

Determination of a prescribed body corporate — Broome

Rubibi Community v Western Australia [2004] FCA 964

Merkel J, 23 July 2004

Issue

Justice Merkel considered whether it was appropriate to make a determination that the Kunin (Native Title) Aboriginal Corporation holds the native title rights on trust for the members of the Yawuru Community (who are the common law holders of native title).

Background

The members of the Yawuru Community were determined to hold native title rights in the area known as Kunin—see *Rubibi Community v Western Australia* (2001) 112 FCR 409; [2001] FCA 607 and *Rubibi Community v Western Australia* (No 2) (2001) 114 FCR 523; [2001] FCA 1553. As required, the members of the Yawuru Community nominated a body corporate, the Kunin (Native Title) Aboriginal Corporation, to hold their native title in trust: see ss. 55 and 56 of the NTA.

His Honour was satisfied that each of the three requirements identified in *Ngalpil v Western Australia* [2003] FCA 1098 (summarised in *Native Title Hot Spots Issue 7*) were met, namely:

- a representative of the common law holders had made the nomination in writing;
- the nominated body corporate was a 'prescribed body corporate' as provided in the Native Title (Prescribed Bodies Corporate) Regulations 1999;
- the nominated body corporate had given its written consent to be the trustee of the native title rights and interests—at [3] to [12].

Decision

The court determined that the Kunin (Native Title) Aboriginal Corporation was to hold the native title rights and interests in trust for the common law holders of native title.