



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD357/2006
NNTT Number: WCD2007/004

Determination Name: [Payi Payi & Ors on behalf of the Ngururra People and State of Western Australia](#)

Date(s) of Effect: 18/10/2007

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 18/10/2007

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Due to the existence of a small overlap with the Tjurabalan determination (WAD160/97), a small portion of this application (WAD357/06) was dismissed at the time of making this determination.

REGISTERED NATIVE TITLE BODY CORPORATE:

Parna Ngururra (Aboriginal Corporation) RNTBC
Trustee Body Corporate
C/- Central Desert Native Title Services Ltd
76 Wittenoom Street
EAST PERTH WA 6004

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:

The native title holders are those Aboriginal people who hold in common the body of traditional laws and customs governing the Determination Area and are either:

(a) descended from any of the following people:

Tjilmatjanu, Nyiipikarri, Mini, Yulungka, Larki, Alice Bradshaw, Nyukuni, Muka Muka, Anna Wankriya, Nguri, Katangiinyi, Tjulin, Tjikali, Langanyitu, Kirrikangu, Tjinatjungku, Tjitjanu, Kawitja, Pantatji, Pikangatju, Winmaru, Tjinatjaparra, Intulurra, Wayula, Wallapayi, Kumaniya, Wanaru, Tjitjirri, Nyutinka, Lirrawurru, Yalingari, Watakanu, Malungka, Marukuru, Wipulyulyu, Pamputa, Panalpa, Tjilpirri Yanulpa, Ilyunguna, Walpurru, Tjilkali, Tjukun, Kutukutu, Wandamaru, Panyirr, Tjukul, Piki Piki, Ikikati, Tjanutji, Tjaparli, Tatatja, Yukula, Pinyarra, Kutitji, Tjarrpayi; or

(b) adopted, or are descended from persons adopted, by a member of the group of native title holders under their traditional laws and customs and who are accepted by the native title holders.

MATTERS DETERMINED:

DETERMINATION

Being satisfied that a determination in terms sought by the parties would be within the power of the Court, and it appearing to the Court appropriate to do so and by consent of the parties:

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

EXISTENCE OF NATIVE TITLE (s225)

1. Native title exists in relation to the Determination Area.

THE NATIVE TITLE HOLDERS(s225(a))

2. The native title is held by the persons described in Schedule 3 ("native title holders").

THE NATURE AND EXTENT OF NATIVE TITLE RIGHTS AND INTERESTS (s225(b) AND s225(e))

3. Subject to paragraphs 4, 5, 6 and 7, the nature and extent of the native title rights and interests in the Determination Area [being areas where there has been no extinguishment of native title or areas where any extinguishment must be disregarded] are:

(a) except in relation to flowing and subterranean water - the right of possession, occupation, use and enjoyment to the exclusion of all others; and

(b) the non exclusive right to take flowing and subterranean water for personal, domestic, or non-commercial communal purposes.

4. The native title rights and interests described in paragraph 3(a) confer possession, occupation, use and enjoyment on the native title holders to the exclusion of all others.

5. The native title rights and interests described in paragraph 3(b) do not confer possession, occupation, use and enjoyment on the native title holders to the exclusion of all others.

6. The native title rights and interests are:

(a) exercisable in accordance with the traditional laws and customs of the native title holders; and

(b) subject to the laws of the State and the Commonwealth including the common law.

7. Notwithstanding anything in this determination, the native title rights and interests include the right to take and use ochre to the extent that ochre is not a mineral pursuant to the Mining Act 1904 (WA), but do not include other minerals and petroleum as defined in the Mining Act 1904 (WA), the Mining Act 1978 (WA) as in force at the date of this determination, the Petroleum Act 1936 (WA) and the Petroleum Act 1967 (WA) as in force at the date of this determination.

AREAS TO WHICH s47A APPLIES

8. Section 47A of the Native Title Act applies to disregard any prior extinguishment in relation to the areas described in Schedule 5.

NATURE AND EXTENT OF OTHER RIGHTS AND INTERESTS IN RELATION TO THE DETERMINATION AREA (s225 (c))

9. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 4.

RELATIONSHIP BETWEEN THE NATIVE TITLE RIGHTS AND INTERESTS AND OTHER INTERESTS (s225(d))

10. The relationship between the native title rights and interests described in paragraph 3 and the other interests referred to in paragraph 9 ("the other rights and interests") is that:

(a) to the extent that any of the other rights and interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, the native title rights and interests continue to exist in their entirety, but

the native title rights and interests have no effect in relation to the other rights and interests to the extent of the inconsistency during the currency of the other rights and interests; and otherwise,

(b) the existence and exercise of the native title rights and interests do not prevent the doing of any activity required or permitted to be done by or under the other rights and interests, and the other rights and interests, and the doing of any activity required or permitted to be done by or under the other rights and interests, prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them.

DEFINITIONS AND INTERPRETATION

11. In this determination, unless the contrary intention appears:

"Determination Area" means the land and waters described in Schedule 1 and depicted on the plan attached to Schedule 1 (see Attachment 1);

"flowing and subterranean water" means the following water within the Determination Area:

- (a) water which flows, whether permanently, intermittently or occasionally, within any river, creek, stream or brook;
- (b) any natural collection of water into, through, or out of which a river, creek, stream or brook flows; and
- (c) water from and including an underground water source, including water that percolates from the ground;

"land" and "waters" respectively have the same meanings as in the Native Title Act 1993 (Cth);

"Native Title Act" means the Native Title Act 1993 (Cth);

"water" includes flowing and subterranean water.

SCHEDULE 1 - DETERMINATION AREA

The Determination Area, shown on the plan attached to this Schedule (see Attachment 1), comprises all of the land and waters bounded by the following description except the areas set out in Schedule 2:

All that land and waters commencing at the intersection of the southern boundary of the southeastern severance of Pastoral Lease 3114/1106 (Lake Gregory) with Longitude 127.266667 East and extending south along that line of longitude to a northern boundary of General Lease I150581; Thence easterly along the northern boundary of that lease to the northwestern corner of Reserve 40786; Thence easterly along the northern boundary of that reserve to a northwestern corner of General Lease I150581; Thence easterly along the northern boundary of that lease and onwards to the Western Australian - Northern Territory border at Latitude 22.246820 South; Thence northerly along that border to Latitude 21.866667 South; Thence northwesterly, north and northeasterly passing through the following co-ordinate positions.

LATITUDE (SOUTH) LONGITUDE (EAST)

21.500000 128.500000

21.333333 128.500000

21.116667 128.600000

Thence due north to a southern boundary of the Determination of Native Title for Tjurabalan 2 WAD0160/97 (WC95/074) as determined in the Federal Court on 20 August 2001; Thence generally westerly along the southern boundaries of that determination back to the commencement point.

Note: Geographic Co-ordinates provided in Decimal Degrees

Cadastral boundaries sourced from Landgate SCDB January 2006.

Prepared By: Native Title Spatial Services, Landgate, 06 August 2007

Datum: Geocentric Datum of Australia (1994)

SCHEDULE 2 - EXCLUSIONS

Exclusions from the Determination Area

[Areas excluded from the claim]

The following areas are excluded from the Determination Area:

any public works as that expression is defined in the Native Title Act and the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) and to which section 12J of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) or section 23C(2) of the Native Title Act applies, within the external boundary of the Determination Area including the land and waters defined in section 251D of the Native Title Act.

SCHEDULE 3 - NATIVE TITLE HOLDERS

The Native Title Holders referred to in Order 2

The native title holders are those Aboriginal people who hold in common the body of traditional laws and customs governing the Determination Area and are either::

(a) who are all those persons descended from the following people:

Tjilmatjanu

Nyiipikarri

Mini

Yulungka

Larki

Alice Bradshaw

Nyukuni

Muka Muka

Anna Wankriya

Nguri

Katangiinyi

Tjulin

Tjikali

Langanyiitu

Kirrikangu

Tjinatjungku

Tjitjanu

Kawitja

Pantatji

Pikangatju

Winmaru

Tjinatjaparra

Intulurra

Wayula

Wallapayi

Kumaniya

Wanaru

Tjitjirri
Nyutinka
Lirrawurru
Yalingari
Watakanu
Malungka
Marukuru
Wipulyulyu
Pamputa
Panalpa
Tjilpirri
Yanulpa
Ilyunguna
Walpurru
Tjilkali
Tjukun
Kutukutu
Wandamaru
Panyirr
Tjukul
Piki Piki
Ikikati
Tjanutji
Tjaparli
Tatatja
Yukula
Pinyarrpa
Kutitji
Tjarrpayi; or

(b) adopted, or are descended from persons adopted, by a member of the group of native title holders under their traditional laws and customs and who are accepted by the native title holders.

SCHEDULE 4 - OTHER INTERESTS

Other Interests referred to in Paragraph 9

The nature and extent of other interests in relation to the Determination Area are the following as they exist as at the date of this determination:

Reserves

1. The interests of persons who have the care, control and management of the following reserves, and the interests of persons entitled to access and use these reserves for the respective purposes for which they are reserved, subject to any statutory limitations upon those rights:

(a) Reserve 26399 for the purpose of "Use and Benefit of Aboriginal Inhabitants" vested pursuant to section 33 of the Land Act 1933 (WA) in the Aboriginal Lands Trust on 15 June 1973; and

(b) Reserve 24923 for the purpose of "Use and Benefit of Aboriginal Inhabitants" vested pursuant to section 33 of the Land Act 1933 (WA) in the Aboriginal Lands Trust on 15 June 1973.

Exploration Licences

2. The rights and interests of the holder of the following Exploration Licences:

Tenement ID	Holder	Date Granted
E80/3451	Audax Resources	31/10/06
E80/3529	Baracus Pty Ltd	23/02/07

Other

3. The following rights and interests:

(a) rights and interests granted by the Crown pursuant to statute or otherwise in the exercise of its executive power;

(b) rights or interests held by reason of the force and operation of the laws of the State or of the Commonwealth including the force and operation of the Rights in Water and Irrigation Act 1914 (WA);

(c) the right to access the Determination Area by:

(i) an employee or agent or instrumentality of the State;

(ii) an employee or agent or instrumentality of the Commonwealth;

(iii) an employee or agent or instrumentality of any local government authority

as required in the performance of his or her statutory or common law duty where such access would be permitted to private land.

SCHEDULE 5 - AREAS TO WHICH s47A APPLIES

Section 47A

1. Section 47A of the Native Title Act applies to the following areas within the Determination Area:

(a) Reserve 26399 for the purpose of "Use and Benefit of Aboriginal Inhabitants" vested pursuant to section 33 of the Land Act 1933 (WA) in the Aboriginal Lands Trust on 15 June 1973; and

(b) Reserve 24923 for the purpose of "Use and Benefit of Aboriginal Inhabitants" vested pursuant to section 33 of the Land Act 1933 (WA) in the Aboriginal Lands Trust on 15 June 1973.

REGISTER ATTACHMENTS:

1. Attachment 1 - SCHEDULE 1 PLAN - DETERMINATION AREA MAP, 1 page - A4, 18/10/2007

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.