



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2019/003
Short name	Niyiyaparli and BHP Billiton Comprehensive Agreement ILUA
ILUA type	Body Corporate
Date registered	06/09/2019
State/territory	Western Australia
Local government region	Shire of Ashburton, Shire of East Pilbara, Shire of Meekatharra, Shire of Wiluna

Description of the area covered by the agreement

Schedule 1 of the agreement describes the area covered by the agreement as follows:

The ILUA Area:

a) means the land and waters within the external boundaries of the determination of native title made by the Federal Court on 26 September 2018 in *Stock on behalf of the Niyiyaparli People v State of Western Australia (No 5)* [2018] FCA 1453 (being the external boundary of the area described as the "ILUA Area" on the map in this schedule); but

b) excludes any land and waters within the external boundaries of, but which are identified as "areas where native title does not exist" in, the determination of native title made by the Federal Court on 26 September 2018 in *Stock on behalf of the Niyiyaparli People v State of Western Australia (No 5)* [2018] FCA 1453.

[A map showing the external boundary of the ILUA Area is contained in Schedule 1 of the agreement. A copy of Schedule 1 is attached to this register extract.

The following general description of the agreement area has been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area. It is provided for information only and should not be considered part of the Register of ILUAs:

The agreement area covers approx. 36,874 sq km and is located in the vicinity of Newman township, extending 120 km north toward Marble Bar and 88 km north west toward Tom Price.]

Parties to agreement

Applicant

Party name	BHP Billiton Iron Ore Pty Limited for and on behalf of: (a) BHP Billiton Minerals Pty Ltd as agent; (b) BHP Iron Ore (Jimblebar) Pty Ltd as agent; (c) BHP Direct Reduced Iron Pty Ltd as agent; (d) the participants in the Mount Goldsworthy Mining Associates Joint Venture as at the Commencement Date as manager and agent; (e) the participants in the Mt Newman Mining Associates Joint Venture as at the Commencement Date as manager and agent; and (f) the participants in the Yandi Joint Venture as at the Commencement Date as manager and agent.
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Contact address c/- Ashurst Australia
Level 10, 123 St Georges Terrace
DX 388
Perth WA 6000

Other Parties

Party name Karlka Nyiyaparli Aboriginal Corporation RNTBC
Contact address c/- Yamatji Marlpa Aboriginal Corporation
PO Box 3072
249 Hay Street
Perth WA 6892

Period in which the agreement will operate

Start date 01/07/2019
End Date not specified

3.1

(a) Subject to clause 3.1(b), this document commences on the Commencement Date.

(b) Clauses 12.4, 12.6, 12.7 and Part 4 of this document have no force or effect unless and until the details of this document are entered on the Register.

3.2 This document terminates on the earlier of:

- a) termination of the Comprehensive Agreement in accordance with its provisions;
- b) the agreement in writing of BHP Billiton and KNAC [Karlka Nyiyaparli Aboriginal Corporation RNTBC];
- c) if the document is Registered [on the Register of Indigenous Land Use Agreements], and subsequently removed, the removal of this document from the Register.

"Commencement Date" means the later of:

- (a) the date on which this deed is executed by all the parties, which in the absence of manifest error shall be taken to be the date inserted above the parties' names on page 5 of this document; and
- (b) the commencement of the Comprehensive Agreement.

"Comprehensive Agreement" means the deed described as the Comprehensive Agreement between the Nyiyaparli People and BHP Billiton, as amended from time to time.

"Nyiyaparli People" are all of the persons who are identified in the Nyiyaparli Determination as the Common Law Holders.

Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)

12.4 For the purposes of section 24EB(1) of the *Native Title Act*, the parties consent to all acts covered by this document (to the extent they involve future acts) without conditions but in accordance with this document.

12.6 The process set out in Subdivision P of Division 3 of Part 2 of the *Native Title Act*, known as the "right to negotiate" process, is not intended to apply to any act covered by this document.

[The future acts covered by the agreement relate to "BHP Billiton's Iron Ore Business" as set out in clause 13.1].

13.1 **"BHP Billiton's Iron Ore Business"** means each and all elements of iron ore exploration, mining, transport, processing and treatment (including milling, concentration, refining and smelting) in the Pilbara region of Western Australia and all acts or things incidental to any of that, such as:

- (a) quarrying;
- (b) operations, facilities, works and infrastructure for:
 - (i) towns;

- (ii) ports;
 - (iii) accommodation;
 - (iv) energy supply;
 - (v) water supply;
 - (vi) communications;
 - (vii) roads, tracks, airports, railways, conveyors and other transport infrastructure; and
 - (viii) other supporting infrastructure;
 - (c) the planning, design, maintenance, operation, decommissioning and rehabilitation of all of the above things; and
 - (d) all developments of and changes and expansions to any of the above things,
- by, on behalf of or for the benefit of a BHP Billiton Entity.

13.2

(a) This document covers all of the following Interests and Approvals:

(i) Interests permitting mining or exploration that are:

(A) for the dominant purpose of BHP Billiton's Iron Ore Business; and

(B) held as at the commencement of the Comprehensive Agreement or applied for or Granted after that date by or to a BHP Billiton Entity or by or to a non-BHP Billiton Entity for the benefit of a BHP Billiton Entity;

(ii) Interests permitting mining or exploration provided for by clause 16;

(iii) Approvals in connection with BHP Billiton's Iron Ore Business over or in connection with the Interests covered by clause 13.2(a)(i) or clause 13.2(a)(ii);

(iv) Interests and Approvals for operations, facilities, works and infrastructure and other things and activities, other than mining or exploration, that are for or in connection with BHP Billiton's Iron Ore Business including as at the commencement of the Comprehensive Agreement.

(b) With the exception of clause 24, an Interest or Approval is only covered by this document during the period that it satisfies the relevant criteria in clause 13.2(a).

14.1

(a) KNAC [Karlka Nyiyaparli Aboriginal Corporation RNTBC] and the Nyiyaparli People agree that BHP Billiton's Iron Ore Business and each and every Interest and Approval covered by clause 13.2 that was Granted or done before the commencement of the Comprehensive Agreement insofar as it is within the ILUA Area is, was and, where it continues to exist, remains valid and enforceable in accordance with its terms including against KNAC [Karlka Nyiyaparli Aboriginal Corporation RNTBC] and the Nyiyaparli People.

(b) Clause 14.1(a) applies whether or not something continues to exist or remain in force.

(c) Each of the Interests, Approvals and activities covered by clause 14.1(a) is valid and, if for any reason is invalid, is validated.

(d) KNAC [Karlka Nyiyaparli Aboriginal Corporation RNTBC] and the Nyiyaparli People must not, and must not encourage or assist any other person, to:

(i) question or challenge in public or before any Government Agency; or

(ii) commence or prosecute any claim, proceeding or action that questions or challenges,

the validity of BHP Billiton's Iron Ore Business within the ILUA Area as at the commencement of the Comprehensive Agreement or any of the Interests or Approvals covered by clause 13.2.

14.2

(a) KNAC [Karlka Nyiyaparli Aboriginal Corporation RNTBC] and the Nyiyaparli People consent to and agree to do all lawful things within their power to assist:

(i) the Grant of each Interest and Approval covered by this document; and

(ii) the conduct of each and every element of BHP Billiton's Iron Ore Business authorised, contemplated or permitted by such Interests and Approvals,

within the ILUA Area from time to time.

"Approval" means any authorisation, licence, permit, approval, certificate, consent, direction or notice, other than an Interest, including from a Minister, Government Agency or other competent authority.

"BHP Billiton Entities" has the same meaning as in the Comprehensive Agreement, such that the persons, and only those persons, who are BHP Billiton Entities under the Comprehensive Agreement are also BHP Billiton Entities for the purposes of this document.

"Comprehensive Agreement" means the deed described as the Comprehensive Agreement between the Nyiyaparli People and BHP Billiton, as amended from time to time.

"Grant" means grant, extend, renew, re-grant and re-make.

"Interest" means:

- (a) a legal or equitable interest in land or waters;
- (b) a legal or equitable interest in a mining tenement;
- (c) a right to mine, quarry, extract or explore for minerals or water;
- (d) anything granted by the Crown or a Minister or government authority under statute which is or is described as being a freehold title, lease, easement, or licence to use or occupy land, including a mining tenement;
- (e) a contractual licence to use land; or
- (f) a charge or power over or in connection with land or waters.

Attachments to the entry

[WI2019_003 Schedule 1 Description and Maps of agreement area.pdf](#)