relevant period, directors of the respondent. In those circumstances, it is a reasonable inference that they were involved in the conduct of the litigation and the giving of instructions in relation to it. Mr Vincent Coulthard, the representative of the fifth interested party, gave evidence at trial concerning the relationship between the Master Trust and the sub-groups. Those matters were considered both at first instance and on appeal. Had the sub-groups considered their interests required separate representation, their representatives could have sought joinder and participated in the proceedings in that capacity. They did not do so.

25 Further, the powers conferred upon the Inspector under part 5A of the *Trustee Act* extend to requiring the production of documents from persons who are not parties to the proceedings. The fact that the interested parties were not heard before the making of the order appointing the Inspector does not provide a proper basis for resisting dissemination of the Inspector's reports to beneficiaries. The sub-groups form part of the administration of the Master Trust and, as a general proposition, reports dealing with their activities should be made available to beneficiaries.

26 Finally, as outlined above, the sub-groups were joined as interested parties in December 2025 for the purpose of making submissions concerning dissemination of the Inspector's reports. They were heard in relation to the disclosure of the second interim report. Leave has been granted for submissions to be made in relation to the third and fourth interim reports. The interested parties have been afforded ample opportunity to advance their position concerning disclosure of the Inspector's reports and have taken advantage of those opportunities.

27 There has been no denial of procedural fairness warranting relitigation of the matters already determined in these proceedings.

Release of reports - consideration

28 I reject the proposition put forward by the respondent, supported by first to seventh interested parties, that the court ought to resolve issues at a level of

principle before the preparation of a redacted version of the reports. This would add greatly to the existing delay in the release of the reports. Chief Justice Kourakis has already determined the governing principles affecting disclosure of these reports and the approach to be taken in the disclosure decision concerning release of the second report. His reasons for ordering the release of the second report and the principles he applied are relevant to the release of other reports in this matter.

29 On the same basis I reject the submission that the Court ought to approach the question of release of a report under part 5A of the *Trustee Act* in a similar manner to an application by a party in litigation seeking to be released from an implied or *Harman* undertaking. That argument was put to Kourakis CJ in similar terms to the manner in which it was put to me. He rejected it,¹¹ concluding that the proper approach to disclosure orders was:

It follows that there is no presumption that the Supreme Court [sic] 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.

30 Accordingly, the task before me, in the exercise of the Court's supervisory jurisdiction in relation to the administration of this trust, is a balancing exercise of the relevant considerations applicable to the release of these reports.

31 Some of the arguments put by the respondent and the first to seventh interested parties in relation to the third and fourth reports were put and rejected in relation to the second report. First, it was argued that members of one sub-group had no legitimate interest in the affairs of other sub-groups. That argument was, in my view, properly rejected in line with the primary decision¹² and the decision of the Court of Appeal¹³ when, in the disclosure decision, Kourakis CJ said:¹⁴

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.

32 Second, the argument that the report was only interim in nature and might ultimately prove incomplete or inaccurate once further investigations were

¹¹ Transcript (18 December 2025) T11–12; Disclosure decision at [32]–[36].

¹² Primary decision at [15].

¹³ Appeal decision at [333]–[335].

¹⁴ Disclosure decision [63].

completed was rejected as a reason to prevent disclosure. Rather it was a factor to be taken into account in the balancing exercise.¹⁵

33 The first to seventh interested parties oppose disclosure of the fourth report on the basis that they have not had the opportunity to respond to adverse findings in the report. The applicants submitted that the fourth interim report contains no adverse findings requiring a right of response. In oral argument counsel for the interested parties took me to various aspects of the report that were said to contain such findings. In general terms it appeared that the passages identified did not contain adverse conclusions as such but rather material upon which a reader who was so inclined might draw adverse conclusions.

34 It is arguable that part 5A of the *Trustee Act* does not impose an obligation on the Inspector to invite a response before reporting. I do not decide that point because an opportunity to respond was afforded by orders made on 3 September 2026, which permitted the first to seventh interested parties to provide further material to the Inspector and for any such response to be addressed in an addendum or final report. That material has yet to be provided by the first to seventh interested parties and, it appears from submissions made on this application, that they may need to seek an extension of time within which to provide that material. If this occurs, this will inevitably delay the provision of an addendum to the fourth report. I note that the interested parties have been in possession of the report for approximately three months and that, in any event, the fact that they have not been able to supply the relevant information in that time does not derogate from the fact that they have been given the opportunity to do so.

35 Little has changed since the disclosure decision other than the further passage of time. It remains important that trustees are able to exercise their discretions conscientiously and appropriately and without the fear of unwarranted interference or criticism. Equally, the interest of the beneficiaries in the due administration of the Master Trust to achieve its objects continues. This includes an interest in how the distributions of the sub-groups are disbursed for the reasons outlined in the disclosure decision¹⁶. I am conscious of the concerns of many of the traditional owners/beneficiaries over delay. As Kourakis CJ said, in the disclosure decision:¹⁷

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.

36 I also take account of the uncontested submissions of the eighth interested party, that transparency and therefore the release of the reports is in accord with Adnyamathanha law and custom.

37 Having considered all of the matters put to me I conclude that the balance of considerations identified in the disclosure decision together with the additional

¹⁵ Disclosure decision at [64]–[67].

¹⁶ Ibid at [63]–[65].

¹⁷ Ibid at [65].

passage of time continues to “strongly favour” publication of both the third and fourth interim reports to all members of the sub-groups and to the administrator of ATLA. For the same reason, I do not consider it appropriate to delay the provision of the fourth interim report pending the preparation of an addendum given the likely delay in provision of further information by the first to seventh interested parties to the Inspector.

Redactions and formal orders

38 The reports will require redactions to protect any sensitive information they may contain. Only the applicants have proposed detailed redactions to the two reports.¹⁸ These appear appropriate and I am prepared to order accordingly. The issue is whether any further redaction is required.

39 The respondent, supported by the first to seventh interested parties, has asserted a blanket claim of legal professional privilege over Appendix 2 of the third interim report which contains the entirety of minutes of meetings for the directors of Rangelea from July 2017 to June 2025 and any reference to them in the report.¹⁹ Whilst legal professional privilege may provide a proper basis for redactions to the report and attachments, to accept this blanket claim without more would be to defeat the purpose of the disclosure. Legal professional privilege can hardly attach to all of Appendix 2. My perusal of the report itself suggests that references to matters that could be the subject of a proper claim of privilege are limited. The respondent ought to properly identify its claim for legal professional privilege by nominating the relevant passages of the report or sections of Appendix 2 and the basis for that claim. The same applies to any commercially or personally sensitive material that is asserted to be included in the reports in addition to those identified by the applicants. It is unfortunate to say the least that this has not happened previously despite, I understand, requests from the applicants.

40 The respondent and the interested parties 1 to 7 oppose the release of the fourth report in its entirety. The applicants have sought to identify sensitive personal or commercially sensitive material in their Schedule. This results in only a minor redaction to 2.11.1. It is conceivable that there might be other matters that ought properly to be redacted. It is incumbent upon the respondent and the first to seventh interested parties to identify matters that they contend ought to be redacted and the reasons such redaction is sought.

41 I will hear the parties on the appropriate orders.

¹⁸ Applicant’s Written Submissions, Schedule.

¹⁹ Third Interim Report at [4.218]–[4.335].