



Extract from the National Native Title Register

Determination Information:

Determination Reference:	Federal Court Number(s): WAD345/2019, WAD19/2019, WAD21/2019, WAD27/2019, WAD31/2019 NNTT Number: WCD2020/001
Determination Name:	Taylor on behalf of the Yamatji Nation Claim v State of Western Australia
Date(s) of Effect:	26/10/2020
Determination Outcome:	Native title exists in parts of the determination area

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

Determination Date:	07/02/2020
Determining Body:	Federal Court of Australia

ADDITIONAL INFORMATION:

On 7 February 2020, the Federal Court of Australia made a determination that native title exists in parts of the application area – see [Taylor on behalf of the Yamatji Nation Claim v State of Western Australia \[2020\] FCA 42](#). Order 3 of the determination provides that the determination is to take effect immediately after the Separate Orders take effect.

The Federal Court also made the Separate Orders on 7 February 2020. Order 1 consolidated the four following native title determination applications with WAD345/2019 Yamatji Nation Claim:

1. WAD21/2019 Mullewa Wadjari Part A;
2. WAD19/2019 Southern Yamatji;
3. WAD27/2019 Hutt River; and
4. WAD31/2019 Widi Mob.

Order 4 provides that the consolidation is to take effect on the date the State of Western Australia files a notice that the Yamatji Nation Indigenous Land Use Agreement has been Conclusively Registered on the Register of Indigenous Land Use Agreements. A copy of the Separate Orders is attached to this Extract.

The Separate Orders provide that “Conclusively Registered” has a corresponding meaning to the term “Conclusive Registration”. That term is defined to mean the Yamatji Nation Indigenous Land Use Agreement being registered and remaining registered:

(a) at a date that is 60 Business Days after the date on which a decision is made to register the Yamatji Nation Indigenous Land Use Agreement, provided that no Legal Proceedings have been commenced in respect of such registration; or

(b) otherwise, at a date that is 40 Business Days following the exhaustion and determination of the final available

Legal Proceedings in respect of such registration.

On 26 October 2020, the State of Western Australia filed a Notice of Conclusive Registration in each of the four applications listed above. The Notice states that the Yamatji Nation Indigenous Land Use Agreement was Conclusively Registered on the Register of Indigenous Land Use Agreements on 26 October 2020. Accordingly, the Separate Orders came into effect and the four applications listed above were consolidated into WAD345/2019 Yamatji Nation Claim on 26 October 2020. The determination of WAD345/2019 Yamatji Nation Claim then immediately came into effect and was registered on the National Native Title Register from 26 October 2020.

REGISTERED NATIVE TITLE BODY CORPORATE:

Bundi Yamatji Aboriginal Corporation
Trustee Body Corporate
PO Box 2691
Kent Town South Australia 5067

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:

4. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 5.

[Schedule 5 is attached to this extract]

MATTERS DETERMINED:

THE COURT DETERMINES, DECLARES AND ORDERS THAT:

In these orders:

Conclusive Registration Date means the date the State has issued the Yamatji Southern Regional Corporation Ltd a notice confirming when the Yamatji Nation ILUA has been Conclusively Registered on the Register of Indigenous Land Use Agreements.

1. It is satisfied that an order in the terms proposed in the attached Minute of Consent Determination of Native Title in native title determination application WAD 345 of 2019 is within the power of the Court and is appropriate to be made pursuant to section 87 of the *Native Title Act 1993* (Cth).
2. There be a determination of native title in the terms of the Minute of Consent Determination of Native Title attached.
3. Subject to Order 5 of these orders, Orders 1 and 2 are to take effect immediately after the Court's order consolidating the present proceeding with native title determination applications WAD 21 of 2019 Part A, WAD 19 of 2019, WAD 27 of 2019 and WAD 31 of 2019 takes effect.
4. On the determination of native title made by Order 2 of these orders coming into effect, Bundi Yamatji Aboriginal Corporation (ICN 9213) shall hold the determined native title in trust for the native title holders pursuant to section 56 (2)(b) of the *Native Title Act 1993* (Cth).
5. If the Conclusive Registration Date does not occur on or before 31 December 2022, or such other date as the Court may order, the proceedings are to be listed for further directions, and none of Orders 1, 2, 3 and 4 will take effect.

ATTACHMENT "A"

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s225)

1. The Determination Area is the land and waters described in Schedule 1 and depicted on the maps comprising Schedule 2.

2. Native title exists in those parts of the Determination Area identified in Schedule 3 (**Native Title Land**).

3. Native title does not exist in those parts of the Determination Area identified in Schedule 4.

Native title holders (s225(a))

4. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 5.

The nature and extent of native title rights and interests (s225(b))

5. Subject to paragraphs 6, 7, 8 and 9 the nature and extent of the native title rights and interests in the Native Title Land referred to in Schedule 3 are rights to use and enjoy those lands and waters, being the rights:

(a) to access land for living and camping;

(b) to visit, maintain and protect places of importance;

(c) to teach on land and waters;

(d) to conduct ceremony;

(e) to hunt on, fish from, take and use resources of the area; and

(f) to be accompanied onto the land by:

(i) non-Yamatji spouses; or

(ii) persons required by traditional laws and customs for ceremonial or cultural activities.

6. The native title rights and interests referred to in paragraph 5 do not confer:

(a) possession, occupation, use and enjoyment of those parts of the Determination Area on the Native Title Holders to the exclusion of all others, nor

(b) a right to control the access of others to the land or waters of those parts of the Determination Area.

7. Notwithstanding anything in this Determination there are no native title rights and interests in the Determination Area in or in relation to:

(a) minerals as defined in the *Mining Act 1904 (WA)* (repealed) and the *Mining Act 1978 (WA)*;

(b) petroleum as defined in the *Petroleum Act 1936 (WA)* (repealed) and the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*; or

(c) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*;

except the right to take and use ochre to the extent that ochre is not a mineral pursuant to the *Mining Act 1904 (WA)*.

8. Native title rights and interests are subject to and exercisable in accordance with:

(a) the laws of the State and the Commonwealth, including the common law; and

(b) the traditional laws and customs of the Native Title Holders.

9. For the avoidance of doubt, 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)* as at the date of this determination is the non-exclusive right to take, use and enjoy that water.

Areas to which s47, s47A and s47B of the Native Title Act apply

10. Sections 47A and 47B of the Native Title Act apply to disregard any prior extinguishment in relation to the areas described in Schedule 6.

The nature and extent of any other interests

11. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 7.

Relationship between native title rights and other interests

12. The relationship between the native title rights and interests described in paragraphs 5 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 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, existence and exercise of native title rights and interests do not prevent the doing of any activity required or permitted to be done by or under the other rights and interests, and the doing of an activity required or permitted under those other interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

Definitions and interpretation

13. In this Determination, unless the contrary intention appears:

"**Determination Area**" means the land and waters described in Schedule 1 and depicted on the maps at Schedule 2;

"**land**" and "**waters**" respectively have the same meanings as in the *Native Title Act*;

"**Native Title Act**" means the *Native Title Act 1993* (Cth);

In the event of any inconsistency between the written description of an area in Schedule 1 or Schedule 3 and 4 and the area as depicted on the maps at Schedule 2, the written description prevails.

REGISTER ATTACHMENTS:

1. WCD2020/001 Schedule 1 - Determination Area, 12 pages - A4, 07/02/2020
2. WCD2020/001 Schedule 2 - Maps of the Determination Area, 10 pages - A4, 07/02/2020
3. WCD2020/001 Schedule 3 - Native Title Land, 2 pages - A4, 07/02/2020
4. WCD2020/001 Schedule 4 - Area Where Native Title Does Not Exist, 1 page - A4, 07/02/2020
5. WCD2020/001 Schedule 5 - Description of the Native Title Holders, 2 pages - A4, 07/02/2020
6. WCD2020/001 Schedule 6 - Areas to which sections 47, 47A and 47B of the Native Title Act apply, 1 page - A4, 07/02/2020
7. WCD2020/001 Schedule 7 - Other Interests, 2 pages - A4, 07/02/2020
8. WCD2020/001 Separate Orders - FCA - 7 February 2020, 3 pages - A4, 07/02/2020

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.