

TJIWARL PALYAKUWA SETS A NEW NATIONAL STANDARD IN NATIVE TITLE COMPENSATION SETTLEMENTS

Tjiwarl Palyakuwa will become a name to remember - for what it does for Tjiwarl people, the State of Western Australia and for those who wish to do business on Tjiwarl Country.

The Palyakuwa (agreement) which came into effect on 22 May 2023, is the first time that Native Title Act processes are being applied and adapted specifically to the relationship between a native title group and a State or Territory. While the agreement includes a sizeable cash component as compensation, it in particular strengthens the Tjiwarl peoples' rights to protect their culture, heritage and country into the future.

Central Desert Native Title Services (Central Desert) congratulates the Tjiwarl People on this outstanding achievement. Central Desert feels privileged to assist in settling three compensation claims against the State of Western Australia for the impact to culture and heritage within the land on which they hold native title.

Central Desert has been supporting the Tjiwarl People since 2008 when work commenced on their original native title claim. The relationship continued by assisting them to enhance the capacity of their prescribed body corporate, the Tjiwarl Aboriginal Corporation RNTBC, and now being by their side to negotiate this first of its kind compensation settlement.

Central Desert Principal Lawyer Malcolm O'Dell worked alongside Tjiwarl People for their original native title application, their compensation claims and the

Tjiwarl Palyakuwa. He said the result was testament to the negotiation team who changed the tide of conversations with the State, to shift the direction to settlement and avoiding litigation. The negotiation team comprised the Tjiwarl Aboriginal Corporation board and staff; negotiation lead Kado Muir; CDNTS legal team; external legal counsel; and teams of researchers and consultants.

“Essentially, Palyakuwa strengthens Tjiwarl People’s native title rights and sets a new standard for groups who are planning to embark on their own compensation settlements,” Malcolm said.

“The mindset of this agreement is the focus it places on native title holders’ specific needs and assisting balancing the power in future negotiations with third parties wishing to come onto their country.”

Malcolm said the original compensation claim was a test case due to the number of mining matters to be examined. Alongside the negotiations with the State, detailed negotiations were concurrently held with those mining companies involved in the compensation litigation. Almost all the mining parties who may have had a liability as part of the original compensation claim have now settled that liability.

In addition to parcels of land being returned to Tjiwarl where native title had previously been extinguished, the agreement provides for the creation of conservation estates. And there are further special conditions for third parties to abide by over areas of cultural importance.

“What is special about this agreement is that it uses Native Title Act provisions to promote processes that utilise the preferred Tjiwarl land access and heritage agreement. This land access agreement includes a compensation component which when signed, will remove the need to bring future compensation claims against the State or that miner,” Malcolm said.

In other firsts, through the establishment of formal Working Groups, Tjiwarl People will have consultation rights and ability to influence how water is used on

country. A planned water study is also a first, providing a benchmark on the current water usage and water health that will guide future decision making.

Tjiwarl Aboriginal Corporation Chief Executive Officer Greg Ryan-Gadsden said the Corporation was "pleased to have reached this historic outcome reached with the State Government and is a testament to the strength of the legal and research material used by the negotiation team."

"The settlement provides certainty for Tjiwarl, the State Government and Industry in how tenure, heritage, and environment is managed within the determination area, and we are hopeful it provides a foundation to guide other native title groups to reach similar outcomes." Mr Gadsden said.

"Tjiwarl Palyakuwa fundamentally cements Tjiwarl in decision making processes for all matters affecting Tjiwarl Country."

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About Tjiwarl:

Tjiwarl Country is the subject of the Tjiwarl Determination; an area covering over 13,000 square kilometres of land and waters situated roughly between Leinster and Wiluna, in the northern goldfields region of Western Australia. Tjiwarl Country includes Mount Keith, Yeelirrie, Albion Downs, Altona, Booylgoo Springs, Depot Springs, Agnew, Kaluwiri, Yakabindie and the Wanjarri Nature Reserve.

About Central Desert Native Title Services:

Central Desert Native Title Services Ltd (Central Desert) is a recognised native title service provider for the native title claimants and holders of the central desert region of Western Australia. CDNTS is funded by the National Indigenous Australians Agency (NIAA) to carry out functions under the *Native Title Act 1993* (Cth) (NTA).

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