



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2012/007
Short name	RTIO and Nyiyaparli ILUA
ILUA type	Area Agreement
Date registered	13/03/2013
State/territory	Western Australia
Local government region	Shire of Ashburton, Shire of East Pilbara, Shire of Meekatharra, Shire of Wiluna

Description of the area covered by the agreement

[Explanatory notes in brackets inserted by the National Native Title Tribunal]

The area covered by the agreement is the "ILUA Area" which is defined in clause 1.1 as the area described in Schedule 1, a map of which is in Schedule 2. [Schedules 1 and 2 are attachments to this Register Extract.]

Schedule 1 Description of ILUA Area

The ILUA Area:

(a) means the land and waters within the external boundaries of the Nyiyaparli Claimant Application lodged in the Federal Court and allocated number WAD6280/98 (NNTT number WC05/6) accepted for registration on 29 November 2005 as outlined in blue on the map in Schedule 2; but

(b) excludes:

(i) that part of the Nyiyaparli Claimant Application that overlaps the land and waters within the external boundaries of the Wunna Nyiyaparli Claimant Application lodged in the Federal Court and allocated number WAD22/12 (NNTT number WC12/1) and accepted for registration on 30 March 2012 as outlined in black on the map in Schedule 2; and

(ii) any land and waters within the external boundaries of the Nyiyaparli Claimant Application that are not the subject of the Claimant Application.

Parties to agreement

Applicant

Party name	Hamersley Iron Pty Ltd
Contact address	c/- Ashurst Australia Level 32, Exchange Plaza 2 The Esplanade Perth WA 6000

Other Parties

Party name	David Stock, Gordon Yuline, Raymond Drage, Billy Cadigan and Victor Parker on their own behalf as registered native title claimant and on behalf of the Nyiyaparli People
Contact address	c/- Yamatji Marlpa Aboriginal Corporation Level 2 16 St Georges Terrace Perth WA 6000

Party name	Hamersley HMS Pty Ltd as Manager for and on behalf of the Hope Downs Joint Venturers
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Contact address c/- Ashurst Australia
Level 32, Exchange Plaza
2 The Esplanade
Perth WA 6000

Party name Hamersley Resources Ltd on its own behalf as a Venturer and as
Manager for and on behalf of the Rhodes Ridge Joint Venturers

Contact address c/- Ashurst Australia
Level 32, Exchange Plaza
2 The Esplanade
Perth WA 6000

Party name Robe River Mining Co Pty Ltd on its own behalf as a Venturer and as
Manager for and on behalf of the Robe River Iron Associates

Contact address c/- Ashurst Australia
Level 32, Exchange Plaza
2 The Esplanade
Perth WA 6000

Period in which the agreement will operate

Start date 12/07/2012

End Date not specified

[Explanatory notes in brackets inserted by the National Native Title Tribunal]

13.1 Commencement

This document commences on the Commencement Date.

1.1 Definitions

"Commencement Date" means the earlier of:

- (a) the date inserted above the parties' names on page 1 of the body of this document or where no date has been inserted or the date inserted is manifestly wrong, the date on which this document is taken to have been signed by all of the parties named on page 1 of the body of this document; and
- (b) the date on which this document is notified by the Registrar in accordance with section 24CH of the Native Title Act.

13.2 Termination

Subject to clauses 13.3 and 18.3(c), this document terminates on the earlier of:

- (a) the termination of the Participation Agreement in accordance with its provisions; and
- (b) the Registration of the First ILUA.

1.1 Definitions

"Participation Agreement" means the agreement referred to in recital (D).

[Recital D refers to an agreement entered into on 22 March 2011 by RTIO and the Nyiyaparli People.]

"First ILUA" means the agreement referred to in recital (J)(2).

[Recital J(2) refers to the agreement the parties entered into on 28 March 2012 which covers all of the Agreement Area ("First ILUA").]

Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)

8.1 Consent to Agreed Acts

(a) The Native Title Applicants agree with, consent to and support and continue to agree with, consent to and support the Existing Operations including all RTIO [Rio Tinto Iron Ore] Existing Titles.

(b) Subject to clause 11.12 of the Participation Agreement and clause 8.1(c), the Native Title Applicants agree with, consent to and support, and continue to agree with, consent to and support:

- (i) the doing of every Future Act;
- (ii) the Grant or Modification of every:
 - (A) Approval; and
 - (B) Interest, and
- (iii) the Modification of every RTIO Existing Title,
that is for an Agreed Purpose.

(c) Clause 8.1(b) does not apply to the extent an act or thing is done or to be done within or in relation to the Special Cultural Significance Areas.

(d) RTIO warrants that, as at the Commencement Date, it does not have any Existing Operations and is not seeking the Grant of any new Interests or Approvals within or in relation to the Special Cultural Significance Areas.

8.2 Consent to reliance on Approvals and Interests

Without limiting clause 8.1, the Native Title Applicants agree with, consent to and support and continue to agree with, consent to and support the reliance on and the conduct by RTIO Entities of all activities required, permitted or contemplated by each Agreed Act, including as Modified.

Clause 8.5 What is an Agreed Purpose?

- (a) An 'Agreed Purpose' means any of the following from time to time: (i) the Existing Operations; (ii) any Modification of any of the things comprising those operations provided they remain part of RTIO's Pilbara Iron Ore Business; and (iii) the planning, development, operation and expansion, further expansion and decommissioning of any aspect of RTIO's Pilbara Iron Ore Business from time to time, including new iron ore mines, borrow and ballast pits and necessary supporting infrastructure.
- (b) Without limiting clause 8.5(a), the development, operation or expansion of each of the following is deemed to be an 'Agreed Purpose' if a Substantial Reason for its development, operation or expansion is for RTIO's Pilbara Iron Ore Business: [new power, water, rail and road infrastructure and associated infrastructure and works; iron ore processing infrastructure and works; construction camps; town infrastructure and accommodation infrastructure.]
- (c) In this clause 8.5, 'Substantial Reason' means, subject to clause 8.5(d), on the balance of probabilities, it would have been unlikely to be developed, constructed or operated were it not required for RTIO's Pilbara Iron Ore Business, even though it may be used for other purposes.
- (d) Where the Agreed Purpose is for town infrastructure comprising dwellings or commercial facilities within a town:
- (i) if:
- (A) the dwellings or commercial facilities are being established in accordance with a Government Agreement or a requirement or right created in accordance with a Government Agreement that requires not more than 20% of the total occupied, or to be occupied, dwellings or commercial facilities to be offered for sale or lease to the general public; and
- (B) each of the dwellings or commercial facilities that are not required to be offered for sale or lease to the general public would have been unlikely to be developed or constructed were it not required for RTIO's Pilbara Iron Ore Business,
- then each of the dwellings or commercial facilities will be an Agreed Purpose;
- (ii) where clause 8.5(d)(i) does not apply, it will only be an Agreed Purpose if and insofar as each of the dwellings or commercial facilities would have been unlikely to be developed or constructed were it not required for RTIO's Pilbara Iron Ore Business.

9.2 Agreed Act Certificate

- (a) If RTIO honestly and reasonably considers that a proposed act is an Agreed Act, RTIO may, but is not obliged to, give the Native Title Applicants an Agreed Act Certificate in relation to the proposed act.
- (b) If RTIO gives an Agreed Act Certificate to the Native Title Applicants, RTIO must:
- (i) give to the Native Title Applicants a copy of any notice under clause 9.1 which relates to the proposed Agreed Act; and
- (ii) serve a copy of the Agreed Act Certificate on each of the representatives on the Local Implementation Committee appointed by the Niyiyaparli People in accordance with the Participation Agreement.
- (c) If the Native Title Applicants do not within ten Business Days of receiving an Agreed Act Certificate respond, either by notifying RTIO that it wishes to be consulted about the proposed Agreed Act, or by agreeing that the proposed Agreed Act described in the Agreed Act Certificate is an Agreed Act, or by giving a Dispute Notice to RTIO, RTIO must within a further two Business Days give a further copy of the Agreed Act Certificate to:
- (i) the Native Title Applicants;
- (ii) each of the representatives on the Local Implementation Committee; and
- (iii) if there are no Native Title Applicants, the Representative Bodies for the area of the proposed Agreed Act at either their street address or postal address listed on the NNTT's website.
- (d) Unless the Native Title Applicants serve a Dispute Notice on RTIO on or before the date specified in the Agreed Act Certificate, being a date not earlier than 30 Business Days after their receipt of the Agreed Act Certificate, all proposed Agreed Acts identified in the Agreed Act Certificate are deemed for all purposes and agreed by the parties to be Agreed Acts.
- (e) Nothing in this document requires RTIO to issue an Agreed Act Certificate in relation to a proposed Agreed Act and the absence of an Agreed Act Certificate does not prevent an act from being an Agreed Act.
- (f) RTIO may:
- (i) if given a Dispute Notice about an Agreed Act Certificate within the time referred to in clause 9.2(d), within ten Business Days after receiving the Dispute Notice; or
- (ii) if not given a Dispute Notice about an Agreed Act Certificate or given a Dispute Notice after the time referred to in clause 9.2(d), at any time, withdraw the Agreed Act Certificate, in which case clause 9.2(d) does not apply.
- (g) In relation to a proposed Agreed Act, RTIO may provide to the State and any Government Agency:
- (i) a copy of a relevant Agreed Act Certificate which has been served on the Native Title Applicants;
- (ii) evidence of the date when the relevant Agreed Act Certificate was given to the Native Title Applicants;
- (iii) a copy of this document;
- (iv) confirmation that the Agreed Act Certificate has not been withdrawn; and
- (v) if applicable, a statement that the Native Title Applicants did not serve a Dispute Notice within the time referred to in clause 9.2(d), as additional evidence of the consent of the Native Title Applicants to the proposed Agreed Act.

11.4 Consent to Future Acts - Native Title Act section 24CB

For the purposes of section 24EB(1) of the Native Title Act, the parties consent to all Agreed Acts to the extent they involve Future Acts without conditions but in accordance with this document.

11.6 Right to negotiate does not apply - Native Title Act section 24EB(1)(c)

The process set out in Subdivision P of Division 3 of Part 2 of the Native Title Act, known as the "right to negotiate" process, is not intended to apply to any Agreed Act.

1.1 Definitions

"Agreed Act" refers to a thing or things agreed to, consented to or supported under clause 8.1 and clause 8.2.

"Agreed Act Certificate" is defined in the Participation Agreement.

Attachments to the entry

[2012_09_18_Schedule_1_Technical_description_WI2012-007.pdf](#)

[2012_09_18_Schedule_2_Map_WI2012-007.pdf](#)