



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): WAD569/2019  
NNTT Number: WCD2020/005

**Determination Name:** [Farrer on behalf of the Ngarrawanji Native Title Claim Group v State of Western Australia](#)

**Date(s) of Effect:** 28/04/2022

**Determination Outcome:** Native title exists in the entire determination area

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

**Determination Date:** 08/07/2020

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

In accordance with orders made by the Federal Court of Australia on 10 December 2021, on 28 April 2022 the Ngarrawanji People nominated the Ngarrawanji Aboriginal Corporation as the prescribed body corporate for the Ngarrawanji common law holders. The determination therefore came into effect on 28 April 2022.

### REGISTERED NATIVE TITLE BODY CORPORATE:

Ngarrawanji Aboriginal Corporation  
Agent Body Corporate  
PO 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:

#### Native title holders (s225(a))

3. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 4.

### SCHEDULE 4

#### DESCRIPTION OF THE NATIVE TITLE HOLDERS

1. The native title holders are those Aboriginal people who:

(a) are related through filiation (including by adoption) to one of the Apical Ancestors who held rights and interest in one of the local estate countries comprising the **Determination Area**; or

(b) are affiliated to an Ngarrawanji Apical Ancestor and who have spirit conception and/or birth sites in one of the local estate countries in the Determination Area; or

(c) are recognised by the persons described above as:

(i) holding rights and responsibilities for certain songs and ceremonies which make reference to important sites in the Determination Area; or

(ii) holding rights and interests in one of the local estate countries in the Determination Area under traditional law and custom.

2. The **Ngarrawanji Apical Ancestors** are:

1. Djulbir / Dzulbir
2. Jurrji
3. Linmarji
4. Madangal (wife of Wolameri)
5. Ngilyayiny / Nyilyang
6. Ngowanderin
7. Nigan and Kalkburreny
8. Nirbrarir / Nirbarr
9. Rosie Bulmaril
10. Topsy Nanzili
11. Unnamed Father of Ngularraji and Polly Gulungal

#### **MATTERS DETERMINED:**

In these circumstances and with the consent of the parties, **THE COURT DETERMINES, DECLARES AND ORDERS THAT:**

1. It is satisfied that an order in the terms proposed in the attached Minute of Consent Determination of Native Title is within the power of the Court and is appropriate to be made pursuant to section 87 of the *Native Title Act 1993* (Cth).

2. There be a determination of native title in the terms of the Minute of Consent Determination of Native Title attached. The determination is to take effect immediately upon the making of a determination under section 56(1) or 57(2) of the *Native Title Act 1993* (Cth), as the case may be.

3. On or before 7 December 2020, 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 and, if so, by whom. They are to do so by:

(i) nominating in writing to the Federal Court a prescribed body corporate to be trustee of the native title rights and interests; and

(ii) including with 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 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 listed for further directions.

#### **ATTACHMENT A**

#### **DETERMINATION**

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

Existence of native title (s225)

1. The Determination Area is the land and waters described in Schedule 1 and depicted on the maps comprising Schedule 2.

2. Native title exists in those parts of the Determination Area identified in Schedule 3 (**Native Title Area**).

### **Native title holders (s225(a))**

3. The native title in the Determination Area is held by the native title holders. The native title holders are the people referred to in Schedule 4.

### **The nature and extent of native title rights and interests (s225(b)) and exclusiveness of native title (s225(e))**

#### **Exclusive native title rights and interests**

4. Subject to paragraphs 5, 6 and 7 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 of the Determination Area as against the whole world.

5. 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)*;

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

(c) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*; or

(d) water lawfully captured 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)*.

6. 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.

7. For the avoidance of doubt, the nature and extent of native title rights and interests 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 is the non-exclusive right to take, use and enjoy that water.

#### **Areas to which s47B of the Native Title Act applies**

8. Section 47B of the Native Title Act applies to disregard any prior extinguishment in relation to the areas described in Schedule 5.

#### **The nature and extent of any other interests**

9. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 6.

#### **Relationship between native title rights and other interests**

10. The relationship between the native title rights and interests and the other interests is as follows:

(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, 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 rights and 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 1 and depicted on the maps 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);

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 maps at Schedule 2, the written description prevails.

### **REGISTER ATTACHMENTS:**

1. WCD2020/005 Schedule 1 – Determination Area, 1 page - A4, 08/07/2020
2. WCD2020/005 Schedule 2 – Map Of The Determination Area, 2 pages - A4, 08/07/2020
3. WCD2020/005 Schedule 3 – Exclusive Native Title Areas, 1 page - A4, 08/07/2020
4. WCD2020/005 Schedule 5 – Areas To Which Section 47B Of The Native Title Act Applies, 1 page - A4, 08/07/2020
5. WCD2020/005 Schedule 6 – Other Interests, 1 page - A4, 08/07/2020

*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.*