



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD192/2022
NNTT Number: WCD2024/002

Determination Name: [Dodd on behalf of the Middamia Native Title Claim Group v State of Western Australia](#)

Date(s) of Effect: 11/03/2024

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: 11/03/2024

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Middamia Aboriginal Corporation
Trustee Body Corporate
Level 8
12 The Esplanade
Perth Western Australia 6000

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))

4. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 6.

SCHEDULE 6

DESCRIPTION OF THE NATIVE TITLE HOLDERS

1. The native title holders are those Aboriginal people who:
a) are descendants of the Middamia Apical Ancestors who belong to the regional society that includes the Yinggarda, Baiyungu and Tharrkari language groups where descent can be either by birth or adoption in accordance with traditional laws acknowledged and the traditional customs of that regional society; and

b) identify themselves as having connection to the determination area under traditional law and custom of the regional society that includes the Yinggarda, Baiyungu and Tharrkari language groups and are so identified by other native title holders.

2. The **Middamia Apical Ancestors** are:

- a) Janya
- b) Jubilee
- c) Nyardu (Tim Dodd)
- d) Maggie Dodd
- e) Mary Harvey

**MATTERS DETERMINED:
THE COURT ORDERS THAT:**

1. In relation to the Middamia Application, there be a determination of native title in WAD192/2022 in the terms provided in Attachment A.
2. Middamia Aboriginal Corporation (ICN: 10156) shall hold the determined native title in trust for the Native Title Holders pursuant to section 56(2)(b) of the NT Act.

**ATTACHMENT A
DETERMINATION**

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s 225)

1. The Determination Area is the land and waters described in Schedule 1 and depicted on the maps comprising Schedule 2.
2. Native title exists in those parts of the Determination Area identified in Schedules 3 and 4.
3. Native title does not exist in those parts of the Determination Area identified in Schedule 5.

Native title holders (s 225(a))

4. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 6.

Nature and extent of native title rights and interests (s 225(b); s 225(e))

Exclusive native title rights and interests

5. Subject to paragraphs 8 and 10, 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 (being areas where any extinguishment must be disregarded) is the right to possession, occupation, use and enjoyment of those parts to the exclusion of all others.
6. Section 47B of the NT Act applies to disregard any prior extinguishment in relation to the areas described in Schedule 3.

Non-exclusive native title rights and interests

7. Subject to paragraphs 8, 9 and 10, the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Schedule 4 (being areas where there has been a partial extinguishment of native title and where any extinguishment is not required to be disregarded), are the following rights and interests:
 - (a) the right to access, enter, travel over and to remain on or within the area and use the area for any purpose including to live, camp and erect traditional shelters upon or within the area;
 - (b) the right to hunt, fish, gather, take and use resources including water (other than minerals, petroleum, gas and water which is lawfully captured or controlled by other interest holders) in the area for any purpose;
 - (c) the right to speak for and make decisions about the use of the area by members of the Aboriginal society to which the native title holders belong;
 - (d) the right to invite and permit others to have access to and participate in or carry out activities in the area;
 - (e) the right to travel over, visit, care for and maintain places and objects of significance within the area and protect and have them protected from physical or spiritual harm;
 - (f) the right to light controlled contained fire within the area for cultural and spiritual purposes but not for the clearance of vegetation where there are interests as set out in item 1 of Schedule 4;
 - (g) the right to engage in cultural activities in the area including conducting and participating in ceremony and ritual, and the transmission of cultural knowledge; and
 - (h) the right to participate in ceremony and ritual, including funerary rites, but not including any right to bury people and be buried within the area.

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

8. The native title rights and interests in paragraphs 5 and 7 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.
9. The native title rights and interests in paragraph 7 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.
10. 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), except to the extent

that ochre is not a mineral pursuant to the *Mining Act 1904* (WA);
(ii) petroleum as defined in the *Petroleum Act 1936* (WA) (repealed) and in the *Petroleum and Geothermal Energy Resources Act 1967* (WA);
(iii) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967* (WA); or
(iv) water lawfully captured or controlled by the holders of other interests;
(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.

Nature and extent of any other interests (s 225(c))

11. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 7.

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

12. The relationship between the native title rights and interests described in paragraphs 7 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 and 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 interests to the extent of the inconsistency during the currency of the other interests; and
- (c) otherwise the other interests co-exist with the native title rights and interests. To avoid doubt, 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 doing of an activity required or permitted under those other interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

Areas to which sections 47, 47A and 47B of the NT Act apply

13. Section 47B of the NT Act applies to disregard any prior extinguishment in relation to the areas described in Schedule 3.

Definitions and interpretation

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

“**Determination Area**” means the area the subject of the Middamia Application, being the land and waters described in Schedule 1 and depicted on the maps at Schedule 2;

“**land**” and “**waters**” respectively have the same meanings as in the NT Act; and

“**NT Act**” means the *Native Title Act 1993* (Cth).

15. In the event of any inconsistency between the written description of an area in Schedule 1 or Schedules 3 to 5 and the area as depicted on the maps at Schedule 2, the written description prevails.

REGISTER ATTACHMENTS:

1. Schedule 1 - Determination Area, 2 pages - A4, 11/03/2024
2. Schedule 2 - Maps of the Determination Area, 2 pages - A4, 11/03/2024
3. Schedule 3 - Exclusive Native Title Areas, 1 page - A4, 11/03/2024
4. Schedule 4 - Non-exclusive Native Title Areas, 1 page - A4, 11/03/2024
5. Schedule 5 - Areas Where Native Title Does Not Exist, 2 pages - A4, 11/03/2024
6. Schedule 7 – Other Interests, 2 pages - A4, 11/03/2024

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.