



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD453/2017; WAD298/2019
NNTT Number: WCD2018/007

Determination Name: [Muir on behalf of the Manta Rirrtinya People v State of Western Australia](#)

Date(s) of Effect: 13/09/2018, 24/04/2020

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 13/09/2018

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

On 13 September 2018, the Federal Court of Australia made a determination of native title by consent in [Muir on behalf of the Manta Rirrtinya People v State of Western Australia \[2018\] FCA 1388](#) (Federal Court File No: WAD453/2017, NNTT File No: WCD2018/007).

Among other things, the Federal Court ordered that:

1. There be a determination of native title consistent with the terms of the Minute of Determination of Native Title filed by the parties on 7 August 2018.
2. Wakamurru (Aboriginal Corporation) (ICN: 8860) shall hold the determined native title in trust for the native title holders pursuant to s 56(2)(b) of the *Native Title Act 1993* (Cth).

A revised native title determination application to vary this determination was filed in the Federal Court of Australia on 28 May 2019 - Wakamurru (Aboriginal Corporation) RNTBC v State of Western Australia (Federal Court File No: WAD298/2019; NNTT File No: WR2019/001).

On 24 April 2020, the Federal Court ordered the determination made on 13 September 2018 be varied as follows:

- (a) Paragraph 2 of Schedule 3 is deleted and replaced with:
 2. All of the areas of unallocated Crown land in the Determination Area.
- (b) Paragraph 2 of Schedule 5 is deleted and replaced with:
 2. Section 47B of the Native Title Act applies in relation to all of the areas of unallocated Crown land in the Determination Area.
- (c) the maps in Schedule 6 are deleted and replaced with the maps contained in Schedule 6 of the attached varied Determination of Native Title; and

(d) sub-paragraph 3(c) of Schedule 4 ("E38/2882") is deleted.

The determination of native title as varied took effect from 24 April 2020.

This Register entry contains the details of the determination of native title as varied.

REGISTERED NATIVE TITLE BODY CORPORATE:

Wakamurru (Aboriginal Corporation) RNTBC
Trustee Body Corporate
76 Wittenoom Street
East Perth Western Australia 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:

Native title holders (s 225(a))

2. The native title in the Determination Area is held by the persons described in Schedule 2 (**native title holders**).

SCHEDULE 2

DESCRIPTION OF THE NATIVE TITLE HOLDERS

1. The persons referred to in order 2 of this Determination are those persons who hold native title rights and interests in part or all of the Determination Area according to traditional laws and customs through one or more of:

- (a) their own birth on the Determination Area;
- (b) the birth of an ancestor on the Determination Area;
- (c) having religious, sacred or ritual authority for the Determination Area;
- (d) having one's conception site on the Determination Area;
- (e) having burial sites of an ancestor on the Determination Area;
- (f) long traditional association with the Determination Area through occupation, custodianship or use by one's self and/or relevant kin; or
- (g) asserting connection with the Determination Area and having that assertion accepted by other native title holders.

2. At the date of this Determination, the persons referred to above include those descendants of the following persons who assert and are recognised under the relevant traditional laws and customs by other native title holders as having rights in the Determination Area:

- (a) Nukuwara/Paddy Bond;
- (b) Thayangka;
- (c) the siblings Yarlrat / Joe Finch and Katapurna / George Finch;
- (d) Tjiku Tjiku;
- (e) the sisters Yalana, Rangka Rangka, Putjipa and Yiningka;
- (f) the siblings Mikintji Well Jones, Albert Jones, Maraputa / Jenny Jones and Wilpirr Jones;
- (g) Mungi Mungi;
- (h) the siblings Maudie Hill, Willy Hill, Snowy Hill, Johnny Hill and Roly Hill;
- (i) Nguru / Charlie (Thorpe);

- (j) Wogabu / Wakapu / Jimmy Walker;
- (k) Tjujaru / Anne Green (sometimes referred to as Annie Thutha); and
- (l) Munda / Lily Wongawol.

MATTERS DETERMINED:

THE COURT ORDERS BY CONSENT THAT:

1. The determination of native title at Attachment "A" to the orders made by Charlesworth J on 13 September 2018 in *Muir on behalf of the Manta Rirrintinya People v State of Western Australia* [2018] FCA 1388 (WAD 453 of 2017) is varied as follows:

(a) Paragraph 2 of Schedule 3 is deleted and replaced with:

2. All of the areas of unallocated Crown land in the Determination Area.

(b) Paragraph 2 of Schedule 5 is deleted and replaced with:

2. Section 47B of the Native Title Act applies in relation to all of the areas of unallocated Crown land in the Determination Area.

(c) the maps in Schedule 6 are deleted and replaced with the maps contained in Schedule 6 of the attached varied Determination of Native Title; and

(d) sub-paragraph 3(c) of Schedule 4 ("E38/2882") is deleted.

2. On and from the date of these orders the determination of native title as varied is taken to be in the form of the attached Varied Determination of Native Title.

ATTACHMENT A

VARIED DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s 225)

1. Native title exists in relation to the whole of the Determination Area (**Determination Area**).

Native title holders (s 225(a))

2. The native title in the Determination Area is held by the persons described in Schedule 2 (**native title holders**).

The nature and extent of native title rights and interests (s 225(b) and (e))

3. Subject to orders 6 and 7 the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Schedule 3 is the right to possession, occupation, use and enjoyment of those parts to the exclusion of all others.

4. Subject to orders 5 to 7, the nature and extent of the native title rights and interests in relation to each part of the Determination Area, other than those parts of the Determination Area referred to in Schedule 3, are the following rights or interests:

(a) the right to access, remain in and use that part;

(b) the right to access, take and use the resources of that part for any purpose;

(c) the right to engage in spiritual and cultural activities in that part; and

(d) the right to maintain and protect places, areas and objects of significance on that part.

Qualifications on native title rights and interests (s 225(b) and (e))

5. The native title rights and interests in order 4 do not confer possession, occupation, use and enjoyment of those parts of the Determination Area on the native title holders to the exclusion of all others.

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

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

7. Notwithstanding anything in this Determination:

- (a) there are no native title rights and interests in the Determination Area in or in relation to:
 - (i) minerals as defined in the Mining Act 1904 (WA) (repealed) and the Mining Act 1978 (WA); or
 - (ii) petroleum as defined in the Petroleum Act 1936 (WA) (repealed) and in the Petroleum and Geothermal Energy Resources Act 1967 (WA); or
 - (iii) geothermal energy resources and geothermal energy as defined in the Petroleum and Geothermal Energy Resources Act 1967 (WA); and
- (b) the nature and extent of native title rights and interests in relation to water in any watercourse, wetland or underground water source as defined in the Rights in Water and Irrigation Act 1914 (WA) at the date of this Determination is the non-exclusive right to take, use and enjoy that water.

The nature and extent of any other interests (s 225(c))

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

Relationship between native title rights and other interests (s 225(d))

9. Except as otherwise provided for by law, the relationship between the native title rights and interests described in orders 3 and 4 and the other interests is as follows:

- (a) the Determination does not affect the validity of those other interests;
- (b) to the extent of any inconsistency between the other interests described in Schedule 4 and the continued existence, enjoyment or exercise of the native title rights and interests:
 - (i) 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 interests to the extent of the inconsistency during the currency of the other interests; and
 - (ii) otherwise the other interests co-exist with the native title rights and interests and, for the avoidance of doubt, the doing of an activity required or permitted under those interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

Areas to which s 47A and s 47B of the Native Title Act apply

10. For the avoidance of doubt, s 47A and s 47B of the Native Title Act apply to the parts of the Determination Area set out in Schedule 5.

Definitions and interpretation

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

Determination Area means the land and waters within the external boundary described in Part 1 of Schedule 1 and depicted on the maps at Schedule 6.

Land and **waters** respectively have the same meanings as in the Native Title Act.

Native Title Act means the *Native Title Act 1993* (Cth).

State means the State of Western Australia.

12. In the event of an inconsistency between the written description of areas in the Schedules and the areas depicted on the maps in Schedule 6, the written descriptions shall prevail.

REGISTER ATTACHMENTS:

- 1. WCD2018/007 Schedule 1 - Determination Area, 3 pages - A4, 24/04/2020

2. WCD2018/007 Schedule 3 – Where Native Title Is Exclusive Possession, 1 page - A4, 24/04/2020

3. WCD2018/007 Schedule 4 - Other Interests, 2 pages - A4, 24/04/2020

4. WCD2018/007 Schedule 5 - Areas To Which Section 47A And Section 47B Apply, 1 page - A4, 24/04/2020

5. WCD2018/007 Schedule 6 - Maps Of The Determination Area, 2 pages - A4, 24/04/2020

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.