



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD225/2018
NNTT Number: WCD2019/012

Determination Name: [Sceghi on behalf of the Kultju Native Title Claim Group v State of Western Australia](#)

Date(s) of Effect: 30/10/2019

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 30/10/2019

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Kultju (Aboriginal Corporation)
Trustee Body Corporate
76 Wittenoom Street
East Perth Western Australia 6004

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:

1. The persons referred to in order 2 of the Determination are those persons from time to time:
 - (a) who in accordance with Western Desert traditional laws and customs, have a connection to all or part of the determination area through conception, birth, growing up or initiation on the area, burial of an ancestor on the area, acquisition of knowledge through long association, or through descent from a person who has had such a connection; and
 - (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.
2. At the date of this Determination, the persons referred to in paragraph 1 above are those who:
 - (a) have a connection through:

- (i) their own birth, or long association with part or all of the application area; or
 - (ii) the birth, or long association with part or all of the application area, of their ancestors by whom they claim country; and
- (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.

3. At the date of this determination the persons referred to in paragraph 2(a)(i) above are:

- (a) Roxanne Anderson and descendants;
- (b) Harvey Scadden;
- (c) Marjorie Wongawol and descendants; and
- (d) Dudley Wongawol and descendants.

4. At the date of this determination, the persons referred to in paragraph 2(a)(ii) above are the descendants of the following ancestors as are recognised, according to Western Desert traditional laws and customs, by the other native title claimants as having rights in the application area:

- (a) the union of Tommy Kiiku and Minnie;
- (b) the union of Spider Narrier and Queenie;
- (c) Alfie Ashwin;
- (d) Lenny Ashwin;
- (e) Manyila/Trilby;
- (f) Miparl/Frank Wongawol;
- (g) Yarlrat/Joe Finch; and
- (h) Trevor Jones.

MATTERS DETERMINED:

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

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

3. Subject to orders 4 to 6, the nature and extent of the native title rights and interests in relation to the Determination Area are the following rights or interests:

- (a) the right to access, remain in and use that area;
- (b) the right to access, take and use the resources of that area for any purpose;
- (c) the right to engage in spiritual and cultural activities in that area; and
- (d) the right to maintain and protect places of significance on that area.

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

4. The native title rights and interests in order 3 do not confer possession, occupation, use and enjoyment of the Determination Area on the native title holders to the exclusion of all others.

5. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the traditional laws and customs of the native title holders; and

(b) the laws of the State and the Commonwealth, including the common law.

6. 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 Energy Resources 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))

7. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 4 (other interests).

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

8. Except as otherwise provided for by law, the relationship between the native title rights and interests described in order 3 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 described in Schedule 4 and the continued existence, enjoyment or exercise of the native title rights and interests:

(i) 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

(ii) otherwise the other interests co-exist with the native title rights and interests, and for the avoidance of 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.

Definitions and interpretation

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

Determination Area means the land and waters within the external boundary described in Part 1 of Schedule 1 and depicted on the maps at Schedule 5, but not including the Excluded Areas.

Excluded Areas means the land and waters described in Part 2 of Schedule 1 and depicted as such on the maps at Schedule 5.

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

Native Title Act means the *Native Title Act 1993* (Cth).

State means the State of Western Australia.

10. In the event of an inconsistency between the written description of areas in the Schedules and the areas depicted on the maps in Schedule 5, the written descriptions shall prevail.

REGISTER ATTACHMENTS:

1. WCD2019/012 Schedule 1 - Determination Area, 2 pages - A4, 30/10/2019

2. WCD2019/012 Schedule 3 - Non-Exclusive Native Title, 1 page - A4, 30/10/2019

3. WCD2019/012 Schedule 4 - Other Interests, 10 pages - A4, 30/10/2019

4. WCD2019/012 Schedule 5 - Maps of the Determination Area, 2 pages - A4, 30/10/2019

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.