



25 YEARS OF NATIVE TITLE RECOGNITION

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Bendigo Mining Agreement, signed in 2000

OTHER LAND USERS

The introduction of the [*Native Title Act 1993 \(Cth\)*](#) had a profound effect on other land users, including the resource sector, pastoralists and graziers, fishers and local government. For the first time there was a legal requirement to take into account the native title rights and interests of Indigenous people when developing land. The initial response was one of fear and uncertainty; however, these sectors soon adapted to the new processes and became regular participants in the native title process.



Watch: [Ms Joanne Farrell, Managing Director Australia, Rio Tinto provide a perspective from the resource sector.](#)

OTHER LAND USERS

Argyle, Western Australia

Rio Tinto's Argyle mine has a Participation Agreement in place with the Traditional Owners of the Argyle land to ensure that they benefit directly from the mine's operations, now and for generations to come. This agreement—built on the principles of co-commitment, partnership and mutual trust—encompasses land rights, income generation, employment and contracting opportunities, land management and Indigenous site protection.

A Traditional Owner relationship committee meets regularly to oversee the implementation of the agreement.

As well as providing education, training, employment and business development opportunities, the Participation Agreement has set up long-term financial trusts for the Traditional Owners (the Kilkayi and Gulganyem Trusts) that are indexed to Argyle's net profits. A portion of this income stream is also allocated on an annual basis to fund more immediate community development initiatives.



Argyle Traditional Owners perform a dance ceremony with Rio Tinto. Article Source and Photo: Rio Tinto

Burrup ancient art

The Burrup Peninsula, as part of the Dampier Archipelago, Western Australia, was placed on Australia's National Heritage List in 2007. It is estimated to include more than one million petroglyphs, or rock art images, and is an incredible cultural landscape with evidence of past occupation and creative endeavour spanning more than 40,000 years.

Situated between Dampier and Karratha, the peninsula surrounds Rio Tinto's Iron Ore and Salt businesses' Dampier operations.

Protecting local heritage

Rio Tinto principal advisor Cultural Heritage Ken Mulvaney has worked in the business since 2003, with more than 40 years' experience in archaeology and anthropology. He has a passion for the conservation of Indigenous heritage sites and artefacts and has been integral in identifying and documenting many historical sites across the Pilbara.

Since 2010, in association with Murujuga Aboriginal Corporation and The University of Western Australia, Rio Tinto has held annual field schools to train people and make records of the rock art. This has included

documenting more than 12,000 petroglyphs from two locations covering just 46.77 hectares. With more than 500 recorded sites within our Dampier Archipelago leases, it is important that operations do not adversely impact on this rich and culturally significant cultural heritage.



Rock art drawing of a kangaroo located in the Pilbara. Article Source and Photo: Rio Tinto

Rio Tinto agreements with traditional owners

Rio Tinto's iron ore operations in Western Australia's Pilbara span 15 mines, 1,700 kilometres of railway and four independent port terminals. This would not have been possible if it were not for our Agreements with local Traditional Owners. Our operations footprint covers nine Traditional Owner groups and we have Agreements with all relevant Traditional Owners.



Signing of the Yandi Land Use Agreement in March 1997 with Gumala Aboriginal Corporation.

Source: Rio Tinto

These Agreements recognise Traditional Owners' connection to country, whilst ensuring business stability and certainty through securing land titles and approvals for our iron ore operations.

The Agreements deliver substantial financial and non-monetary benefits to Aboriginal communities in the Pilbara and include strong governance structures to ensure sustained inter-generational benefit. In 2017

we celebrate the signing of the first Agreement; the Yandi Land Use Agreement. Signed in March 1997 with Gumala Aboriginal Corporation (a body representing Yinhawangka, Banjima and Nyiyaparli Traditional Owner groups), it informed how our Yandicoogina mine (including the associated infrastructure and railway) could be developed.

Article source: Rio Tinto

Facilitating engagement on cultural heritage

In 2011, Rio Tinto finalised an Agreement with the Ngarluma People, providing a formal governance structure to discuss the port and infrastructure expansion, as well as relevant cultural heritage surveys.

Throughout the negotiation process, the Ngarluma People wanted to ensure comprehensive cultural heritage surveys would be undertaken by their people, in conjunction with cultural heritage professionals prior to any activities relating to our iron ore operations taking place. The Agreement also recognised that some places were of such significance to the Ngarluma People they would be excluded from any activity. Acknowledging and respecting this was integral to the finalisation of the Agreement.

The Agreement also included a cultural heritage protocol; a process for notifying the Ngarluma People of heritage survey requests, how they would be conducted and recommendations for managing cultural heritage identified.

Article source: Rio Tinto

Landmark High Court decision: native title rights not extinguished by Mining Leases

The Ngarla People welcomed a High Court decision on 12 March 2014 confirming that their native title rights were not extinguished by mining leases. The landmark ruling by the Court dismissed arguments by the Western Australian (WA) Government that 50 year-old mining leases, granted over areas 150km east of Port Hedland, permanently extinguished all native title rights in that land.

The Ngarla People were advised and represented by Yamatji Marlpa Aboriginal Corporation, who's Chief Executive Officer, Simon Hawkins applauded the Court's decision.

The Full Federal Court had explained how these rights co-exist: native title continues but the mining rights prevail and the native title rights give way. After mining has finished, the Ngarla people can fully exercise all their native title rights through the whole area again.

"It was very disappointing that the WA Government challenged that position. The courts had been clear all along that the native title rights did not prevent mining companies from doing anything they were lawfully allowed to do under their mineral leases. This case was about whether native title is completely wiped out by the leases or whether they can co-exist in the meantime and beyond the term of the leases."

"We are uncertain as to why the WA Government asked the Court to rule that the native title must be permanently extinguished, even though this makes no difference to mining leases in that country."



30 May 2007 - Dancers at Ngarla native title determination.

Source: Yamatji Marlpa Aboriginal Corporation

The High Court dismissed the appeal and upheld the Full Federal Court’s decision that, under the common law, the mining leases prevail but do not extinguish the native title rights. In doing so, the High Court rejected an earlier Full Federal Court decision (De Rose) which found that pastoral improvements like homesteads and dams extinguish native title at the location of those improvements.

Mr Hawkins said “We congratulate the Ngarla people on this landmark High Court decision and their contribution to native title nationally. Pilbara traditional owners look forward to working with all parties to reflect this decision in other native title proceedings. This provides a clear and fair basis for the negotiation and resolution of many current native title proceedings.”

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 24, 16 June 2014

Native title railway agreement to protect rock art

In October 2010, the Palyku native title group and Hancock Prospecting announced an agreement over the company’s proposed rail line to connect their Roy Hill project with Port Hedland.

The agreement provides financial and non-financial benefits, including payments to be used for protecting and managing the cultural heritage values relating to the Woodstock Abydos Reserve, one of the richest rock art centres in the world.

Terry Jaffrey, a Palyku elder, said

In the negotiations we made it clear that we don’t want any of our special places to be disturbed. Hancock has agreed to avoid all sacred sites and to provide funds to protect the Woodstock Abydos heritage listed area.

The agreement also specifies a portion of the financial benefits to be used for an employment, training and education program and a Health and Elderly Support Fund.

Yamatji Marlpa Aboriginal Corporation’s, Pilbara Regional Manager, Peter Jeffries, said of the agreement, “Woodstock Abydos has immense national and international significance. Hancock Prospecting has recognised this by committing to protect its heritage value throughout their works connected with the railway. These provisions, along with the employment and health programs will mean that future generations can have their cultural heritage protected and a greater participation in the Pilbara economy.”

“To us it’s a very important place,” said Terry.

“That’s why we have to work with Hancock to make sure they don’t disturb anything. It’s very important to me and to our children’s children.” The agreement with the Palyku people is the latest to be signed by Hancock over its rail corridor, which will affect several native title claims in the area.

Article source: Yamatji Marlpa Aboriginal Corporation News Issue 12, 1 December 2010



Woodstock Abydos Teri.

Source: Yamatji Marlpa Aboriginal Corporation

Historic agreement: Pilbara traditional owners and Rio Tinto

Four Pilbara native title claim groups have signed Australia’s most comprehensive native title agreements with Rio Tinto.

The agreements are a result of extensive negotiations between the four groups, represented by Yamatji Marlpa Aboriginal Corporation (YMAC), and Rio Tinto Iron Ore group.

The final agreement gives Rio Tinto surety for its operations in the area covered by the four native title claim groups: Niyiyaparli, Puutu Kunti Kurrama and Pinikura, Kuruma and Marthudunera and Ngarlawangga (northern part of claim area).

The total area involved in the agreement is about 69,000 square kilometres and includes mining operations at Brockman 4, Mesa A, Mesa J, Hope Downs, as well as any future Rio Tinto mines in the native title claim areas.

Under the agreement, the four native title claim groups have negotiated a range of economic and non-economic benefits. These include an income stream from mining on their lands, training and job opportunities, access to contracts for services for Rio Tinto and support for environmental and heritage activities.

The agreement also includes mining exclusion zones that recognise the importance of significant sites such as burial and ceremonial sites, as well as important water holes and ecologically sensitive areas.

The real work starts now to implement the agreements. YMAC Chief Executive Officer Simon Hawkins said the four Aboriginal groups had worked tirelessly to reach agreement with Rio Tinto.

The signing of these agreements is recognition of the professional way in which the parties have been able to work together to get the best outcomes.

Through the negotiations, the native title groups now have an established relationship with Rio Tinto Iron Ore that they can build on for their future.

The real work starts now to implement the agreements and ensure the native title claim groups benefit from their commitment.

Mr Hawkins said rigorous corporate governance and benefit management structures were being put in place to underpin the implementation of the agreements.

This includes the establishment of four local Aboriginal corporations to manage the agreements for each group and a broader regional corporation to advance the interests of Traditional Owners in the Pilbara.

ILUAS will be signed later this year between the four native title groups, Rio Tinto and the state

government, with an on-country celebration planned for late 2011.

Article source: YMAC News Issue 14, 1 June 2011

Agreement to protect Gnulli heritage

In August 2011, Traditional Owners signed an agreement with Rio Tinto's Dampier Salt to protect Indigenous heritage in WA's Midwest.

The signing ceremony between the Gnulli native title claim group and Rio Tinto took place at Dampier Salts Lake Macleod operation, some 100 kilometres north of Carnarvon.

The agreement signed between the two parties establishes guidelines on the protection of Indigenous culture, and importantly, the consultation of Traditional Owners on all heritage matters in the area.

Lake Macleod is of special cultural significance to the Gnulli people, whose traditional country covers approximately 87,876 square kilometers of land and sea; including the towns of Carnarvon, Coral Bay and Exmouth.

Lake Macleod is the westernmost lake in Australia and recognised as a wetland of national importance due to the abundance of birdlife and the fact that the lake is periodically inundated by freshwater.

Baiyungu Traditional Owner and Gnulli chairperson, Paul Baron, is pleased to see agreement reached between his people and Dampier Salt. "The Gnulli native title group has been working for some time to establish the protection of Indigenous heritage surrounding the Dampier Salt operation and we are happy that this agreement will formalise the safeguard of our cultural heritage."

Yamatji Marlpa Aboriginal Corporation (YMAC) is looking forward to both parties developing a mutually beneficial relationship into the future.

YMAC Chief Executive Officer, Simon Hawkins, said:

Today's agreement between the Gnulli community and Rio Tinto signals the beginning of an important step in the relationship; one of developing a respectful connection that will flourish.

Maintaining a positive relationship with Aboriginal people on traditional lands is important for companies wanting to do business on country and we look forward to further long-term outcomes in relation to employment, training and contracting opportunities for the development and advancement of local Indigenous people.

Article source: YMAC News Issue 15, 1 September 2011

The development of Australian Indigenous rights and Rio Tinto's Indigenous Involvement

1963 - Yirrkala Bark Petitions presented to the Commonwealth Parliament

1967 - Australian referendum to recognise Aboriginals as Australian citizens

1992 - The Mabo decision; Paul Keating's Redfern Speech; Opposition to Marandoo mine

In the late 1980s, Hamersley Iron sought to develop a new mine at Marandoo, which was located within a National Park and therefore protected by the [Aboriginal Heritage Act 1972](#). A Government study found four sites of cultural significance, including two located on top of the ore body.

The West Australian Government passed the [Aboriginal Heritage \(Marandoo\) Act 1992](#). This had the effect of excluding the location of the Marandoo iron ore project from the previous [Aboriginal Heritage Act 1972](#), allowing the mine to be developed in 1994.

1992 - Establishment of Aboriginal Training and Liaison Unit

The Aboriginal Training and Liaison Unit (ATAL) was established by Hamersley Iron as part of Pilbara Iron's overall community relations program.

Community Affairs focused on community development and liaison, Indigenous business development and cultural heritage. This involved activities such as managing local governmental relationships, administering new and existing land access commitments and conducting heritage surveys. Training focused on operations, earthworks and apprenticeships in order to produce highly skilled Indigenous and non-Indigenous tradespeople, whilst increasing the rate of Indigenous employment.

1993 - Commonwealth Native Title Act

1995 - Leon Davis's speech

The newly appointed Managing Director and Chief Executive of Rio Tinto, presented a speech to the Australian Institute of Company Directors. He stated what he saw as the new core competency requirements for mining companies, which included understanding the needs of Aborigines and having the ability to involve them in decisions and operations.

1996 - CRA Aboriginal Foundation established

The CRA (Conzinc Riotinto of Australia Limited) Aboriginal Foundation was established with the aim of enhancing the status and welfare of Aboriginal and Torres Strait Islander people across Australia. The Foundation was renamed the 'Rio Tinto Aboriginal Foundation' several years later and continued to run successfully until it was wound up in 2011.

1997 - Yandicoogina agreement signed

The Yandi Land Use Agreement was signed by Hamersley Iron and Gumala Aboriginal Corporation, which represents the Nyiyaparli, Banyjima and Innawonga peoples. This was the first major land use agreement to be signed in Australia and enabled Hamersley Iron to proceed with developing the Yandicoogina mine in exchange for compensation paid to the Traditional Owners.

2001 - Eastern Guruma agreement signed

The Eastern Guruma agreement was signed between Hamersley Iron, the Guruma Mali Wartu Aboriginal Corporation and the Eastern Guruma people in 2001. The agreement was registered with the National Native Title Tribunal in 2002 and became the first 'whole of country' agreement, covering all of Hamersley Iron's operations on Eastern Guruma country. This agreement was also the first 'future act agreement' by a mining company in Australia, as it guaranteed the involvement of the Guruma people in all future mine developments by Hamersley Iron on Guruma Land.

2003 - Central Negotiating Committee (CNC) formed

The CNC was formed to provide a way for Traditional Owners to engage collectively with Rio Tinto Iron Ore. It provided a coordinated approach to the ongoing expansion of the mining industry and allowed the smoother development of a regional framework and related agreements.

2006 - Binding Initial Agreements (BIAs) signed

The BIAs related to mine development in the Pilbara and were signed by Rio Tinto's Iron Ore business and seven Traditional Owner groups. The agreements provided Traditional Owner consent and support for Rio Tinto's present and future operations, and committed the signatories to conclude comprehensive agreements.

2007 - Marnda Mia established

The former CNC was developed into a private company, owned and controlled by 10 Pilbara Traditional Owner groups. The Marnda Mia CNC aimed to provide a strong local voice and build coordinated, institutionalised capacity for local Indigenous people. This entity was wound up in 2013 with Rio Tinto's assistance after Marnda Mia suffered severe financial strain. A Regional Aboriginal Corporation is contemplated by the Regional Framework Deed (see below) and may be established in the future.

2008 - Federal Government's Apology to Australia's Indigenous Peoples

2011 - Participation Agreements signed with five Traditional Owner groups

After several years of negotiations, participation agreements were finally signed by Rio Tinto and five Pilbara native title groups: Ngarluma, Kuruma Marthundunera, Puutu Kunti Kurrama and Pinikura (PKKP), Niyaparli and Ngarlawangga. These agreements provided business certainty for Rio Tinto by securing the groups' support for current and future operations, whilst also guaranteeing (economic) participation opportunities for the native title groups.

2011 - Regional agreements and Framework Deed created

The regional agreement is an opt-in agreement for Traditional Owner groups that have signed Participation Agreements with Rio Tinto. It is governed by the Regional Framework Deed and based on seven regional standards, which are mutual and non-monetary contracts created to improve the wellbeing of Aboriginal people throughout the Pilbara.

2011 - Launch of Rio Tinto's first RAP

Rio Tinto's first Reconciliation Action Plan (RAP) was presented by Sam Walsh to the Prime Minister in 2011. The RAP represents a formal commitment to improving relationships, respect and opportunities for the Indigenous people of Australia.

2011 - Rio Tinto Aboriginal Foundation wound up

The Rio Tinto (formerly CRA) Aboriginal Foundation was wound up in 2011 after a review of the value of



11 August 2011 - Gnulli Dampier Salt Signing.
Source: Yamatji Marlpa Aboriginal Corporation

Rio Tinto's philanthropy. It was found that more direct, local benefits and support could be provided through the recently established local agreements between Rio Tinto and Traditional Owner groups, rather than through the Foundation's previous philanthropic funding.

2013 - Two additional Participation Agreements signed

Two additional Participation Agreements were signed between Rio Tinto and Traditional Owner groups in the Pilbara; specifically, the Yinhawangka and Yindjibarndi groups.

2014 - Final negotiations with Banjima

Rio Tinto progressed negotiations with the Banjima People, the only remaining Traditional Owner group that it did not have a Participation Agreement with. Rio Tinto has Binding Initial Agreements with this group, but a series of claim amendments and internal issues needed to be resolved before Rio Tinto was able to engage properly with Banjima to finalise a Participation Agreement.

2016 - Banjima Participation Agreement signed

After an extensive negotiation with Banjima regarding the form of the Participation Agreement, all parties executed the Participation Agreement in July 2016 with the NNTT registering it on 1 November 2016.

Article source: Rio Tinto

Shared country | shared future

For more information about native title and services of the Tribunal please contact:

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