



Yamatji Marlpa
ABORIGINAL CORPORATION

Landmark High Court decision rules native title rights not extinguished by mining leases

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Perth: The Ngarla People welcome today's High Court decision, confirming that their native title rights were not extinguished by mining leases. The landmark ruling by the Court dismissed arguments by the Western Australian Government that 50 year-old mining leases, granted over areas 150km east of Port Hedland, permanently extinguished all native title rights in that land.

The Ngarla People were advised and represented by Yamatji Marlpa Aboriginal Corporation, whose CEO Simon Hawkins applauded the Court's decision.

"The Full Federal Court had explained how these rights co-exist: native title continues but the mining rights prevail and the native title rights give way. After mining has finished, the Ngarla people can fully exercise all their native title rights through the whole area again," said Mr Hawkins. "It was very disappointing that the WA Government challenged that position. The courts had been clear all along that the native title rights did not prevent mining companies from doing anything they were lawfully allowed to do under their mineral leases. This case was about whether native title is completely wiped out by the leases or whether they can co-exist in the meantime and beyond the term of the leases. The WA Government appears to be fixed on trying to extinguish native title at every opportunity, which does not make for a collaborative relationship with Traditional Owners wanting to close the gap"

"We are uncertain as to why the WA Government asked the Court to rule that the native title must be permanently extinguished, even though this makes no difference to mining leases in that country."

The High Court dismissed the appeal and upheld the Full Federal Court's decision that, under the common law, the mining leases prevail but do not extinguish the native title rights. In doing so, the High Court rejected a 2005 Full Federal Court decision in *De Rose v South Australia (No 2)* which found that pastoral improvements like homesteads and dams extinguish native title at the location of those improvements.

Mr Hawkins said “We congratulate the Ngarla people on this landmark High Court decision and their contribution to native title nationally. Pilbara traditional owners look forward to working with all parties to reflect this decision in other native title proceedings. This provides a clear and fair basis for the negotiation and resolution of many current native title proceedings.”

About Yamatji Marlpa Aboriginal Corporation

Yamatji Marlpa Aboriginal Corporation (YMAC) is the native title representative body for native title claims in the Pilbara, Murchison and Gascoyne areas of Western Australia. The organisation has a representative area of almost one million square kilometres and represents over 20 native title claims, all with their own language, culture and traditions.

YMAC is a not-for-profit organisation, run by an Aboriginal Board and provides a range of services to its members including claim and future-act representation, heritage protection services, community and economic development and natural resource management.

For interviews please contact:

Melissa Lucioli | Communications Specialist

P 08 9268 7014 | F 08 9225 4633 | M 0458 010 483 | mlucioli@ymac.org.au