



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: NTD6003/2003  
NNTT number: DC2003/003

**Application Name:** Wendy Roper & Ors obo the Rrumburriya Borroloola Group (Town of Borroloola) v Northern Territory of Australia

**Application Type:** Claimant

**Application filed with:** Federal Court of Australia

**Date application filed:** 24/06/2003

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**Current status:** Full Approved Determination - 27/10/2016

**Registration information:** Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

**Date claim entered on Register of Native Title Claims:** 13/02/2004

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 13/02/2004 to 8/11/2016,

**Date claim / part of claim determined:** 11/08/2016

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**Applicants:** Wendy Roper, Gordon Lansen, Phillip Timothy, Graham Friday, Mavis Timothy, on behalf of the Rrumburriya Borroloola group

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## Additional Information

On 11/08/2016, the Federal Court of Australia made a determination that native title exists in parts of the determination area - see *Rrumburriya Borroloola Claim Group v Northern Territory of Australia (No 2)* [2016] FCA 908. A copy of the determination is attached to the Register of Native Title Claims (RNTC) entry – see RNTC attachment 2. 'Determination 11 Aug 2016'. The determination of native title was entered on the National Native Title Register (NNTR) on 18/08/2016. Pursuant to s 190(4)(da) of the Native Title Act 1993 (Cth), the application will remain on the RNTC in relation to the areas in which native title has been determined to exist (refer Order 2 and Schedule C of the determination), until a Prescribed Body Corporate is nominated and registered on the NNTR. Any areas in which native title has been determined not exist (refer Order 3 and Schedule D of the determination) are removed from this RNTC entry as and from 11/08/2016. The Native Title Holders (s 225(a) – refer Orders 5 to 9 of the determination) and the Native Title Rights and Interests (s 225(b) and 225(e) – refer Orders 10 to 14) in relation to the areas where native title has been determined to exist are as described in the determination. Order 3 of the determination provides that "[a]n Aboriginal corporation whose name is to be provided within 12 months, or such further time as the Court may allow, is: (a) to be the prescribed body corporate for the purposes of s 57(2) of the Native Title Act 1993 (Cth) (the Native Title Act); (b) to perform the functions outlined in s 57(3) of the Act after becoming a registered native title body corporate." The Top End (Default PBC/CLA) Aboriginal Corporation RNTBC was determined as the Prescribed Body Corporate for this determination on 27 October 2016.

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### Persons claiming to hold native title:

1. The native title claim group is comprised by the Rrumburriya Borroloola group who, according to traditional laws acknowledged, and customs observed:

(a) are traditionally connected with the area described in schedule B ("the area claimed") through:

- spiritual, religious, physical, and historical associations;
- biological, classificatory lines of father's father, mother's father, father's mother, and mother's mother; and
- processes of succession.

(b) have a communal native title in the application area, from which rights and interests derive.

2. By definition the Rrumburriya Borroloola group are comprised by all persons descended from the 5 apical Rrumburriya ancestors identified in paragraph 3.

3. Anthropologically, the Rrumburriya Borroloola group, in relation to the area claimed, are descended from five apical Rrumburriya persons. These apical ancestors are Banjo Dinthalhi, Tim Timothy, Wardaba, Mabalwulaya and Larriya and are more particularly identified as follows:

(a) Banjo Dinthalhi (dec) is an Aboriginal person whose children include Napper Jilibi (dec), Wilo McKinnon and Dennis McKinnon. Napper Jilibi (dec)'s children include Julie Napper and Jennifer Napper. Dennis McKinnon's children include Mary Miller, Joy McKinnon, Terry McKinnon, Daniel McKinnon, Yvonne McKinnon, Katrina McKinnon and Vera McKinnon

(b) Tim Timothy (dec) is an Aboriginal person whose children include Johnson Timothy (dec), John Timothy (dec), Nero Timothy (dec), Punch Timothy (dec), Mavis Timothy and Florette Timothy (dec). Johnson Timothy (dec)'s children include Philip Timothy, Marlene Timothy, Wilton Timothy, Barbara McCarthy, Selina Timothy, Allen Charlie, Dwain Charlie and Ashley Charlie. John Timothy (dec)'s son is Liester Timothy. Nero Timothy (dec)'s son is Ivan Timothy. Punch Timothy (dec)'s children include Warren Timothy, Velma Timothy and Elaine Timothy., (c) Wardaba (dec) is an Aboriginal person whose children include Wakuwaji (dec), and whose grandchildren include Belle Ahwon, Gordon Lansen and Jackson Lansen. Gordon Lansen's children include Greg Lansen and Kathy Lansen.

(d) Mabalwulaya (dec) is an Aboriginal person whose children include Tommy Dambulyama (dec), and whose grandchildren include Willy Mundumundumara (dec), and whose great grandchildren include Wendy Kungkana Roper, James Dambulyama Roper, Wendy Diwangkuna Roper and David Jilbiljilbili Roper.

(e) Larriya (dec) is an Aboriginal person whose children include Barry Friday (dec), Ross Friday, Ruth Friday and Graham Friday.

## **Native title rights and interests claimed:**

1. The claimants are entitled, under traditional laws acknowledged and customs observed, to exercise native title rights and interests in relation to the area claimed which include as follows:

- (a) to possess, occupy, use and enjoy the area claimed to the exclusion of all others;
- (b) to speak for and to make decisions about the use and enjoyment of the area claimed;
- (c) to reside upon and otherwise to have access to and within the area claimed;
- (d) to control the access of others to the area claimed;
- (e) to use and enjoy the resources of the area claimed;
- (f) to control the use and enjoyment of others of the resources of the area claimed;
- (g) to share, exchange and/or trade resources derived on and from the area claimed;
- (h) to maintain and protect places of importance under traditional laws, customs and practices in the area claimed;
- (i) to maintain, protect, prevent the misuse of and transmit to others their cultural knowledge, customs and practices associated with the area claimed, where the traditional laws acknowledged and customs observed have a connection with the area claimed;
- (j) to determine and regulate membership of, and recruitment to, a landholding group.

2. The claimants acknowledge that:

- (a) their native title rights and interests are subject to all valid and current laws of the Commonwealth and the Northern Territory;
- (b) the exercise of their native title rights and interests might be regulated, controlled, curtailed, restricted, suspended or postponed by reason of the existence of valid concurrent rights and interests in others by or under such laws; and
- (c) their native title rights and interests might have been partially extinguished by relevant valid laws of the Commonwealth, South Australia and the Northern Territory.

3. Subject to schedule L, this application does not claim that the native title rights and interests confer:

- (a) possession, occupation, use and enjoyment to the exclusion of all others;
- (b) the right to control the access of others to the area claimed; or

in relation to any area regarding which a previous non-exclusive possession act under s23F of the NTA has been done.

4. All rights and interests listed in paragraph 1 above exist (and existed) throughout the whole of the area claimed.

5. The native title rights and interests are held communally by all of the claimants, albeit that:

- (a) the capacity of individuals to exercise these rights and interests will vary according to a variety of circumstances, for example age, gender, and physical and mental capacity;
- (b) some sub-groups or families are closely associated with specific areas of the area claimed;
- (c) by traditional laws and customs, responsibility for the area claimed is exercised by different individuals in different ways.

6. The activities referred to in schedule G are enjoyed by the claimants, and derive from their native title and are consistent with their native title rights and interests.

**Application Area:** **State/Territory:** Northern Territory  
**Brief Location:** Town of Borroloola, east NT.  
**Primary RATSIB Area:** Northern Northern Territory  
**Approximate size:** 11.3041 sq km  
(Note: There may be areas within the external boundary of the application that are not claimed.)  
**Does Area Include Sea:** No

**Area covered by the claim (as detailed in the application):**

(a) The Area Covered by the Application

1. The land and waters subject to this application are in the Town of Borroloola in the Northern Territory. The area claimed is all land and waters located within the boundary of the Town of Borroloola (excluding those areas noted in paragraph (b) below) as symbolised on the map referred to in Schedule C. For convenience the map is hatched.

(b) Any Areas Within Those Boundaries That Are Not Covered By The Application

2. Subject to Schedule L of this application, any area in relation to which:

(a) a previous exclusive possession act under s23B of the NTA has been done; or

(b) native title has otherwise wholly been extinguished; is excluded from this application.

3. Any area subject to the application for determination of native title filed in the Federal Court of Australia on behalf of the Rrumburriya People and known as Lot 825 and Lot 826 Town of Borroloola, Federal Court No.: D6014 of 2000 is excluded from this application.

4. Any area subject to the application for determination of native title filed in the Federal Court of Australia on behalf of Rrumburriya Borroloola group and known as Lot 828 Town of Borroloola, Federal Court No.: D6047 of 2001 is excluded from this application.

**Attachments:** 1. Map of claim area, Attachment A of the Application, 1 page - A3, 24/06/2003

**NNTT Contact Details**

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End of Extract