



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD610/2017
NNTT Number: WCD2018/016

Determination Name: [Street on behalf of the Giniyawarni Yoowaniya Riwi Native Title Claim Group v State of Western Australia](#)

Date(s) of Effect: 28/01/2020

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

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

Determination Date: 17/12/2018

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Giniyawarni Yoowaniya Riwi Aboriginal Corporation
Trustee Body Corporate
11 Gregory Street
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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

Native title holders (s 225(a) *Native Title Act*)

3. The native title in the Determination Area is held by the people identified in Schedule 6 (**Native Title Holders**).

SCHEDULE 6

DESCRIPTION OF THE NATIVE TITLE HOLDERS (paragraph 3)

1. The Native Title Holders are those Aboriginal people who:

(a) are descended from one or more of the people listed in paragraph [2] of this Schedule;

or

(b) are recognised by the descendants of the people listed in paragraph [2] of this Schedule as having traditional rights and interests in the Determination Area under traditional law and custom.

2. The people referred to in paragraph [1] of this Schedule are:

1. Moogoo / Maudie
2. Galu / Polly
3. Lena
4. Mala
5. Milba / Melba
6. Jalgumbirri
7. Wadgimili / Sandy Smith
8. Marmanda / Jeanie
9. Sam Marbin
10. Binji Marbin
11. Nyiril
12. Tom DamiDami
13. Mary Minya
14. Maggie Durlmariya
15. Nyugurl / Tilly
16. Tilly / Maliyambi
17. Tim / Minany
18. Jack Saddler / Guranda
19. Walbalbiya
20. Dindanyil
21. Gurliny
22. Diyim
23. Ngiliyayiny
24. Yamulukin
25. Mirrowinja
26. Barney Walarroo
27. Jilgi
28. Laidjai / Annie / Miringali
29. Jack Widmeri
30. Ningali

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. In relation to the Determination Area, there be a determination of native title in WAD 610 of 2017 in terms of the Determination as provided for in Attachment A.
2. The Determination is to take effect immediately upon the making of a determination under s 56(1) or s 57(2) of the *Native Title Act 1993* (Cth) as the case may be.
3. Within 12 months of the date upon which these orders are made, a representative of the common law holders of the native title rights and interests shall indicate whether they intend to have the native title rights and interests held in trust or by an agent. They are invited to do so by:
 - (a) nominating in writing to the Federal Court a prescribed body corporate to be trustee or agent of the native title rights and interests; and
 - (b) including within the nomination the written consent of the body corporate.
4. If a prescribed body corporate is nominated in accordance with order 3, it will hold the native title rights and interests described in order 1 in trust or as agent (as the case may be), for the common law holders of the native title rights and interests.
5. In the event that there is no nomination within the time specified in order 3, or such later time as the Court may order, the matter is to be listed for further directions.

ATTACHMENT A

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s 225 *Native Title Act*)

1. Native title rights and interests exist in those parts of the Determination Area identified in Schedules 3 and 4 in the manner set out at paragraphs 4 and 5 respectively.
2. Native title does not exist in those parts of the Determination Area identified in Schedule 5.

Native title holders (s 225(a) *Native Title Act*)

3. The native title in the Determination Area is held by the people identified in Schedule 6 (Native Title Holders).

Nature and extent of native title (s 225(b) and s 225(e) *Native Title Act*)

Exclusive native title rights and interests

4. Subject to paragraphs 7, 8, 9 and 10 the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Schedule 3 (being areas where any extinguishment must be disregarded) is the right to possession, occupation, use and enjoyment of that part as against the whole world.

Non-exclusive native title rights and interests

5. Subject to paragraphs 6, 7, 8, 9 and 10 the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Schedule 4 (being areas where there has been partial extinguishment of native title and where any extinguishment is not required to be disregarded) are the following:

(a) the right to have access to, remain in and use that part. For the avoidance of doubt, some of the ways in which that right may be exercised include but are not limited to the following activities:

- (i) to access and move freely through and within that part;
- (ii) to live, being to enter and remain on, camp and erect temporary shelters and other structures for those purposes on that part;
- (iii) to light controlled contained fires but not for the clearance of vegetation;
- (iv) to engage in cultural activities in that part, including the transmission of cultural heritage knowledge; and
- (v) to hold meetings in that part;

(b) the right to access and take for any purpose the resources on that part. For the avoidance of doubt, one of the ways in which that right may be exercised includes but is not limited to the following activity:

(i) to access and take water other than water which is lawfully captured or controlled by the holders of pastoral leases;

(c) the right to protect places, areas and objects of traditional significance on that part. For the avoidance of doubt, some of the ways in which that right may be exercised include but are not limited to the following activities:

(i) to conduct and participate in ceremonies in that part;

(ii) to conduct burials and burial rites and other ceremonies in relation to death in that part; and

(iii) to visit, maintain and protect from physical harm, areas, places and sites of importance in that part; and

(d) the right to be accompanied onto the Determination Area by any persons who, though not Native Title Holders pursuant to paragraph 3, the Native Title Holders may invite pursuant to traditional law and custom, being:

(i) spouses or partners of the Native Title Holders; and

(ii) persons who may assist with the performance of ceremonies or cultural activities, including sharing of knowledge about country.

6. The native title rights and interests referred to in paragraph 5 do not confer:

(a) possession, occupation, use and enjoyment of those parts of the Determination Area on the Native Title Holders to the exclusion of all others; nor

(b) a right to control the access of others to the land or waters of those parts of the Determination Area.

7. Notwithstanding anything in this Determination there are no native title rights and interests in the Determination Area in or in relation to:

(a) minerals as defined in the *Mining Act 1904 (WA)* (repealed) and the *Mining Act 1978 (WA)*; or

(b) petroleum as defined in the *Petroleum Act 1936 (WA)* (repealed) and the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*; or

(c) water lawfully captured or controlled by the holders of Other Interests,

except the right to take and use ochre to the extent that ochre is not a mineral pursuant to the *Mining Act 1904 (WA)*.

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

(a) the traditional laws and customs of the Native Title Holders; and

(b) the laws of the State and the Commonwealth, including the common law.

9. The native title rights and interests are subject to the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*.

10. For the avoidance of doubt, the native title rights and interests set out in paragraphs 4 and 5 do not confer exclusive rights in relation to water in any watercourse, wetland or underground water source as defined in the *Rights in Water and Irrigation Act 1914 (WA)* as at the date of this Determination.

Areas where extinguishment is disregarded (s 47B Native Title Act)

11. Section 47B of the *Native Title Act* applies to disregard any prior extinguishment in relation to each of the areas described in Schedule 7.

The nature and extent of any Other Interests (s 225(c) Native Title Act)

12. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 8.

Relationship between native title rights and Other Interests (s 225(d) Native Title Act)

13. The relationship between the native title rights and interests described in paragraphs 4 and 5 and the Other Interests is as follows:

- (a) the Other Interests co-exist with the native title rights and interests;
- (b) this Determination does not affect the validity of those Other Interests; and
- (c) to the extent of any inconsistency, the native title rights and interests yield to the Other Interests and the existence and exercise of native title rights and interests cannot prevent activities permitted under the Other Interests.

Definitions and interpretation

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

'Determination Area' means the land and waters described in Schedule 1 and depicted on the map at Schedule 2;

'land' and **'waters'** respectively have the same meanings as in the *Native Title Act*;

'Native Title Act' means the *Native Title Act 1993* (Cth);

'Other Interests' means the legal or equitable estates or interests and other rights in relation to the Determination Area described in Schedule 8 and referred to in paragraph 12; and

'State' means the State of Western Australia.

15. In the event of any inconsistency between the written description of an area in Schedule 1 or Schedules 3 to 5 and the area as depicted on the map at Schedule 2, the written description prevails.

REGISTER ATTACHMENTS:

1. WCD2018/016 Schedule 1 - Determination Area, 2 pages - A4, 17/12/2018
2. WCD2018/016 Schedule 2 - Map Of The Determination Area, 1 page - A4, 17/12/2018
3. WCD2018/016 Schedule 3 - Exclusive Native Title Areas, 1 page - A4, 17/12/2018
4. WCD2018/016 Schedule 4 - Non-Exclusive Native Title Areas, 1 page - A4, 17/12/2018
5. WCD2018/016 Schedule 5 - Areas Where Native Title Does Not Exist, 1 page - A4, 17/12/2018
6. WCD2018/016 Schedule 7 - Areas To Which Section 47B Of The Native Title Act Applies, 1 page - A4, 17/12/2018
7. WCD2018/016 Schedule 8 - Other Interests, 2 pages - A4, 17/12/2018

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.