



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD472/2019
NNTT Number: WCD2020/006

Determination Name: [Mining on behalf of the Untiri Pulka Claim Group v State of Western Australia](#)

Date(s) of Effect: 27/07/2020

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 27/07/2020

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:

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 paragraph 2 of this Determination are those persons from time to time who hold native title rights and interests in part or all of the Determination Area according to their traditional laws and customs through one or more of the following pathways:

(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; or

(d) long traditional association with the Determination Area through occupation, custodianship or use by one's self and/or relevant kin.

2. As at the date of this Determination, the persons referred to in paragraph 1 of this Schedule 2 includes, but is not limited to, those descendants of the following persons;

(a) Jimmy Kulkapin;

(b) Angkatji;

(c) Charlie Charra;

(d) Jimmy Kangaroo;

(e) Pipin; and

(f) Wiltjajarra.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. Any part of the Untiri Pulka Application that overlaps native title determination application WAD348/2017, being land and waters which fall outside of the Determination Area, be discontinued to the extent of the overlap and no determination be made in relation to the land and waters comprised in that part.

2. There be a determination of native title in the Determination Area in the terms of "Attachment A".

3. Pila Nguru (Aboriginal Corporation) RNTBC (ICN: 3731) 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).

ATTACHMENT A

DETERMINATION

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 paragraphs 6 and 7 of this Determination, 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 paragraphs 5 to 7 of this Determination, 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 on that part; and

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

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

5. The native title rights and interests in paragraph 4 of this Determination 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);
- (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 paragraphs 3 and 4 of this Determination 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. Section 47A of the *Native Title Act* applies to the parts of the Determination Area set out in Schedule 5.

11. Section 47B of the *Native Title Act* applies to the parts of the Determination Area set out in Schedule 6.

Definitions and interpretation

12. 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 7, 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 7.

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.

13. In the event of an inconsistency between the written description of areas in the Schedules and the areas depicted

on the maps in Schedule 7, the written descriptions shall prevail.

REGISTER ATTACHMENTS:

1. Schedule 1 - Determination Area, 3 pages - A4, 27/07/2020
2. Schedule 3 - Where native title is exclusive possession, 1 page - A4, 27/07/2020
3. Schedule 4 - Other interests, 4 pages - A4, 27/07/2020
4. Schedule 5 - Area to which section 47A applies, 1 page - A4, 27/07/2020
5. Schedule 6 - Area to which section 47B applies, 1 page - A4, 27/07/2020
6. Schedule 7 - Maps of the Determination Area, 2 pages - A4, 27/07/2020

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.