



## Extract from the National Native Title Register

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### Determination Information:

**Determination Reference:** Federal Court Number(s): WAD6077/1998  
NNTT Number: WCD2012/005

**Determination Name:** [Kogolo v State of Western Australia \(No 3\)](#)

**Date(s) of Effect:** 27/11/2012

**Determination Outcome:** Native title exists in parts of the determination area

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

**Determination Date:** 27/11/2012

**Determining Body:** Federal Court of Australia

#### ADDITIONAL INFORMATION:

Not Applicable

#### REGISTERED NATIVE TITLE BODY CORPORATE:

Yanunijarra Aboriginal Corporation RNTBC  
Trustee Body Corporate  
c/o Kimberley Land Council  
P.O. Box 2145  
Broome Western Australia 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](http://www.oric.gov.au)*

#### COMMON LAW HOLDER(S) OF NATIVE TITLE:

3. The native title in Determination Area "B" is held communally by the Ngurrara People. The Ngurrara People are the people referred to in Sch Three.

#### SCHEDULE THREE - DESCRIPTION OF THE NATIVE TITLE HOLDERS

Ngurrara People (referred to in para 3) are those Aboriginal people who:

(a) are the biological descendants of Charcoal Waluparlka, Marjorie Baldwin-Jones, Barney Barnes, Maggie Wipula, Possum Waja, Hairpin Marna, Milimili, Tiepin Forrest, Kinki, Pingana, Jutaji, Yurrijarti, Lirra, Yanparr, Wangala, Ngarpitangky, Jiminalajarti, Nyinyingka, Wamukarrajarti, Pinijarti, Wintiki, Witikirriny, Jack Pindan, Charlie Wirramin, Maramimi, Pulyukupulyuky, Bidy Tipultipul, Parrangali, Jiyapa, Warrapan, Jinaparralyaparralya, Kilankara, Jimmy Milmilinpiri, Shovel, Piluwulu, Yalyayi, Tampitampi, Wamakulangu, Kurumanyu, Kunyu, Paju, Tommy Kampuranti, Waji Karpipal, Jukajuka, Nujnuj, Kipi, Papilparri, Ulayi, Mimi, Marra, Kakartuku, Kinkarrajarti, Kurtinyja, Yita, Pampi, Jimmy Cherrabun, Parnayi, Puri, Kurukuru, Maramara, Kungayi, Napiya, Pukurli, Yijayi, Jijuru, Jarraly, Walkarr, Jarralyi, Nyinganyiga, Karljuwal, Yungkurla, Jinakurri, Kakural, Mitanga, Upapatirri, Nyapita, Wayanjarri, Yurungu, Purngurrkarrajiti, Milal, Warmala, Kujiman, Jalal, Manjankarri, Liramilin, Jarlanyja, Yanji, Kumparrngarla, Wangkarrkura, Mukula, Nyintakura, Paralirl, Kulurr, Pika, Kingkarraji, Ngaramgarapungu, Ngartaya, Wawajati, Hector McClarty, Kakaji, Jack Butt, Janyi, Jimmy Kuku, Nat Beadell, Peter Francis and Roger Rakartu; or

(b) are acknowledged by the native title holders who are descendants of the apical ancestors listed in (a) above as having rights and interests in the Determination Area through a direct relationship by birth/finding and growing up in places ("ngurrara") within the Determination Area.

For the avoidance of doubt, it is noted that those persons who are native title holders as defined above have the right to pass on and inherit the native title rights and interests set out in para 4 of this Determination in accordance with traditional law and custom.

#### **MATTERS DETERMINED:**

BEING SATISFIED that a determination in the terms set out in Attachment A would be within the power of the Court, and it appearing to the Court appropriate to do so, pursuant to ss 87 and 94A of the Native Title Act

#### **THE COURT ORDERS THAT:**

1. There be a determination of native title in WAD 6077 of 1998 in terms of the Determination as provided for in Attachment A hereof.
2. The Yanunijarra Aboriginal Corporation RNTBC shall hold the determined native title in trust for the native title holders pursuant to s 56(2)(b) of the Native Title Act.

#### **ATTACHMENT A DETERMINATION**

#### **THE COURT ORDERS, DECLARES AND DETERMINES THAT:**

##### **EXISTENCE OF NATIVE TITLE (s 225 NATIVE TITLE ACT)**

1. Determination Area "B" is the land and waters described in Sch One and depicted on the map comprising Sch Two.
2. Native title exists in Determination Area "B".

##### **NATIVE TITLE HOLDERS (s 225(a) NATIVE TITLE ACT)**

3. The native title in Determination Area "B" is held communally by the Ngurrara People. The Ngurrara People are the people referred to in Sch Three.

THE NATURE AND EXTENT OF NATIVE TITLE RIGHTS AND INTERESTS (s 225(b) NATIVE TITLE ACT) AND EXCLUSIVENESS OF NATIVE TITLE (s 225(e) NATIVE TITLE ACT)

EXCLUSIVE NATIVE TITLE RIGHTS AND INTERESTS

4. Subject to paras [5], [6] and [7] the nature and extent of the native title rights and interests in relation to Determination Area "B" are:

(a) except in relation to flowing and subterranean waters, an entitlement as against the whole world to possession, occupation, use and enjoyment of the land and waters of that part to the exclusion of all others; and

(b) in relation to flowing and subterranean waters, the right to use and enjoy the flowing and subterranean waters, including:

(i) the right to hunt on and gather and fish from the flowing and subterranean waters for personal, domestic or non-commercial communal needs; and

(ii) the right to take and use the flowing and subterranean waters for personal, domestic or non-commercial communal needs.

5. For the avoidance of doubt, the native title rights referred to in para 4 include the right to make decisions about the manner of exercise of those rights and interests in relation to the land and waters (and activities pursuant to them) by the Native Title Holders.

6. The native title rights and interests referred to in para 4(b) do not confer possession, occupation, use and enjoyment on the Native Title Holders to the exclusion of all others.

7. Notwithstanding anything in this Determination the native title rights and interests include the right to take and use ochre to the extent that ochre is not a mineral pursuant to the Mining Act 1904 (WA), but do not include other minerals, petroleum and geothermal energy resources as defined in the Mining Act 1904 (WA), the Mining Act 1978 (WA) as in force at the date of this determination, the Petroleum Act 1936 (WA) and the Petroleum and Geothermal Energy Resources Act 1967 (WA) as in force at the date of this determination.

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

(a) the laws of the State and the Commonwealth, including the common law; and

(b) the traditional laws and customs of the Native Title Holders for personal, domestic and communal purposes (including social, cultural, religious, spiritual and ceremonial purposes) but not for commercial purposes.

AREAS TO WHICH s 47B OF THE NATIVE TITLE ACT APPLY

9. Section 47B of the Native Title Act applies to disregard any prior extinguishment in relation to the areas described in Sch Five.

#### THE NATURE AND EXTENT OF ANY OTHER INTERESTS

10. The nature and extent of other rights and interests in relation to Determination Area "B" are those set out in Sch Four.

#### RELATIONSHIP BETWEEN NATIVE TITLE RIGHTS AND OTHER INTERESTS

11. The relationship between the native title rights and interests described in para 4 and the other rights and interests referred to in para 9 is that:

(a) to the extent that any of 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 in their entirety, but the native title rights and interests have no effect in relation to the other rights and interests to the extent of the inconsistency during the currency of the other rights and interests; and otherwise,

(b) the existence and exercise of the native title rights and interests do not prevent the doing of any 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, prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them.

#### DEFINITIONS AND INTERPRETATION

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

"Determination Area "B"" means the land and waters described in Sch One and depicted on the maps at Sch Two;

"flowing and subterranean waters" means the following water within the Determination Area:

(a) water which flows, whether permanently, intermittently or occasionally, within any river, creek, stream or brook; and

(b) any natural collection of water into, through, or out of which a river, creek, stream or brook flows; and

(c) water from and including an underground water source, including water that percolates from the ground

"land" has the same meaning as in the Native Title Act, and includes those parts of islands which are above the high

water mark;

"Native Title Act" means the Native Title Act 1993 (Cth);

"Native Title Holders" means the persons described in para 3;

"waters" has the same meaning as in the Native Title Act; and includes flowing and subterranean water;

13. In the event of any inconsistency between the written description of an area in Sch One and the area as depicted on the map at Sch Two, the written description prevails.

#### SCHEDULE ONE - DETERMINATION AREA "B"

Determination Area "B", generally shown as bordered in blue on the map at Sch Two, comprises all that land and waters bounded by the following description:

All those lands and waters commencing at Latitude 20.120804 South, Longitude 126.575443 East and extending generally northeasterly, generally northwesterly, easterly, generally southeasterly, generally southwesterly and generally westerly through the following co-ordinate positions:

LATITUDE (SOUTH)	LONGITUDE (EAST)
20.119284	126.575499
20.111637	126.577581
20.103891	126.581707
20.095572	126.584729
20.087327	126.583660
20.078043	126.580835
20.063609	126.576006
20.049451	126.569971
20.036077	126.563318
20.023751	126.555289
20.006761	126.536636
19.993329	126.520645
19.987100	126.511128
19.979614	126.498953
19.973703	126.489573

19.967373	126.479350
19.960670	126.470907
19.943191	126.449555
19.936807	126.441249
19.924406	126.424456
19.918183	126.414747
19.903520	126.399424
19.890831	126.391384
19.863802	126.378448
19.863549	126.477650
19.885058	126.498405
19.895538	126.513160
19.903752	126.523885
19.910649	126.532590
19.917192	126.542435
19.923371	126.550863
19.930084	126.558987
19.935336	126.567388
19.943130	126.580084
19.952617	126.591421
19.958317	126.596829
19.966364	126.604864
19.980448	126.617804
19.989842	126.623895
20.005024	126.632262
20.019113	126.640726
20.033383	126.647085
20.042861	126.651642
20.068712	126.656672
20.081937	126.657181
20.093834	126.657524
20.104139	126.655646
20.113253	126.653094
20.118686	126.650820
20.122745	126.649631

20.121225	126.643011
20.118139	126.626959
20.116854	126.611501
20.117987	126.599605
20.118428	126.588946

Then southwesterly back to the commencement point.

**NOTE:**

Cadastral boundaries sourced from LANDGATE SCDB Apr 2006

**DATUM:**

Geocentric Datum of Australia (GDA94)

**PREPARED BY:**

Native Title Spatial Services, LANDGATE, 25/09/2007

**USE OF CO-ORDINATES:**

Where co-ordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

**SCHEDULE TWO - MAP DETERMINATION AREA "B"**

[See NNTR Attachment 1: "Schedule Two - Map Determination Area "B"]

**SCHEDULE THREE - DESCRIPTION OF THE NATIVE TITLE HOLDERS**

Ngurrara People (referred to in para 3) are those Aboriginal people who:

(a) are the biological descendants of Charcoal Waluparlka, Marjorie Baldwin-Jones, Barney Barnes, Maggie Wipula, Possum Waja, Hairpin Marna, Milimili, Tiepin Forrest, Kinki, Pingana, Jutaji, Yurrijarti, Lirra, Yanparr, Wangala, Ngarpitangky, Jiminalajarti, Nyinyingka, Wamukarrajarti, Pinijarti, Wintiki, Witikiriny, Jack Pindan, Charlie Wirramin, Maramimi, Pulyukupulyuky, Bidy Tipultipul, Parrangali, Jiyapa, Warrapan, Jinaparralyaparralya, Kilankara, Jimmy Milmilinpiri, Shovel, Piluwulu, Yalyayi, Tampitampi, Wamakulangu, Kurumanyu, Kunyu, Paju, Tommy Kampuranti, Waji Karpipal, Jukajuka, Nujnuj, Kipi, Papilparri, Ulayi, Mimi, Marra, Kakartuku, Kinkarrajarti, Kurtinyja, Yita, Pampi, Jimmy Cherrabun, Parnayi, Puri, Kurukuru, Maramara, Kungayi, Napiya, Pukurli, Yijayi, Jijuru, Jarraly, Walkarr, Jarralyi, Nyinyanyiga, Karljuwal, Yungkurla, Jinakurrji, Kakural, Mitanga, Upapatirri, Nyapita, Wayanjarri, Yurungu, Purngurrkarrajiti, Milal, Warrmala, Kujiman, Jalal, Manjankarri, Liramilin, Jarlanyja, Yanji, Kumparrngarla, Wangkarrkura, Mukula, Nyintakura, Paralirl, Kulurr, Pika, Kingkarraji, Ngaramgarapungu, Ngartaya, Wawajati, Hector McClarty, Kakaji, Jack Butt, Janyi, Jimmy Kuku, Nat Beadell, Peter Francis and Roger Rakartu; or

(b) are acknowledged by the native title holders who are descendants of the apical ancestors listed in (a) above as having rights and interests in the Determination Area through a direct relationship by birth/finding and growing up in places ("ngurrara") within the Determination Area.

For the avoidance of doubt, it is noted that those persons who are native title holders as defined above have the right to pass on and inherit the native title rights and interests set out in para 4 of this Determination in accordance with traditional law and custom.

#### SCHEDULE FOUR - OTHER INTERESTS

##### 1. EXISTING PETROLEUM INTERESTS UNDER THE PETROLEUM AND GEOTHERMAL ENERGY RESOURCES ACT 1967 (WA)

Tenement ID	Holder	Date of Initial Grant
Petroleum	New Standard Onshore	22 February 2000.
Exploration Permit 417 R1 (EP 417 R1)	Pty Ltd and Buru Energy Ltd	Title renewed on 17 September 2010.

##### 2. OTHER RIGHTS AND INTERESTS

(a) Rights and interests, including licences and permits, granted by the Crown in right of the Commonwealth or the State pursuant to statute or otherwise in the exercise of its executive power;

(b) Rights or interests held by reason of the force and operation of the laws of the State or of the Commonwealth including the force and operation of the Rights in Water and Irrigation Act 1914 (WA);

(c) The right to access land by:

- (i) an employee or agent or instrumentality of the State;
- (ii) an employee or agent or instrumentality of the Commonwealth;
- (iii) an employee or agent or instrumentality of any local Government authority;

as required in the performance of his or her statutory or common law duties where such access would be permitted to private land.

(d) Rights of any person to access and enjoy (subject to the laws of the State):

(i) any roads within Determination Area "B" existing as at the date of this determination where members of the public have access to such roads according to the common law;

(e)

(i) Without limiting the operation of any other paragraph in the Fifth Schedule, but subject to para (e)(ii), rights of the holders from time to time of petroleum interests under the Petroleum Act 1967 (WA) to use (including by servants, agents and contractors) the roads and tracks in Determination Area "B" existing as at the date of this determination, in order to have access to such petroleum interests.

(ii) Nothing in para (e)(i) above allows any upgrade, extension, widening or other improvement to the road or track



other than work done to maintain such road or track in reasonable repair.

(f) So far as confirmed pursuant to s 14 of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) as at the date of this determination, any existing public access to and enjoyment of:

(i) waterways; or

(ii) the beds and banks or foreshores of waterways; or

(iii) stock routes.

#### SCHEDULE FIVE - AREA TO WHICH SECTION 47B OF THE NATIVE TITLE ACT 1993 (CTH) APPLIES

#### AREA TO WHICH SECTION 47B APPLIES

That area of unallocated Crown land formerly subject to Reserve 22401 being the entirety of Determination Area B

#### **REGISTER ATTACHMENTS:**

1. Schedule 2 - Map Determination Area B , 1 page - A4, 27/11/2012

*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.*