



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2018/014
Short name	Initial ILUA Tjiwarl and Nickel West Comprehensive Agreement
ILUA type	Body Corporate
Date registered	08/01/2019
State/territory	Western Australia
Local government region	Shire of Leonora, Shire of Wiluna

Description of the area covered by the agreement

Clause 5.1(b) of the agreement describes the agreement area to mean the area set out in Schedule 1.

[A map of the agreement 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 application area covers approximately 705 sq km and is located generally north of the township of Leinster approximately 37 km south east of Wiluna and 110 km north west of Leonora.]

Parties to agreement

Applicant

Party name	BHP Billiton Nickel West Pty Ltd
Contact address	c/- Ashurst Australia Level 10, 123 St Georges Terrace DX 388 Perth Perth WA 6000

Other Parties

Party name	BHP Billiton Yakabindie Nickel Pty Ltd
Contact address	c/- Ashurst Australia Level 10, 123 St Georges Terrace DX 388 Perth Perth WA 6000

Party name	Tjiwarl (Aboriginal Corporation) RNTBC
Contact address	Suite 2, 76 Wittenoom Street East Perth WA 6004

Period in which the agreement will operate

Start date	01/11/2018
End Date	not specified

[Explanatory notes in brackets inserted by the National Native Title Tribunal]

Clause 3.1 Commencement

(a) Subject to clause 3.1(b), this *[agreement]* commences on the Commencement Date.

(b) Clauses 10.3, 10.4, 10.5, 10.6 and Part 4 of this *[agreement]* have no force or effect unless and until the details of this *[agreement]* are entered on the Register.

Clause 3.2 Termination

This *[agreement]* terminates on the earlier of:

- (a) termination of the Comprehensive Agreement;
- (b) the agreement in writing of Nickel West and Tjiwarl AC; or
- (c) if this *[agreement]* is Registered, and subsequently removed, the removal of this *[agreement]* from the Register.

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

[Explanatory notes in brackets inserted by the National Native Title Tribunal]

Clause 10.3 For the purposes of section 24EB(1) of the Native Title Act, the parties consent to all acts covered by this *[agreement]* to the extent they involve future acts in the Initial ILUA Area without conditions but in accordance with this *[agreement]*.

Clause 10.5 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, does not apply and is not intended to apply to any act covered by this *[agreement]* in the Initial ILUA Area.

[The acts covered by this agreement are described in clauses 11.1 and 11.2.]

11.1 Definition of Nickel West's Business

Nickel West's Business means each and all elements of exploration, mining, transport, processing and treatment (including crushing, concentration, refining and smelting) of minerals (other than uranium) in the Goldfields region and elsewhere in Western Australia and all acts or things incidental to any of that, such as:

- (a) quarrying;
 - (b) operations, facilities, works and infrastructure for:
 - (i) the town of Leinster;
 - (ii) accommodation;
 - (iii) energy supply;
 - (iv) water supply;
 - (v) communications;
 - (vi) roads, tracks, airports, railways, conveyors and other transport infrastructure; and
 - (vii) 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 Nickel West Entity.

11.2 What Interests and Approvals does this *[agreement]* cover?

- (a) This *[agreement]* covers **Agreement Interests/Approvals**, which are all and any Mining Interests (being certain types of Interests and Approvals as defined in clause 11.2(d)) and Infrastructure Interests (being certain types of Interests and Approvals as defined in clause 11.2(e)) from time to time (and the terms **Agreement Interest** and **Agreement Approval** have corresponding meanings in this *[agreement]*).
- (b) In this *[agreement]*, **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.
- (c) In this *[agreement]*, **Interest** means:
 - (i) a legal or equitable interest in land or waters;
 - (ii) a legal or equitable interest in a mining tenement;
 - (iii) a right to mine, quarry, extract or explore for minerals or water;
 - (iv) anything granted by a Government Agency 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;
 - (v) a contractual licence to use land; and
 - (vi) a charge or power over or in connection with land or waters.

(d) In this *[agreement]*, **Mining Interest** means each and all of the following Interests and Approvals:

- (i) Interests (including but not limited to tenements under the *Mining Act 1978* (WA), State Agreements, and interests under or contemplated by State Agreements) permitting mining or exploration that are, will be or were:
 - (A) within the Agreed Mining Area;
 - (B) for or in connection with Nickel West's Business including as at the commencement of the Comprehensive Agreement; and
 - (C) held as at the commencement of the Comprehensive Agreement or applied for or Granted or acquired or held after the commencement of the Comprehensive Agreement by or to a Nickel West Entity or by or to a non-Nickel West Entity for the benefit of a Nickel West Entity (provided that, if the Interest or Approval is held by a non-Nickel West Entity for the benefit of a Nickel West Entity, it is nominated by Nickel West in accordance with clause 11.3);
- (ii) without limiting clause 11.2(d)(i), each of the Interests held or applied for or Granted or acquired by or to a Nickel West Entity or by or to a non-Nickel West Entity for the benefit of a Nickel West Entity as nominated as at the commencement of the Comprehensive Agreement which are listed in Schedule 1 Part 2 of the Tjiwarl Determination or Schedule 4 of the Tjiwarl Determination; and
- (iii) Approvals in connection with the Interests referred to in clauses 11.2(d)(i) and 11.2(d)(ii), but does not include any Interest or Approval that would permanently extinguish the Tjiwarl Native Title Holders' Native Title Rights and Interests after the commencement of the Comprehensive Agreement.

(e) In this *[agreement]*, **Infrastructure Interest** means each and all of Interests and Approvals that are, will be or were:

- (i) held as at the commencement of the Comprehensive Agreement or applied for or Granted or acquired or held after the commencement of the Comprehensive Agreement by or to a Nickel West Entity or by or to a non-Nickel West Entity for the benefit of a Nickel West Entity (provided that, if the Interest or Approval is held by a non-Nickel West Entity for the benefit of a Nickel West Entity, it is nominated by Nickel West in accordance with clause 11.3);
- (ii) either:
 - (A) within the Agreed Mining Area; or
 - (B) outside the Agreed Mining Area but wholly or partly within Tjiwarl Country, for operations, facilities, works and infrastructure and other things and activities required for or in connection with, or for the purpose of supporting, exploration, mining, transport, processing and/or treatment within the Agreed Mining Area but not for the primary purpose of supporting exploration or mining outside the Agreed Mining Area or supporting the processing or treatment of minerals outside the Agreed Mining Area; and
- (iii) for or in connection with Nickel West's Business including as at the commencement of the Comprehensive Agreement, but does not include any Interest or Approval that would permanently extinguish the Tjiwarl Native Title Holders' Native Title Rights and Interests after the commencement of the Comprehensive Agreement.

(f) For the purposes of the release in clause 13.2 and the bar in clause 13.3, the Agreement Interests/Approvals covered by this *[agreement]* also include all pastoral leases in Tjiwarl Country held prior to the Commencement Date by a Nickel West Entity (or any entity that is or was a related body corporate of a Nickel West Entity prior to the Commencement Date), and in relation to any act at any time of the kind referred to in section 24IC of the Native Title Act.

Definitions

Commencement Date means the later of:

- (a) the date on which this *[agreement]* is signed 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 4 of this *[agreement]*; and
- (b) the commencement of the Comprehensive Agreement.

Comprehensive Agreement means the deed described as the Comprehensive Agreement between Tjiwarl AC and Nickel West executed contemporaneously with this *[agreement]*.

Initial ILUA Area is defined in clause 5.1(b) *[meaning the area identified in Schedule 1 attached to this extract]*.

Attachments to the entry

[WI2018_014 Schedule 1 Initial Area Description.pdf](#)

[WI2018_014 Schedule 1 Initial Area Map.pdf](#)