



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2020/001
Short name	RTIO and Niyiyaparli People Indigenous Land Use Agreement (Body Corporate Agreement)
ILUA type	Body Corporate
Date registered	11/05/2020
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

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 as outlined in blue on the map in Schedule 2; 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 of the agreement area is contained in Schedule 2 of the agreement. Copies of Schedules 1 and 2 are 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 approx. 267 km north east of Meekatharra, 118 km south of Marble Bar and 147 km east of Tom Price.]

Parties to agreement

Applicant

Party name	Hamersley HMS Pty Ltd as manager for and on behalf of: a) Hamersley WA Pty Ltd; and b) Hope Downs Iron Ore Pty Ltd, in their capacity as venturers in the Hope Downs Joint Venture
Contact address	c/- Ashurst Australia Level 10, Brookfield Place Tower 2 123 St Georges Terrace Perth WA 6000

Party name	Hamersley Iron Pty Limited
Contact address	c/- Ashurst Australia Level 10, Brookfield Place Tower 2 123 St Georges Terrace Perth WA 6000

Party name Hamersley Resources Ltd on its own behalf as a venturer and as manager for and on behalf of:
a) Hamersley Resources Ltd; and
b) Wright Prospecting Pty Ltd,
in their capacity as venturers in the Rhodes Ridge Joint Venture

Contact address c/- Ashurst Australia
Level 10, Brookfield Place Tower2
123 St Georges Terrace
Perth WA 6000

Party name Robe River Mining Co Pty Ltd on its own behalf as a venturer and as manager for and on behalf of:
a) Robe River Mining Co Pty Ltd;
b) Mitsui Iron Ore Development Pty Ltd;
c) Cape Lambert Iron Associates;
d) Pannawonica Iron Associates; and
e) North Mining Limited,
in their capacity as venturers in the Robe River Iron Associates Joint Venture

Contact address c/- Ashurst Australia
Level 10, Brookfield Place Tower 2
123 St Georges Terrace
Perth WA 6000

Other Parties

Party name Karlka Niyaparli Aboriginal Corporation RNTBC in its capacity as a registered native title body corporate holding native title in trust for the Niyaparli People, and for and on behalf of the Niyaparli People who have capacity to contract as at the Commencement Date

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 27/02/2020

End Date not specified

13.1 Commencement

This document commences on the Commencement Date.

13.2 Termination

Subject to clauses 13.3 and 18.3(d), this document terminates on the earlier of:

- (a) the termination of the Participation Agreement in accordance with its provisions; and
- (b) the agreement in writing of RTIO and KNAC.

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

11.4 Consent to Future Acts – Native Title Act section 24EB(1)

For the purposes of section 24EB(1) of the Native Title Act, the parties consent to all Agreed Acts (to the extent they involve Future Acts) without conditions but in accordance with this document.

11.6 Right to negotiate does not apply – Native Title Act section 24EB(1)(c)

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 Agreed Act.

8.1 Consent to Agreed Acts

- (a) KNAC and the Niyaparli People agree with, consent to and support and continue to agree with, consent to and

support the Existing Operations including all RTIO Existing Titles.

(b) Subject to clause 11.12 of the Participation Agreement and clause 8.1(c), KNAC and the Nyiyaparli People agree with, consent to and support, and continue to agree with, consent to and support:

- (i) the doing of every Future Act;
- (ii) the Grant or Modification of every: (A) Approval; and (B) Interest, and
- (iii) the Modification of every RTIO Existing Title, that is for an Agreed Purpose.

(c) Clause 8.1(b) does not apply to the extent an act or thing is done or to be done within or in relation to the Special Cultural Significance Areas.

(d) RTIO warrants that, as at the Commencement Date, it does not have any Existing Operations and is not seeking the Grant of any new Interests or Approvals within or in relation to the Special Cultural Significance Areas.

8.2 Consent to reliance on Approvals and Interests

Without limiting clause 8.1, KNAC and the Nyiyaparli People agree with, consent to and support and continue to agree with, consent to and support the reliance on and the conduct by RTIO Entities of all activities required, permitted or contemplated by each Agreed Act, including as Modified.

8.5 What is an Agreed Purpose?

(a) An "Agreed Purpose" means any of the following from time to time:

- (i) the Existing Operations;
- (ii) any Modification of any of the things comprising those operations provided they remain part of RTIO's Pilbara Iron Ore Business; and
- (iii) the planning, development, operation and expansion, further expansion and decommissioning of any aspect of RTIO's Pilbara Iron Ore Business from time to time, including new iron ore mines, borrow and ballast pits and necessary supporting infrastructure.

(b) Without limiting clause 8.5(a), the development, operation or expansion of each of the following is deemed to be an "Agreed Purpose" if a Substantial Reason for its development, operation or expansion is for RTIO's Pilbara Iron Ore Business:

(i) new power, water, rail and road infrastructure and associated infrastructure and works within the ILUA Area such as:

- (A) power generation facilities to produce electricity;
- (B) substations, power lines and switching yards;
- (C) communication facilities and infrastructure;
- (D) gas and water pipelines, pumping stations and borefields;
- (E) land fill sites;
- (F) water storage dams and tanks;
- (G) borrow pits and quarries;
- (H) access and haulage roads and tracks;
- (I) airports and related infrastructure;
- (J) rail infrastructure and works including multi-tracking of railways, sidings, marshalling yards and loops, maintenance and storage facilities, deviation of railways, rail corridors and movement of rail infrastructure, and associated buildings and works;
- (K) buffer zones, car parks and landscaped areas;
- (L) administrative offices and other buildings; and
- (M) associated buildings and works;

(ii) iron ore processing infrastructure and works including:

- (A) stockpiles;
- (B) crushing and screening plants;
- (C) conveyors;
- (D) facilities for the blending of iron ore; and
- (E) associated buildings and works;

(iii) construction camps; and

(iv) town infrastructure and accommodation infrastructure within the ILUA Area, including:

- (A) dwellings;
- (B) commercial facilities;
- (C) open space and recreational facilities;
- (D) dining facilities;
- (E) communal facilities;
- (F) roads;
- (G) car parks;
- (H) landfill sites;
- (I) water treatment facilities; and
- (J) associated buildings and works.

(c) In this clause 8.5, "Substantial Reason" means, subject to clause 8.5(d), on the balance of probabilities, it would have been unlikely to be developed, constructed or operated were it not required for RTIO's Pilbara Iron Ore

Business, even though it may be used for other purposes.

- (d) Where the Agreed Purpose is for town infrastructure comprising dwellings or commercial facilities within a town:
- (i) if:
- (A) the dwellings or commercial facilities are being established in accordance with a Government Agreement or a requirement or right created in accordance with a Government Agreement that requires that not more than 20% of the total occupied, or to be occupied, dwellings or commercial facilities to be offered for sale or lease to the general public; and
- (B) each of the dwellings or commercial facilities that are not required to be offered for sale or lease to the general public would have been unlikely to be developed or constructed were it not required for RTIO's Pilbara Iron Ore Business,
- then each of the dwellings or commercial facilities will be an Agreed Purpose;
- (ii) where clause 8.5(d)(i) does not apply, it will only be an Agreed Purpose if and insofar as each of the dwellings or commercial facilities would have been unlikely to be developed or constructed were it not required for RTIO's Pilbara Iron Ore Business.

9.2 Agreed Act Certificate

(a) If RTIO honestly and reasonably considers that a proposed act is an Agreed Act, RTIO may, but is not obliged to, give KNAC an Agreed Act Certificate in relation to the proposed act.

(b) If RTIO gives an Agreed Act Certificate to KNAC, RTIO must:

- (i) give to KNAC a copy of any notice under clause 9.1 which relates to the proposed Agreed Act; and
- (ii) serve a copy of the Agreed Act Certificate on each of the representatives on the Local Implementation Committee appointed by the Niyaparli People in accordance with the Participation Agreement.

(c) If KNAC does not within ten Business Days of receiving an Agreed Act Certificate respond, either by notifying RTIO that it wishes to be consulted about the proposed Agreed Act, or by agreeing that the proposed Agreed Act described in the Agreed Act Certificate is an Agreed Act, or by giving a Dispute Notice to RTIO, RTIO must within a further two Business Days give a further copy of the Agreed Act Certificate to:

- (i) KNAC;
- (ii) each of the representatives on the Local Implementation Committee; and
- (iii) if KNAC is not the Registered Native Title Body Corporate in respect of the ILUA Area, the Representative Bodies for the area of the proposed Agreed Act at either their street address or postal address listed on the National Native Title Tribunal's website.

(d) Unless KNAC serves a Dispute Notice on RTIO on or before the date specified in the Agreed Act Certificate, being a date not earlier than 30 Business Days after the receipt of the Agreed Act Certificate, all proposed Agreed Acts identified in the Agreed Act Certificate are deemed for all purposes and agreed by the parties to be Agreed Acts.

(e) Nothing in this document requires RTIO to issue an Agreed Act Certificate in relation to a proposed Agreed Act and the absence of an Agreed Act Certificate does not prevent an act from being an Agreed Act.

(f) RTIO may:

- (i) if given a Dispute Notice about an Agreed Act Certificate within the time referred to in clause 9.2(d), within ten Business Days after receiving the Dispute Notice; or
- (ii) if not given a Dispute Notice about an Agreed Act Certificate or given a Dispute Notice after the time referred to in clause 9.2(d), at any time, withdraw the Agreed Act Certificate, in which case clause 9.2(d) does not apply.
- (g) In relation to a proposed Agreed Act, RTIO may provide to the State and any Government Agency:
- (i) a copy of a relevant Agreed Act Certificate which has been served on KNAC;
- (ii) evidence of the date when the relevant Agreed Act Certificate was given to KNAC;
- (iii) a copy of this document;
- (iv) confirmation that the Agreed Act Certificate has not been withdrawn; and
- (v) if applicable, a statement that KNAC did not serve a Dispute Notice within the time referred to in clause 9.2(d), as additional evidence of the consent of KNAC and the Niyaparli People to the proposed Agreed Act.

"Agreed Act" refers to a thing or things agreed to, consented to or supported under clause 8.1 and clause 8.2.

"Approval" means any authorisation, licence, permit, approval, certificate, consent, direction or notice inclusive of any Modification, and includes an approval from a Minister, Government Agency or other competent authority, for example the approval of proposals under a Government Agreement.

"Existing Operations" refers to those parts of RTIO's Pilbara Iron Ore Business that are within the ILUA Area as at the Commencement Date.

"Interest" means any: (a) legal or equitable interest in land or waters; (b) right to occupy, use or traverse land or waters; (c) right to mine, quarry, extract or explore for minerals or water; (d) easement, charge, power or licence over or in connection with land or waters; (e) authorisation, permit or licence from any Government Agency, whether Granted before, on or after the Commencement Date

"Participation Agreement" means the agreement referred to in recital (D), as amended from time to time

“RTIO Existing Title” means: (a) each Approval and each Interest which relates in whole or in part to the ILUA Area, Granted or purported to have been Granted as at the Commencement Date and held by: (i) an RTIO Entity; or (ii) a third party that is for the purpose of, or upon which an RTIO Entity materially relies for or in relation to, RTIO’s Pilbara Iron Ore Business; and (b) any Approval or Interest created in substitution of and for substantially the same purpose as an Approval or Interest in clause 8.4(a), including as Modified.

Attachments to the entry

[Schedule 1 Description of ILUA Area.pdf](#)

[Schedule 2 Map of ILUA Area.pdf](#)

[Schedule 2 Maps showing areas within external boundary of ILUA Area where native title does not exist.pdf](#)