



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD274/2012
NNTT Number: WCD2016/005

Determination Name: [Street on behalf of the Yarrangi Riwi Yoowarni Gooniyandi People v State of Western Australia](#)

Date(s) of Effect: 25/10/2016

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 25/10/2016

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Gooniyandi 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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

4. The native title in the Determination Area is held by the Gooniyandi people. The Gooniyandi people are the people referred to in Sch 5.

Gooniyandi people (referred to in para 4 of this Determination) are:

(a) the descendants of the following apical ancestors:

Dalbagbiya, Garlinhingi, Gooraloowa, Gurlgurl, Jagi, Jangooyool, Jinggili, Jinny Ngilmia, Joorgabidija,

Kimberley Jarlamarra, Labayng, Lagen, Larry, Loombardji, Lungguda, Maggie Lai:zil, Malangarwin, Malanggiya, Mandowa, Milba, Milindi, Millie, Millie Wanbal, Ningali, Ningmia, Nundjun, Myoomooroo, Rhoda Mandhan, Tommy, Warrgi, Wilinyi, Wilirlman, Wirngarri, Yarraru, Yigi, Badigurayng, Budoornja Giligan, Lilly Campbell, Little Polly Dimananggal, Big Polly Dulangerlus, Brian Kimidi, Mabel Lawel, Maggie Magiji, Amy Mirringala, MaryMiyerri, Mamburu Nogood Billy, Kitty Smith, Wadgimili Sandy Smith, Tommy Thompson and Ned Wiyurru;

or

(b) Aboriginal persons who:

(i) self-identify as Gooniyandi; and

(ii) are recognised by other members of the Gooniyandi community as Gooniyandi under traditional law and custom.

**MATTERS DETERMINED:
THE COURT ORDERS THAT:**

1. In relation to the Determination Area, there be a determination of native title in WAD274/2012 in terms of the Determination as provided for in Attachment "A".

2. The Gooniyandi Aboriginal Corporation RNTBC ICN 7870 shall hold the determined native title in trust for the native title holders pursuant to s 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)

1. The Determination Area is the land and waters described in Sch 1 and depicted on the map comprising Sch 2.
2. Native title exists in those parts of the Determination Area identified in Sch 3.
3. Native title does not exist in those parts of the Determination Area identified in Sch 4.

Native title holders (s 225(a))

4. The native title in the Determination Area is held by the Gooniyandi people. The Gooniyandi people are the people referred to in Sch 5.

The nature and extent of native title rights and interests (s 225(b)) and exclusiveness of native title (s 225(e))

5. Subject to paras 3, 6, 7, 8 and 9 of this Determination, the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Sch 3 are that they confer the following non-exclusive rights on the Native Title Holders, including the right to conduct activities necessary to give effect to them:

- (a) the right to access and move freely through and within each part of the Determination Area referred to in Sch 3;
- (b) the right to live, being to enter and remain on the land, to camp and erect shelters and other structures for that purpose;
- (c) the right to:
 - (i) hunt, gather and fish;
 - (ii) take flora and fauna;
 - (iii) take other natural resources of each part of the Determination Area referred to in Sch 3 including soil, sand, clay, gravel, ochre, timber, resin and stone;
 - (iv) share and exchange natural resources of each part of the Determination Area referred to in Sch 3 including soil, sand, clay, gravel, ochre, timber, resin and stone;
 - (v) light contained fires but not for the clearance of vegetation;
 - (vi) engage in cultural activities in the area, including the transmission of cultural heritage knowledge;
 - (vii) conduct ceremonies;
 - (viii) conduct burials and burial rites;
 - (ix) hold meetings;
 - (x) visit, maintain and protect from physical harm, places and sites of importance in each part of the Determination Area referred to in Sch 3; and
 - (xi) access and take water and its resources. For the sake of clarity and the avoidance of doubt, this right does not include the right to take or use water lawfully captured or controlled by the holders of pastoral lease N050221 (formerly 3114/1248) (Fossil Downs).

6. The native title rights and interests referred to in para 5 of this Determination do not confer:

- (a) possession, occupation, use and enjoyment 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 the Determination Area.

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

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.

9. For the avoidance of doubt, subject to the qualifications described in paras 6 to 8 of this Determination, the manner of exercise of native title rights and interests recognised by this Determination is a matter for the Native Title Holders to determine having regard to, and in accordance with, their traditional laws and customs.

Areas to which ss 47, 47A and 47B of the *Native Title Act* apply

10. Sections 47, 47A and 47B of the *Native Title Act* do not apply to disregard any prior extinguishment in relation to any part of the Determination Area.

The nature and extent of any other interests

11. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Sch 6 (the other rights and interests).

Relationship between native title rights and other rights and interests

12. The relationship between the native title rights and interests described in para 5 of this Determination and the other rights and interests referred to in para 11 of this Determination 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, subject to the operation of s 24JB(2) of the *Native Title Act*, do not extinguish them.

Liberty to Apply

13. The parties have liberty to apply for the purpose of establishing the precise location and boundaries of the public works and adjacent land and waters identified in relation to any part or parts of the Determination Area referred to in Sch 4.

Definitions and interpretation

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

Commonwealth means Commonwealth of Australia;

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

flowing 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;

land has the same meaning as in the *Native Title Act*,

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

Native Title Holders means the persons described in para 4 of this Determination;

State means State of Western Australia;

underground water means water from and including an underground water source, including water that percolates from the ground; and

waters has the same meaning as in the *Native Title Act*, and includes flowing and underground water.

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

SCHEDULE 1

DETERMINATION AREA

All those lands and waters commencing at the intersection of Native Title Determination WAD6008/2000 Gooniyandi Combined #2 (WC2000/010) with the centreline of Margaret River at Longitude 125.713117 East; Then generally northeasterly through the following coordinate positions.

LATITUDE (SOUTH)	LONGITUDE (EAST)
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18.125843	125.730378
18.068822	125.799278
18.013702	125.796427
17.972362	125.810207
17.954305	125.847033
17.930784	125.891462

Then northeasterly to the intersection of a southern boundary of Native Title Determination WAD6133/1998 Bunuba (Area A) (WC1999/019) with the centreline of Stony Creek at Longitude 125.912217 East; Then generally southeasterly and generally northeasterly along that centreline to the intersection with a southern boundary of the eastern severance of Pastoral Lease N050061 (Leopold Downs) at Longitude 126.109006 East; Then easterly along the boundary of that Pastoral Lease to Longitude 126.109346 East; Then south to a northern boundary of Native Title Determination WAD6008/2000 Gooniyandi Combined #2 (WC2000/010); Then generally westerly and generally southwesterly along boundaries of that native title determination back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 6th July 2016.

Rivers and Creeks based on 250K vector data © Commonwealth of Australia (Geoscience Australia) 2008.

For the avoidance of doubt the application excludes any land and waters already claimed by:

Native Title Determination Application WAD6008/2000 Gooniyandi Combined #2 (WC2000/010) as determined in the Federal Court on 19th June 2013.

Native Title Determination Application WAD6133/1998 Bunuba (Area A) (WC1999/019) as determined in the Federal Court on 12th December 2012.

Native Title Determination Application WAD628/2010 Yurriyangem Taam (WC2010/013) as registered in the Federal Court on 29th October 2010

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared by: Native Title Spatial Services (Landgate) 28th July 2016

Use of Coordinates:

Where coordinates 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 2

MAP OF DETERMINATION AREA

[See NNTR attachment 1: "Schedule 2 - Map of Determination Area"]

SCHEDULE 3

NON-EXCLUSIVE NATIVE TITLE AREAS

Areas where native title comprises the rights set out in para 5 of this Determination

The following land and waters (generally shown as shaded in yellow on the maps at Sch 2):

1. Pastoral Leases

Portion of Pastoral Lease N050221 (formerly 3114/1248) (Fossil Downs) falling within the Determination Area.

2. Areas of Unallocated Crown Land

Portion of Water Area 2.

SCHEDULE 4

AREAS WHERE NATIVE TITLE DOES NOT EXIST

Public works

Any public work, as that expression is defined in the *Native Title Act* and the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA), and to which s 12J of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) or s 23C(2) of the *Native Title Act* applies, within the external boundary of the Determination Area including the land and waters defined in s 251D of the *Native Title Act*.

SCHEDULE 5

DESCRIPTION OF THE NATIVE TITLE HOLDERS

Gooniyandi people (referred to in para 4 of this Determination) are:

(a) the descendants of the following apical ancestors:

Dalbagbiya, Garlinhingi, Gooraloowa, Gurlgurl, Jagi, Jangooyool, Jinggili, Jinny Ngilmia, Joorgabidija, Kimberley Jarlamarra, Labayng, Lagen, Larry, Loombardji, Lungguda, Maggie Lai:zil, Malangarwin, Malanggiya, Mandowa, Milba, Milindi, Millie, Millie Wanbal, Ningali, Ningmia, Nundjun, Myoomooroo, Rhoda Mandhan, Tommy, Warrgi, Wilinyi, Wilirlman, Wirngarri, Yarraru, Yigi, Badigurayng, Budoornja Giligan, Lilly Campbell, Little Polly Dimananggal, Big Polly Dulangerlus, Brian Kimidi, Mabel Lawel, Maggie Magiji, Amy Mirringala, Mary Miyerri, Mamburu Nogood Billy, Kitty Smith, Wadgimili Sandy Smith, Tommy Thompson and Ned Wiyurru;

or

(b) Aboriginal persons who:

(i) self-identify as Gooniyandi; and

(ii) are recognised by other members of the Gooniyandi community as Gooniyandi under traditional law and custom.

SCHEDULE 6

OTHER RIGHTS AND INTERESTS

1. Pastoral Leases

Portion of Pastoral Lease N050221 (formerly 3114/1248) (Fossil Downs) falling within the Determination Area.

2. Existing Interests under the *Mining Act 1978* (WA)

Ten type & number	Grantee	Date of grant
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Exploration Licences

E 04/1649	Meridian (Lennard Shelf Project) Pty Ltd	05/11/2007
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Mining Leases

M 04/283	Meridian (Lennard Shelf Project) Pty Ltd	14/09/1993
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3. 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 and under any regulations made pursuant to such legislation.

(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) Rights and interests of members of the public arising under the common law.

(d) 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.

(e) Rights of any person to access and enjoy (subject to the laws of the State) any roads within the Determination Area existing as at the date of this Determination where members of the public have access to such roads according to the common law.

(f) Without limiting the operation of any other paragraph in this Schedule, but subject to para (g), the rights of the holders from time to time of existing mining tenements under the *Mining Act 1978* (WA) to use (including by servants, agents and contractors) such portion of the roads and tracks as are existing at the time of this Determination in the Determination Area as necessary in order to have access to the area subject to such mineral interests for the purposes of exercising the rights granted by those interests.

(g) Nothing in para (f) 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.

(h) 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;
- (ii) the beds and banks or foreshores of waterways;
- (iii) stock routes; or
- (iv) areas that were public places at the end of 31 December 1993.

(i) Any other:

- (i) legal or equitable estate or interest in the land or waters; or
- (ii) any other right (including a right under an option and a right of redemption), charge, power or privilege over, or in connection with:

(A) the land or waters; or

(B) an estate or interest in the land or waters; or

(iii) restriction on the use of the land or waters, whether or not annexed to other land or waters.

REGISTER ATTACHMENTS:

1. Schedule 2 - Map of Determination Area, 1 page - A4, 25/10/2016

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.