



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD91/1998
NNTT Number: WCD2001/003

Determination Name: [Rubibi Community v State of Western Australia & Ors](#)

Date(s) of Effect: 07/11/2001

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 07/11/2001

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Kunin (Native Title) Aboriginal Corporation RNTBC
Trustee Body Corporate
PO Box 1375
BROOME WA 6725

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:

The common law holders of native title, comprising the Yawuru Community, are the descendants of Nyobing Babere, Chimbere Sitocay, Aloysious Louis Dolby, Jack and Pollyanna Mangain, Lija (wife of Phillip O'Brien Taylor), Nyilandin, Joseph Mary, Paddy Djiagween, Lucy Marcella Roe, Mary Minyal, Cecilia Ngangon, Nygingula, Annie Mawunga, Milangka, Lena Charlie, Lisa Lija (daughter of Bornal and Gurdan), Minybal Esther Edro, Philomena Carter, Aubrey Kelly Edar, John Two Fingers, Mary Budjinka, Yungula (first wife of George Harriot Roe), Yungula (second wife of George Harriot Roe), Tommy Roe Guminy, Dorothy Kelly, Lydia Kanagai, Solong Archill, Jiriny, Dockan Harry Minybal, Maggie Kangaroo (Kangode/Kanado), Lucy Wararr and Philomena Polly Vincent (nee Pedro).

MATTERS DETERMINED:

THE COURT DECLARES THAT:

1. (i) The Determination Area is Reserve 30906, being Location No 79 on Diagram 74811, Plan Broome Regional, in the West Kimberley Region of the State of Western Australia.

(ii) The native title rights and interests set out in paragraph 3 exist in the Determination Area.

2. The native title is held by the Yawuru Community, namely those persons set out in the Second Schedule, as common law holders of native title.

3. Subject to paragraphs 4, 5, 6 and 7 the nature and extent of the native title rights and interests in the Determination Area are:

(a) rights and interests to possess, occupy, use and enjoy the Determination Area for ceremonial purposes;

(b) the right to make decisions about the use and enjoyment of the Determination Area;

(c) the right to conduct ceremonies on the Determination Area, in accordance with traditional law and customs;

(d) the right of access to the Determination Area for ceremonial purposes;

(e) the right to control the access of others to the Determination Area;

(f) the right to use and enjoy the resources of the Determination Area for ceremonial purposes;

(g) the right to control the access of others to the Determination Area, including the right to prohibit or prevent any residential or other use of the claim area that is inconsistent with its use as a sacred ceremonial area under traditional laws and customs;

(h) the right to control the use and enjoyment of others of the resources of the Determination Area;

(i) the right to hunt and gather for ceremonial purposes;

(j) the right to manufacture ceremonial artefacts, tools and weapons from the resources of the Determination Area for ceremonial purposes;

(k) the right to maintain and protect the Determination Area as a sacred ceremonial area under traditional laws and customs.

The native title rights and interests referred to in this paragraph confer upon the Yawuru Community possession, occupation, use and enjoyment of the Determination Area to the exclusion of all others for the purposes set out.

4. To the extent that any minerals, petroleum or gas within the Determination Area are wholly owned by the Crown in the right of the Commonwealth or the State of Western Australia, they are not part of the native title rights and interests held by the Yawuru community.

5. The nature and extent of other interests in relation to the Determination Area are those set out in the First Schedule.

6. The relationship between the native title rights and interests recognised by this Determination and the other interests referred to in paragraphs 4 and 5 ("the other rights and interests") is that:

(i) to the extent that the other rights and interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, the native title rights and interests continue to exist, but have no effect in relation to the other rights and interests to the extent of the inconsistency for so long as the other rights and interests exist; and

(ii) to avoid doubt, the existence and exercise of the native title rights and interests do not prevent the doing of the activity required or permitted to be done by or under the other rights and interests; and the other rights and interests, and the doing of any activity required or permitted to be done by or under the other rights and interests, prevails over the native title rights and interest and any exercise of the native title rights and interests, but does not extinguish them.

7. The native title rights and interests are subject to and exercisable in accordance with the laws of the State and the Commonwealth, including the common law.

8. The structures described in [12] of the reasons for judgment in *Rubibi Community & Anor v The State of Western Australia & Ors* [2001] FCA 607 as "the Leregon structures" are unauthorised structures as defined in s 270(1) of the Land Administration Act 1997 (WA).

AND THE COURT ORDERS THAT:

9. Within three months of the date these orders are made the first applicants are to indicate whether the Yawuru Community intends to have the native title rights and interests held in trust and, if so, the first applicants are to nominate in writing to the Federal Court a prescribed body corporate to be trustee of the native title rights and interests, forwarding the written consent of the body corporate with the nomination.

[On 16 December 2002, the Court ordered that 'the time for compliance with Order 9 made by the Court on 7 November 2001 be extended a further three months until 7 March 2003 to allow the incorporation of a proposed prescribed body corporate to be finalised.']

10. Subject to any order to the contrary by the Court, if a prescribed body corporate is nominated in accordance with Order 9, it is to hold the native title rights in trust for the Yawuru Community.

11. In the event that a prescribed body corporate is not nominated in accordance with Order 9, the native title rights and interests are to be held by the Yawuru Community and the matter is to be relisted by the Registrar for the purpose of the Court considering whether to make orders in accordance with s 57(2)(c) of the Native Title Act 1993 (Cth).

12. The claim by the second applicant for a determination of native title in the Determination Area is dismissed.

13. Reserve liberty to apply.

FIRST SCHEDULE

The nature and extent of any other interests in the Determination Area are as follows:

The interest of the Aboriginal Lands Trust in the control and management of Reserve 30906 pursuant to the Aboriginal Affairs Planning Authority Act 1972.

SECOND SCHEDULE

The common law holders of native title, comprising the Yawuru Community, are the descendants of Nyobing Babere, Chimbere Sitocay, Aloysious Louis Dolby, Jack and Pollyanna Mangain, Lija (wife of Phillip O'Brien Taylor), Nyilandin, Joseph Mary, Paddy Djiagween, Lucy Marcella Roe, Mary Minyal, Cecilia Ngangon, Nygingula, Annie Mawunga, Milangka, Lena Charlie, Lisa Lija (daughter of Bornal and Gurdan), Minybal Esther Edro, Philomena Carter, Aubrey Kelly Edar, John Two Fingers, Mary Budjinka, Yungula (first wife of George Harriot Roe), Yungula (second wife of George Harriot Roe), Tommy Roe Guminy, Dorothy Kelly, Lydia Kanagai, Solong Archill, Jiriny, Dockan Harry Minybal, Maggie Kangaroo (Kangode/Kanado), Lucy Wararr and Philomena Polly Vincent (nee Pedro).

Note: Settlement and entry of orders is dealt with in Order 36 of the Federal Court Rules.

REGISTER ATTACHMENTS:

1. Attachment A- Map of Determined Area. , 1 page - A4, 29/05/2002

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.