



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD228/2011; WAD302/2015
NNTT Number: WCD2017/001

Determination Name: [Keith Narrier & Ors and State of Western Australia & Ors AND Edwin John Beaman & Ors and State of Western Australia](#)

Date(s) of Effect: 27/04/2017

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 27/04/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

The Tjiwarl (Aboriginal Corporation) was determined as the Prescribed Body Corporate for this determination on 1 June 2017.

REGISTERED NATIVE TITLE BODY CORPORATE:

Tjiwarl (Aboriginal Corporation) RNTBC
Trustee Body Corporate
6/524 Abernethy Road
KEWDALE Western Australia 6105

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

ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):

Tjiwarl (Aboriginal Corporation)

Note: details of the Corporation name change can be found on the Office of the Registrar of Indigenous Corporations website www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

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

1. The persons referred to in order 2 of the Determination are those persons from time to time:
 - (a) who, in accordance with Western Desert traditional laws and customs, have a connection to part or all of the Determination Area through conception, birth, growing up or initiation on the area, acquisition of knowledge through long association, or through descent from a person who has had such a connection; and
 - (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.

2. At the date of this Determination, the persons referred to in paragraph 1 of this Schedule 2 are those who:

- (a) have a connection through:
 - (i) their own birth, or long association with part or all of the Determination Area; or
 - (ii) the birth, or long association with part or all of the Determination Area, of their ancestors by which they claim country; and
- (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs,

being such of the descendants of the following ancestors as are recognised, according to Western Desert traditional laws and customs, by the other native title holders as having rights in the Determination Area:

- i. Alfie Ashwin;
- ii. Piman/Charlie Beaman;
- iii. Tjampula/Jumbo Harris;
- iv. Nampu/Scotty Lewis;
- v. Nimpurru/Spider Narrier;
- vi. Tjulyitjutu/Rosie Jones;
- vii. Kathleen Bingham;
- viii. Kurril/Scotty/Ted/Packhorse Rennie Tullock;
- ix. Pukungka/Dolly Walker;
- x. Manyila/Trilby; and
- xi. Dempsey James.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. WAD228/2011 and WAD302/2015 be determined together pursuant to section 67(1) of the *Native Title Act 1993* (Cth) (**Native Title Act**).

2. There be a determination of native title in the terms of Attachment "A" to these orders.

3. Within six months of the date upon which these orders are made, a representative of the common law holders of the native title rights and interests must, by written notice to the Court:
 - (a) indicate whether the native title is to be held in trust;
 - (b) nominate a prescribed body corporate in accordance with section 56(1) or 57(2) of the *Native Title Act*, and
 - (c) include the written consent of the body corporate to the nomination.

4. If a prescribed body corporate is nominated in accordance with order 3, it is to:
 - (a) hold the native title rights and interests described in orders 3 and 4 of the Determination for the common law holders of the native title rights and interests in trust for the common law holders, if so indicated in accordance with order 3(a); or if not so indicated
 - (b) perform the functions in subsection 57(3) of the *Native Title Act* as agent for the common law holders.

5. In the event that there is no nomination within the time specified in order 3, or such later time as the Court may order, the matter is to be listed for further directions.

ATTACHMENT "A"

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.

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); s 225(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;
- (d) the right to maintain and protect places of significance on that part; and
- (e) the right to receive a portion of any traditional resources (not including minerals or petroleum) taken from land or waters by Aboriginal people who are also governed by Western Desert traditional laws and customs.

Qualifications on native title rights and interests (s 225(b); 225(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 there are no native title rights and interests in the Determination Area in or in relation to:

- (a) minerals or petroleum; or
- (b) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

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 Part 1 of 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; and
- (c) to the extent of any inconsistency with the other interests described in Part 2 of Schedule 4 and the continued existence, enjoyment or exercise of the native title rights and interests, those other interests have no force or effect against the native title rights and interests.

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

10 For the avoidance of doubt, section 47B of the *Native Title Act* applies 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, but not including the Excluded Areas.

Excluded Areas means the land and waters described in Part 2 of Schedule 1 and depicted as such on the maps at Schedule 6.

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

minerals means minerals as defined in the *Mining Act 1904* (WA) (repealed) and the *Mining Act 1978* (WA).

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

petroleum means petroleum as defined in the *Petroleum Act 1936* (WA) (repealed) and the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

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.

SCHEDULE 1

DETERMINATION AREA

Part 1 - External boundaries and areas of land and waters where native title exists

The external boundary of the Determination Area, generally shown as bordered in blue on the maps at Schedule 6, is as follows:

All those lands and waters commencing at the northernmost northeastern corner of Pastoral Lease N049747 (Gidgee) and extending easterly to the northernmost northwestern corner of Lot 60 as shown on Deposited Plan 238007; Then easterly along the northern boundary of that lot to a western boundary of Pastoral Lease N049508 (Yeelirrie); Then northerly and easterly along boundaries of that pastoral lease to a western boundary of Pastoral Lease N049530 (Albion Downs); Then northerly along boundaries of that pastoral lease to the intersection with a southern boundary of Native Title Determination WAD248/2007 Tarlpa (WCD2013/004); Then easterly, northerly, again easterly, northwesterly, generally southeasterly and again easterly along boundaries of that native title determination to the southernmost southeastern corner of the eastern severance of Pastoral Lease N050051 (Lake Way), being a point of the present boundary of Pastoral Lease N049448 (Mt Keith); Then generally easterly and southerly along boundaries of that pastoral lease to the northeastern corner of Reserve 30897; Then generally southerly along boundaries of that reserve to a northeastern corner of Pastoral Lease N049476 (Yakabindie); Then generally southerly along boundaries of that pastoral lease to a northeastern corner of Pastoral Lease N049438 (Leinster Downs); Then generally southerly along boundaries of that pastoral lease to Latitude 27.998685 South; Then westerly to the intersection with a eastern boundary of the northeastern severance of Reserve 10513 at Latitude 27.998687 South; Then westerly to the intersection with a eastern boundary of the eastern severance of Pastoral Lease N049967 (Depot Springs) at Latitude 27.998691 South; Then southerly and generally westerly along the boundaries of that pastoral lease to the southeastern corner of Pastoral Lease N050557 (Booylgoo Spring); Then westerly, northerly and again westerly along boundaries of that pastoral lease to longitude 119.713751 East; Then northerly to a southwestern corner of Lot 74 as shown on Deposited Plan 220987, being a point on the present boundary of Pastoral Lease N050557 (Booylgoo Spring); Then generally northerly along boundaries of that pastoral lease to its northernmost northwestern corner; Then northwesterly to the easternmost southeastern corner of Pastoral

Lease N049747 (Gidgee); Then northwesterly to the southernmost southwestern corner of Pastoral Lease N049934 (Youno Downs); Then northerly along the boundary of that pastoral lease back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees.

All referenced Deposited Plans and Diagrams are held by the Western Australian Land Information Authority, trading as Landgate.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 3rd January 2017.

For the avoidance of doubt the application excludes any land and waters already claimed by:

Native Title Determination Application WAD248/2007 Tarlpa (WCD2013/004) as Determined in the Federal Court on the 29th July 2013.

Native Title Determination Application WAD6064/1998 Wutha (WC1999/010) as Registered in the Federal Court on the 13th January 2017.

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Graphic Services (Landgate) 24th March 2017

Use of Coordinates:

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

Part 2 - Excluded Areas

The following areas within the external boundaries described in Part 1 of this Schedule 1, generally shaded in pink on the maps at Schedule 6, being land and waters where native title has been completely extinguished, are not included in the Determination Area:

Freehold

1. The following grants of freehold title:

CT252/76	GT 17/720	GT 20/119	GT 21/595
CT291/194	GT 17/737	GT 20/260	GT 21/612
CT1121/244	GT18/63	GT 20/261	GT 21/653
CT1676/354	GT18/64	GT 20/262	GT 21/654
CT1676/355	GT18/242	GT 20/502	GT 21/655
CT1850/671	GT 18/521	GT 20/571	GT 21/680
CT121/85	GT18/733	GT 20/572	GT 21/681
CT182/79	GT 18/734	GT 20/591	GT 21/682
CT189/15	GT 19/151	GT 20/650	GT 21/683
CT209/47	GT 19/152	GT 20/769	GT 21/684
CT256/30	GT 19/179	GT 20/770	GT 21/762
CT367/189	GT 19/180	GT 21/34	GT 21/764
CT388/198	GT 19/209	GT 21/35	GT 21/796
CT 390/162	GT 19/210	GT 21/66	GT 21/797
CT 395/102	GT 19/284	GT 21/67	GT 21/798
CT 395/103	GT 19/399	GT 21/328	GT 21/799
CT 395/104	GT 19/456	GT 21/329	GT 21/800
CT 399/5	GT 19/488	GT 21/330	GT 21/801
CT 403/108	GT 19/489	GT 21/335	GT 22/356
CT 413/153	GT 19/490	GT 21/336	GT 22/528
CT 415/139	GT 19/491	GT 21/337	GT 22/529
CT 421/165	GT 19/663	GT 21/338	GT 22/638
CT 423/90	GT 19/705	GT 21/339	GT 22/639
CT 424/81	GT 19/706	GT 21/353	GT 22/754
CT 424/82	GT 19/718	GT 21/354	GT 23/159
CT 424/196	GT 19/749	GT 21/355	GT 23/160
CT 427/200	GT 19/792	GT 21/377	GT 23/182
CT 431/192	GT 19/793	GT 21/399	GT 23/183
CT 451/25	GT 20/26	GT 21/400	GT 23/220
GT 14/36	GT 20/27	GT 21/401	GT 23/369
GT 14/263	GT 20/76	GT 21/402	GT 23/389
GT 14/403	GT 20/77	GT 21/450	GT 23/454

GT 17/305 GT 20/86 GT 21/589 GT 23/652

Reserves

2. The following vested reserves:

RES 5505	RES 30897	RES 41818	RES 42934
RES 8400	RES 39075	RES 42277	RES 51192
RES 10378	RES 41816	RES 42315	
RES 17675	RES 41817	RES 42831	

Leases of reserves

3. The following leases of reserves under section 41A of the *Land Act 1898* (WA) and section 32 of the *Land Act 1933* (WA):

L332/767	L332/1085	L332/1178	L954/41A
L332/783	L332/1177	L332/1986	

Special leases

4. The following special leases:

3116/6675	3116/6676	3116/6696
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Roads

5. The following roads:

Road 10	Road 15	Closed Road 21
Road 13	Road 16	Closed Road 22
Road 14	Closed Road 20	Closed Road 23

SCHEDULE 2

DESCRIPTION OF THE NATIVE TITLE HOLDERS

1. The persons referred to in order 2 of the Determination are those persons from time to time:

- (a) who, in accordance with Western Desert traditional laws and customs, have a connection to part or all of the Determination Area through conception, birth, growing up or initiation on the area, acquisition of knowledge through long association, or through descent from a person who has had such a connection; and
- (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.

2. At the date of this Determination, the persons referred to in paragraph 1 of this Schedule 2 are those who:

- (a) have a connection through:
 - (i) their own birth, or long association with part or all of the Determination Area; or
 - (ii) the birth, or long association with part or all of the Determination Area, of their ancestors by which they claim country; and
- (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs,

being such of the descendants of the following ancestors as are recognised, according to Western Desert traditional laws and customs, by the other native title holders as having rights in the Determination Area:

- i. Alfie Ashwin;
- ii. Piman/Charlie Beaman;
- iii. Tjampula/Jumbo Harris;
- iv. Nampu/Scotty Lewis;
- v. Nimpurru/Spider Narrier;
- vi. Tjulyitjutu/Rosie Jones;
- vii. Kathleen Bingham;
- viii. Kurri/Scotty/Ted/Packhorse Rennie Tullock;
- ix. Pukungka/Dolly Walker;
- x. Manyila/Trilby; and
- xi. Dempsey James.

SCHEDULE 3

WHERE NATIVE TITLE IS EXCLUSIVE POSSESSION

The parts of the Determination Area where native title comprises the rights and interests set out in order 3 are as follows, as shown generally shaded green on the maps in Schedule 6:

UCL 245 UCL 246

SCHEDULE 4

OTHER INTERESTS

[See NNTR attachment 1: "Schedule 4 - Other Interests"]

SCHEDULE 5

AREAS TO WHICH SECTION 47B APPLIES

The parts of the Determination Area to which section 47B of the Native Title Act applies (shown generally on the maps in Schedule 6 as shaded green) are as follows:

UCL 245 UCL 246

SCHEDULE 6

MAPS OF THE DETERMINATION AREA

[See NNTR attachment 2: "Schedule 6 - Maps of the Determination Area"]

REGISTER ATTACHMENTS:

1. Schedule 4 - Other Interests, 26 pages - A4, 27/04/2017
2. Schedule 6 - Maps of the Determination Area, 13 pages - A4, 27/04/2017

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.