



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD6284/1998
WAD108/2008
WAD299/2011
NNTT Number: WCD2016/001

Determination Name: BP (Deceased) on behalf of the Birriliburu People v State of Western Australia

Date(s) of Effect: 6/06/2016

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 06/06/2016

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation)
RNTBC
Trustee Body Corporate
C/- Central Desert Native Title Services
76 Wittenoom Street,
EAST PERTH Western Australia 6004

COMMON LAW HOLDER(S) OF NATIVE TITLE:

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

The persons referred to in Order 2 are:

- (a) The descendants of:
 - (i) Milpuntu / Jack Abbott;
 - (ii) Kiliya / Amy Anderson;
 - (iii) Tjirili;
 - (iv) Lunmu, Yingj;
 - (v) Wakukutjara, Piparntjukurr, Tartu, Tjiriltjukul;

- (vi) Matja / Maudie Hill, Lefthand / Willy Hill, Maize Hill / Beaman, Snowy Hill, Johnny Hill, Roly Hill;
 - (vii) Wogabu Jimmy Walker (Wakapu), Maraputa / Jenny Jones;
 - (viii) Kunamalaya / Jackie Jackman;
 - (ix) Yungkutjuru / Kitty Hill, Tulkiwa / Gennie Elliott;
 - (x) Puuka;
 - (xi) Lenny Morrison, Wally Morrison;
 - (xii) Minnie Wongawol, Hitler Richards, Mitika, Yarlrat / Joe Finch, Longfella, Katapurna / George Finch;
 - (xiii) Billy and Tilbie;
 - (xiv) Yungka;
 - (xv) Ivy Ward, Yatjuwunga / Peter Edjurrong;
 - (xvi) Bob Ward, Yinyipapa / Ruby Jackson / Barker, Wungkatju / George Wongajoe;
 - (xvii) Wuli / Jimmy Wongawol; and
 - (xviii) Mickey Wonyabong, Nyabung / Minnie Ashley, Tommy Ingebong;
- (b) AND persons generally acknowledged by them as having rights in part or all of the Determination Area through kinship, marriage, conception, birth, high ritual knowledge or responsibility for sites, including, at the time of this determination:
- (i) Matuwa / Norman Thompson;
 - (ii) Nyari-Nyari Morgan; and
 - (iii) Norman Stewart.

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

1. WAD 6284 of 1998, WAD 108 of 2008 and WAD 299 of 2011 be determined together.
2. In relation to the Determination Area, there be a determination of native title in WAD 6284 of 1998, WAD 108 of 2008 and WAD 299 of 2011 in terms of the attached Minute of Determination of Native Title.
3. The Mungarlu Ngurrarankatja Rirraunkaja (Aboriginal Corporation) RNTBC shall hold the determined native title in trust for the native title holders pursuant to section 56(2) of the Native Title Act.

MINUTE OF DETERMINATION OF NATIVE TITLE

THE COURT 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 is held by the persons described in Schedule 2 (native title holders).

The nature and extent of native title rights and interests (s225(b); s 225(e))

3. Subject to Orders 4 and 5, the nature and extent of the native title rights and interests is the right of possession, occupation, use and enjoyment of the Determination Area as against the whole world.

Qualifications on native title rights and interests (s225(b); s 225(e))

4. The native title rights and interests are exercisable in accordance with and subject to the:
- (a) traditional laws and customs of the native title holders; and
 - (b) laws of the State and the Commonwealth, including the common law.
5. 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); or
 - (ii) petroleum as defined in the *Petroleum Act 1936* (WA) (repealed) and in the *Petroleum and Geothermal Resources Energy 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))

6. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 3 (other interests).

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

7. Except as otherwise provided for by law, the relationship between the native title rights and interests 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 continued existence, enjoyment or exercise of 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 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 47B of the Native Title Act applies

8. For the avoidance of doubt, section 47B of the *Native Title Act* applies to the whole of the Determination Area.

Definitions

9. In this determination, unless the contrary intention appears:

‘Determination Area’ means all of the land and waters within the external boundary described in Schedule 1, Part 1 with the exclusion of the areas of land and waters described in Schedule 1, Part 2. In the event of an inconsistency between the written descriptions of areas in the Schedules and the areas depicted on the map in Schedule 4, the written descriptions shall prevail;

‘land’ and ‘waters’ respectively have the same meanings as in the Native Title Act;

‘Native Title Act’ means the *Native Title Act 1993* (Cth); and

‘State’ means the State of Western Australia.

Schedule 1 - Determination Area

[See Order 1]

The external boundary of the Determination Area (which is subject to the exclusions in Part 2 below) is described in Part 1 below and shown generally on the map in Schedule 4.

Part 1 - External Boundaries

WAD 6284 of 1998

PART A

1. All those lands and waters within the external boundaries of former Exploration Licences E69/1092 and E69/1135 as they existed as at 29th September 1998.

PART B

2. All those lands and waters commencing at the intersection of the westernmost boundary of historical Exploration Licence E69/1134 (as at 29th September 1998) with a northern boundary of Pastoral Lease N050565 (Granite Peak); then easterly and southerly along boundaries of that pastoral lease to a southern boundary of former Exploration Licence E69/1134 (as at 29th September 1998), then easterly, northerly, westerly, again northerly, again westerly, again northerly, again westerly, southerly, again westerly, again southerly, again westerly and again southerly along boundaries of that exploration licence back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st March 2016.

Exploration Licences sourced from Department of Mines and Petroleum, boundaries as at 29th September 1998

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Native Title Spatial Services (Landgate) 27th April 2016

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.

WAD 108 of 2008

PART A

3. All those lands and waters within the external boundaries of former Exploration Licences E69/1092 and E69/1135 as they existed as at 29th September 1998.

PART B

4. All those lands and waters commencing at the intersection of the westernmost boundary of historical Exploration Licence E69/1134 (as at 29th September 1998) with a northern boundary of Pastoral Lease N050565 (Granite Peak); then easterly and southerly along boundaries of that pastoral lease to a southern boundary of former Exploration Licence E69/1134 (as at 29th September 1998), then easterly, northerly, westerly, again northerly, again westerly, again northerly, again westerly, southerly, again westerly, again southerly, again westerly and again southerly along boundaries of that exploration licence back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st March 2016.

Exploration Licences sourced from Department of Mines and Petroleum, boundaries as at 29th September 1998

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Native Title Spatial Services (Landgate) 27th April 2016

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.

WAD 299 of 2011

PART A

5. All those lands and waters commencing at the intersection of an eastern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001) with a southern boundary of Exploration Mining Licence E69/1728-I (as at 3rd November 2010) at approximately Latitude 25.281991 South, Longitude 121.101378 East; then extending westerly, southerly, again westerly, again southerly and again westerly along the boundary of that exploration mining licence to the intersection with a western boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001); then northerly along the boundary of that native title application to the intersection with a northern boundary of Exploration Mining Licence E69/1728-II (as at 3rd November 2010); then easterly along the boundary of that exploration mining licence to the intersection with an eastern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001); then southerly along the boundary of that native title application back to the commencement point.

PART B

6. All those lands and waters commencing at the intersection of a southern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001) with a western boundary of Exploration Mining Licence E69/1728-III (as at 3rd November 2010) at approximately Latitude 25.315325 South, Longitude 121.083333 East; then extending northerly, easterly, southerly and westerly along the boundary of that exploration mining licence to the intersection with a western boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001); then westerly along the boundary of the native title application back to the commencement point.

PART C

7. All those lands and waters commencing at the intersection of an eastern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001) with a southern boundary of Exploration Mining Licence E69/1728-IV (as at 3rd November 2010) at approximately Latitude 25.300000 South, Longitude 121.151378 East; then extending westerly, southerly, again westerly and northerly along the boundary of that exploration mining licence to the intersection with a northern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001); then easterly and southerly along the boundary of that native title application back to the commencement point.

PART D

8. All those lands and waters commencing at the northwestern corner of Exploration Mining Licence E69/2052 (as at 4th March 2011) and extending easterly along the boundary of that exploration mining licence to the intersection with a eastern boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part A) (WC2008/001); then southerly and westerly along the boundary of that native title application to the intersection with a western boundary of Exploration Mining Licence E69/2052 (as at 4th March 2011); then northerly along the boundary of that exploration mining licence back to the commencement point.

PART E

9. All those lands and waters commencing at the southeastern corner of Exploration Mining Licence E69/2052 (as at 4th March 2011) and extending westerly along the boundary of that exploration mining licence to the intersection with a western boundary of Native Title Application WAD108/2008 Birriliburu #2 (Part B) (WC2008/001); then northerly and easterly along the boundary of that native title application to the intersection with a eastern boundary of Exploration Mining Licence E69/2052 (as at 4th March 2011); then southerly along the boundary of that exploration mining licence back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st March 2016

Exploration Mining Licence E69/1728--II sourced from Department of Mines and Petroleum, surrendered as at 3rd November 2010

Exploration Mining Licence E69/2052 sourced from Department of Mines and Petroleum, forfeited as at 4th March 2011

Native Title Determination Application WAD108/2008 Birriliburu #2 (WC2008/001) as Filed in the Federal Court on the 26th May 2008.

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Native Title Spatial Services (Landgate) 27th April 2016

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

10. Any areas of land or waters where a public work as defined in the *Native Title Act* and the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) (including the land and waters on which a public work is constructed, established or situated as described in section 251D of the *Native Title Act*) and to which section 12J of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) or section 23C(2) of the *Native Title Act* applies.

Schedule 2 - Native Title Holders

The persons referred to in Order 2 are:

- (a) The descendants of:
 - (i) Milpuntu / Jack Abbott;
 - (ii) Kiliya / Amy Anderson;
 - (iii) Tjirili;
 - (iv) Lunmu, Yingi;
 - (v) Wakukutjara, Piparntjukurr, Tartu, Tjiriltjukul;
 - (vi) Matja / Maudie Hill, Lefthand / Willy Hill, Maize Hill / Beaman, Snowy Hill, Johnny Hill, Roly Hill;
 - (vii) Wogabu Jimmy Walker (Wakapu), Maraputa / Jenny Jones;
 - (viii) Kunamalaya / Jackie Jackman;
 - (ix) Yungkutjuru / Kitty Hill, Tulkiwa / Gennie Elliott;
 - (x) Puuka;
 - (xi) Lenny Morrison, Wally Morrison;
 - (xii) Minnie Wongawol, Hitler Richards, Mitika, Yarlrat / Joe Finch, Longfella, Katapurna / George Finch;
 - (xiii) Billy and Tilbie;
 - (xiv) Yungka;
 - (xv) Ivy Ward, Yatjuwunga / Peter Edjurrong;
 - (xvi) Bob Ward, Yinyipapa / Ruby Jackson / Barker, Wungkatju / George Wongajoe;
 - (xvii) Wuli / Jimmy Wongawol; and
 - (xviii) Mickey Wonyabong, Nyabung / Minnie Ashley, Tommy Ingebong;

(b) AND persons generally acknowledged by them as having rights in part or all of the Determination Area through kinship, marriage, conception, birth, high ritual knowledge or responsibility for sites, including, at the time of this determination:

- (i) Matuwa / Norman Thompson;
- (ii) Nyari-Nyari Morgan; and
- (iii) Norman Stewart.

Schedule 3 - Other Interests

[Other interests referred to in Order 6]

The nature and extent of other interests in relation to the Determination Area are the following as they exist as at the date of this determination:

Exploration Licences

1. The rights and interests of the holders of the following exploration licences:

Tenement ID	Holder	Date Granted
E69/3255	Lodestar Minerals Limited	27 May 2015
E69/3261	Lodestar Minerals Limited	27 May 2015
E69/3263	Lodestar Minerals Limited	27 May 2015
E69/3271	Lodestar Minerals Limited	27 May 2015

Other

2. The following rights and interests:

(a) rights and interests held under grants from the Crown in right of the State or of the Commonwealth pursuant to statute or in the exercise of its executive power or otherwise conferred by statute;

(b) rights and interests held by reason of the force and operation of the laws of the State or of the Commonwealth including the force and operation of the *Rights in Water and Irrigation Act 1914 (WA)* and the *Aboriginal Communities Act 1979 (WA)*;

(c) the right of any person to use (subject to the laws of the State, in particular the *Aboriginal Affairs Planning Authority Act 1972 (WA)* and Regulations where applicable) any road in the determination area over which, as at the date of this Determination, the public has a right of way according to the common law;

(d) the right to access the Determination Area by an employee or agent or instrumentality of:

- (i) the State;
- (ii) the Commonwealth; or
- (iii) any local government authority,

as required in the performance of his or her statutory or common law duty where such access would be permitted to private land;

(e) so far as confirmed pursuant to s 14 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA)* as at the date of this determination, any existing public access to and enjoyment of:

- (i) waterways;
- (ii) beds and banks or foreshores of waterways;
- (iii) stock routes; or

- (iv) areas that were public places at the end of 31 December 1993; and
- (f) the right of any person to use and enjoy (subject to the laws of the State) the Canning Stock Route.

Schedule 4 - The Map

[See NNTR attachment 1: "Schedule 4 - The Map"]

REGISTER ATTACHMENTS:

1. Schedule 4 - The Map, 1 page - A4, 06/06/2016

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.