



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD466/2018
NNTT Number: WCD2019/007

Determination Name: [Davey on behalf of the Mayala #2 Native Title Claim Group v State of Western Australia](#)

Date(s) of Effect: 25/07/2019

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: 25/07/2019

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Mayala Inninalang Aboriginal Corporation
Trustee Body Corporate
PO Box 2145
Broome Western Australia 6275

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 Native Title Holders.

NATIVE TITLE HOLDERS

(1) The Native Title Holders are those Aboriginal persons who are the descendants (including such people descended by adoption as are recognised and accepted in accordance with traditional law and custom) of the following persons:

- (a) Kudumili
- (b) Galawa

(c) Ngalgarrgard

(c) Jabadayim, including Jabadayim's adopted son Jacob Sesar; and

(e) Ulgirr/Oolgir

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. In relation to the Determination Area, as defined in attachment A, there be a determination of native title in the terms provided for in Attachment A.

2. The Mayala Inninalang Aboriginal Corporation ICN 9067 hold the determined native title in trust for the native title holders pursuant to section 56(2)(b) of the *Native Title Act 1993* (Cth).

ATTACHMENT A

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title: s 225 Native Title Act

1. Subject to paragraph 2, native title exists in the Determination Area in the manner set out in paragraph 4 of this determination.

2. Native title does not exist in those parts of the Determination Area that are identified in Schedule Three.

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

3. The native title in the Determination Area is held by the Native Title Holders.

The nature and extent of native title rights and interests: ss 225(b) and 225(e) Native Title Act

4. Subject to paragraphs 5, 6 and 7 the nature and extent of the native title rights and interests is the right to possession, occupation, use and enjoyment as against the whole world.

Qualifications on the native title rights and interests

5. 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.

6. 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 in the *Mining Act 1978* (WA), except to the extent that ochre is not a mineral pursuant to the *Mining Act 1904*;

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

(c) water lawfully captured by the holders of the Other Interests.

7. For the avoidance of doubt, the native title rights and interests set out in paragraph 4 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.

Application of section 47B of the Native Title Act

8. Section 47B of the Native Title Act applies to disregard any prior extinguishment in relation to the areas described in Schedule Four.

The nature and extent of any Other Interests

9. The nature and extent of the Other Interests are described in Schedule Five.

Relationship between native title rights and Other Interests

10. The relationship between the native title rights and interests described in paragraph 4 and the Other Interests is that:

(a) the determination does not affect the validity of those Other Interests;

(b) to the extent of any inconsistency between the Other Interests and 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 Interests to the extent of the inconsistency during the currency of the Other Interests; and

(c) otherwise, the Other Interests co-exist with the native title rights and interests. To avoid doubt, the existence and exercise of native title rights and interests do not prevent the doing of any activity required or permitted to be done by or under the Other Interests, and the doing of an activity required or permitted under those Other Interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

Definitions and Interpretation

11. In this determination, unless the contrary intention appears:

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

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

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

"**Native Title Holders**" means the people described in Schedule Six and referred to in paragraph 3;

"**Other Interests**" means the legal or equitable estates or interests and other rights in relation to the Determination Area described in Schedule Five and referred to in paragraph 9; and

"**Titles Validation Act**" means the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA).

12. In the event of any inconsistency between the written description of an area in Schedules One, Three, Four or Five and the area as depicted on the map at Schedule Two the written description prevails.

REGISTER ATTACHMENTS:

1. WCD2019/007 Schedule One - Determination Area, 2 pages - A4, 25/07/2019
2. WCD2019/007 Schedule Two - Maps of the Determination Area, 2 pages - A4, 25/07/2019
3. WCD2019/007 Schedule Three – Areas Where Native Title Does Not Exist (Paragraph 2), 1 page - A4, 25/07/2019
4. WCD2019/007 Schedule Four – Areas To Which Section 47B Native Title Act Applies (Paragraph 8), 1 page - A4, 25/07/2019
5. WCD2019/007 Schedule Five - Other Interests, 2 pages - A4, 25/07/2019

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.