



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD575/2019
NNTT Number: WCD2021/007

Determination Name: [Mouda on behalf of the Joombarn-Buru Native Title Claimants v State of Western Australia](#)

Date(s) of Effect: 13/10/2021

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: 13/10/2021

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Joombarn-buru Aboriginal Corporation
Trustee 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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

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

(4) 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 6.

SCHEDULE 6

DESCRIPTION OF THE NATIVE TITLE HOLDERS

- (1) The Native Title Holders are those Aboriginal people who are:
- (a) listed in paragraph [2] and their descendants; or

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

(2) The people referred to in paragraph [1](a) are those Aboriginal persons who are the descendants of:

(a) Djanbigan Dangan, father of Otto Gili (Kelly);

(b) Annie Murrjal;

(c) Blanki;

(d) Diima;

(e) Garlmarr;

(f) Gurupirin;

(g) Nani;

(h) Jinurru;

(i) Lucy Muninga;

(j) Brumby Waddadul;

(k) Minybal Esther and her brother Gumbil;

(l) Jidnyambala;

(m) Nobel;

(n) Tommy Numarid;

(o) Narriji (Leonie) Peters and Undi (Andrew) Peters;

(p) Bulu; or

(q) Charlie Mangurl

MATTERS DETERMINED:

BY CONSENT, THE COURT DETERMINES AND ORDERS THAT:

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

2. There be a determination of native title in the terms of the following Determination of Native Title.

3. The Joombarn-buru Aboriginal Corporation ICN 9583 shall hold the determined native title in trust for the native title holders pursuant to s 56(2) of the *Native Title Act 1993* (Cth).

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

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

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

(2) Native title exists in those parts of the Determination Area identified in Schedules 3 and 4 (**Native Title Area**).

(3) Native title does not exist in those parts of the Determination Area identified in Schedule 5.

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

(4) 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 6.

The nature and extent of native title rights and interests and exclusiveness of native title (s 225(b) and s 225(e) of the *Native Title Act*)

Exclusive native title rights and interests

(5) Subject to paragraphs 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 of the Determination Area as against the whole world.

Non-exclusive rights and interests

(6) 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 4 (being areas where there has been a 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) the right to access and take for any purpose the resources in that part;
- (ii) the right to live, being to enter and remain on, camp and erect shelters and other structures for those purposes on that part;
- (iii) the right to light controlled contained fires but not for the clearance of vegetation; and
- (iv) the right to protect places, areas and objects of traditional significance in that part.

(7) The native title rights and interests referred to in paragraph 6 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.

(8) 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); or

(c) 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).

(9) 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.

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

(11) 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.

Area to which s 47B of the *Native Title Act 1993* (Cth) applies

(12) Section 47B of the *Native Title Act 1993* (Cth) applies to disregard any prior extinguishment in relation to the area described in Schedule 3.

The nature and extent of any other interests

(13) The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 7.

Relationship between native title rights and other interests

(14) The relationship between the native title rights and interests described in paragraphs 5 and 6 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

(15) 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);

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. WCD2021/007 Schedule 1 - Determination Area, 2 pages - A4, 13/10/2021
2. WCD2021/007 Schedule 2 - Map Of The Determination Area, 2 pages - A4, 13/10/2021
3. WCD2021/007 Schedule 3 - Exclusive Native Title Areas, 1 page - A4, 13/10/2021
4. WCD2021/007 Schedule 4 - Non-Exclusive Native Title Areas, 1 page - A4, 13/10/2021
5. WCD2021/007 Schedule 5 - Areas Where Native Title Does Not Exist, 1 page - A4, 13/10/2021
6. WCD2021/007 Schedule 7 - Other Interests, 3 pages - A4, 13/10/2021

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.