



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD6043/1998
NNTT Number: WCD2000/003

Determination Name: [Mark Anderson on behalf of the Spinifex People v State of Western Australia](#)

Date(s) of Effect: 28/11/2000

Determination Outcome: Native title exists in parts of the determination area

Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

Determination Date: 28/11/2000

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Pila Nguru (Aboriginal Corporation) RNTBC
Trustee Body Corporate
PMB 88
KALGOORLIE Western Australia 6430

Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

Pila Nguru People (otherwise known as the Spinifex People)

MATTERS DETERMINED:

The Court orders, declares and determines, with the consent of the parties, that:

1. The native title rights and interests set out in paragraphs 3.1 and 3.2 exist in those parts of the Determination Area described in the Second Schedule. The Determination Area is the land and waters described in the First Schedule.
2. The persons holding the communal or group rights comprising the native title ("the common law holders") are the Pila Nguru People (otherwise known as the Spinifex People).

3.1 Subject to paragraphs 4, 5, 6, and 7.1 the nature and extent of the native title rights and interests in the land and waters described in Part A of the Second Schedule are:

- (a) a right to possess, occupy, use and enjoy the land, including the right to live on the land;
- (b) a right to make decisions about the use and enjoyment of the land;
- (c) a right to hunt and gather (including ochre) and to take water, for the purposes of satisfying their personal, domestic, social, cultural, religious, spiritual or non-commercial communal needs, including the observance of traditional laws and customs;
- (d) a right to maintain and protect sites of significance to the common law holders under their traditional laws and customs;
- (e) a right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners.

These native title rights and interests confer possession, occupation, use and enjoyment of the land on the native title holders to the exclusion of all others.

3.2 Subject to paragraphs 4, 5, 6, and 7.2 the nature and extent of the native title rights and interests in the land and waters described in Part B of the Second Schedule are:

- (a) a right to possess, occupy, use and enjoy the land, including the right to live on the land;
- (b) a right to make decisions about the use and enjoyment of the land;
- (c) a right to hunt and gather (including ochre) and to take water, for the purposes of satisfying their personal, domestic, social, cultural, religious, spiritual or non-commercial communal needs, including the observance of traditional laws and customs;
- (d) a right to maintain and protect sites of significance to the common law holders under their traditional laws and customs;
- (e) a right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners.

These native title rights and interests do not confer possession, occupation, use or enjoyment on the native title holders to the exclusion of all others.

4. (a) There are no native title rights and interests in minerals and petroleum as defined in the Mining Act 1904 (WA), the Mining Act 1978 (WA), the Petroleum Act 1936 (WA) and the Petroleum Act 1967 (WA);

(b) Other than in the case of water taken in the exercise of the native title rights and interests described in paragraphs 3.1(c) and 3.2(c), there are no native title rights and interests in flowing and subterranean waters.

5. The nature and extent of other interests in relation to the Determination Area are those set out in the Third Schedule.

6. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the laws of the State and the Commonwealth including the common law; and
- (b) traditional laws acknowledged and traditional customs observed by the native title holders.

7.1 The relationship between the native title rights and interests in the land and waters described in Part A of the Second Schedule and the other rights and interests referred to in paragraph 5 ("the other rights and interests") is that:

- (a) the other rights and interests and the doing of any activity in exercise of the rights conferred by or held under the other rights and interests co-exist except in the case where they conflict with, and if there is conflict with, prevail over, the native title rights and interests in any exercise of those native title rights and interests; and
- (b) the other rights and interests continue to have effect and the rights conferred by them or held under them may be exercised notwithstanding the existence of the native title rights and interests.

7.2 The relationship between the native title rights and interests in the land and waters described in Part B of the Second Schedule and the other rights and interests referred to in paragraph 5 ("the other rights and interests") is:

- (a) the other rights and interests and the doing of any activity in exercise of the rights conferred by or held under the other rights and interests prevail over the native title rights and interests and any exercise of those native title rights and interests; and

(b) the other rights and interests continue to have effect and the rights conferred by them or held under them may be exercised notwithstanding the existence of the native title rights and interests.

8 (a) The native title rights and interests in the land and waters comprising the determination area are held by the common law holders.

(b) Within three months of the date of this determination, a representative of the common law holders shall nominate in writing to the Federal Court a prescribed body corporate to perform the functions mentioned in s 57 (3) of the Native Title Act. There shall be liberty to apply to a single Judge of the Court in that connection.

FIRST SCHEDULE

The Determination Area is ALL those areas of land and waters in the State of Western Australia contained within the boundaries of the following description:

Commencing at the westernmost north western corner of Yowalga Location 7 as shown on Land Administration plan 20992 and extending east along the northernmost northern boundary of that location and east and south easterly along boundaries of Milyuga Location 20 to the Western Australian - South Australian Border; Then southerly along that border to latitude 29.500000 South; Then west to the south eastern corner of Delisser Location 9; Then west and north along boundaries of that location and north along the western boundary of Delisser Location 8 to the south western corner of Yowalga Location 7 and then generally northerly along boundaries of that location to the commencement point;

which Determination Area is as shown on the Plan annexed to this Order and marked "Annexure A".

SECOND SCHEDULE

Part A:

Part A is all those areas of land and waters in the State of Western Australia contained within the boundaries of the following description:

Commencing at the westernmost north western corner of Yowalga Location 7 as shown on Land Administration plan 20992 and extending east along the northernmost northern boundary of that location and east and south easterly along boundaries of Milyuga Location 20 to the Western Australian - South Australian Border; Then southerly along that border to south eastern corner of Yowalga Location 7; Then west and south along boundaries of that location to the north eastern corner of Delisser Location 8; Then south, west and north along boundaries of that location and generally northerly along western boundaries of Yowalga Location 7 to the commencement point;

which Part A is shown on the Plan annexed to this Order and marked "Annexure B".

Part B:

Part B is all those areas of land and waters in the State of Western Australia contained within the boundaries of the following description:

Commencing at the south western corner of Delisser Location 8 as shown on Land Administration plan 20992 and extending east and north along boundaries of that location, Then north and east along the boundaries of Yowalga Location 7 to the Western Australian - South Australian Border; Then southerly along that border to Latitude 29.500000 South; Then west to the south eastern corner of Delisser Location 9; Then west and north along boundaries of that location to the commencement point;

which Part B is shown on the Plan annexed to this Order and marked "Annexure B".

THIRD SCHEDULE

The nature and extent of other interests in relation to the Determination Area are:

(a) Reserve 30490, being the Great Victoria Desert Nature Reserve, a class A reserve under the Land Administration Act 1997 and vested in the National Parks and Nature Conservation Authority and categorised as a nature reserve under the Conservation and Land Management Act 1984;

(b) Reserve 17614, classified as a class A reserve under the Land Administration Act 1997, and under the control and management of the Aboriginal Lands Trust pursuant to section 46 of the Aboriginal Affairs Planning Authority Act 1972;

(c) the rights and interests of the Lessee, being the Ngaanyatjarra Land Council (Aboriginal Corporation) of Lease 242 of part of Reserve 17614 made on 29 November 1988 between the Aboriginal Lands Trust, the Minister for Aboriginal Affairs, the Aboriginal Affairs Planning Authority and the Ngaanyatjarra Land Council (Aboriginal

Corporation), as far as the Lessee's rights and interests affect the native title rights and interests of the common law holders;

(d) the rights of members of the public to use the Serpentine Lakes Road as shown on the Plan annexed to the First Schedule and as realigned from time to time;

(e) rights and interests granted by the Crown pursuant to statute or by any valid executive or legislative act affecting the native title rights and interests of the common law holders;

(f) any other rights or interests held by or under the Crown by the force and operation of the laws of the State or the Commonwealth as may be current at the date of this determination, including the force and operation of the Rights in Water and Irrigation Act 1914; and

(g) other rights and interests of members of the public arising under the common law.

REGISTER ATTACHMENTS:

1. Annexure A - Map of Spinifex Determination Area, 1 page - A4, 28/11/2000

2. Annexure B - Map of Spinifex Determination Area, Part A and Part B of the Second Schedule, 1 page - A4, 28/11/2000

Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.