



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD655/2015
NNTT Number: WCD2019/013

Determination Name: [Manolis on behalf of the Yawuru Community v State of Western Australia](#)

Date(s) of Effect: 4/11/2019

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: 04/11/2019

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Yawuru Native Title Holders Aboriginal Corporation (RNTBC)
Trustee Body Corporate
PO Box 425
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))

3. The native title in the Determination Area is held by the Yawuru Community, being the persons described in Schedule 3.

SCHEDULE 3

DESCRIPTION OF THE NATIVE TITLE HOLDERS

The native title holders, the persons referred to in paragraph 3 of the Determination, are:

(a) the descendants of Nyobing Babere, Chimbere Sitocay, Aloysius Louis Dolby, Jirawina, Jack and Pollyanna Mangain, Lija (wife of Phillip O' Brien Taylor), Nyilandin, Joseph Mary, Paddy Djiagween, Lucy Marcella Roe, Mary

Minyal, Cecilia Ngangon, Nyingula, Annie Mawunga, Milangka, Lena Charlie, Lucia "Lija" (daughter of Bernal and Gurdan), Minbal Ester, Philomena Carter, Aubrey Kelly Edar, John Two Fingers, Mary Budjinka, Yungula (first wife of George Harriot Roe), Yungula (second wife of George Harriot Roe), Tommy Roe "Guminy", Dorothy Kelly, Lydia Kanagai, Solong Archill, Jiriny, Dockan Harry Minbal, Maggie Kanado (Kangode), Lucy Warrdarr and Philomena "Polly" Vincent (nee Pedro) save that, where a person has only one Yawuru parent, that person self-identifies as Yawuru; and

(b) Aboriginal persons who have been adopted as children or been grown up by a Yawuru person as members of the Yawuru community under the traditional laws and customs of the community and who self-identify and are generally accepted by other members of the community as Yawuru persons; and

(c) Aboriginal persons who possess high cultural knowledge and responsibilities in relation to the area described in Schedule 1 and:

(i) were born in; or

(ii) have a long term physical association with,

that area under the traditional laws and customs of the Yawuru community and who self-identify and are generally accepted by other members of the community as Yawuru persons; and

(d) the descendants of persons referred to in (b) or (c) save that, where a person has only one Yawuru parent, that person self-identifies as Yawuru.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in the terms of Attachment A to these orders.
2. The Yawuru Native Title Holders Aboriginal Corporation (RNTBC) ICN 7033 shall hold the determined native title in trust for the native title holders pursuant to section 56(2) 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 Schedule 1 and depicted on the map comprising Schedule 2.
2. Native title exists in relation to the land and waters described in Schedules 4 and 5.

Native title holders (s 225(a))

3. The native title in the Determination Area is held by the Yawuru Community, being the persons described in Schedule 3.

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

4. Subject to paragraphs 6, 7 and 8 the nature and extent of the native title rights and interests in relation to the land and waters described in Schedule 4 [being areas where any extinguishment must be disregarded] is:

(a) except in relation to flowing and subterranean water - the right of possession and occupation as against the whole world; and

(b) the right to take flowing and subterranean water for personal, domestic or non-commercial communal purposes (including social, cultural, religious, spiritual and ceremonial purposes).

5. Subject to paragraphs 6, 7 and 8 the nature and extent of the native title rights and interests in relation to the land and waters described in Schedule 5 [being areas where there has been partial extinguishment of native title by the creation of reserves] are:

(a) the right to live on the land;

- (b) the right to access, move about in and on and use the land and waters;
- (c) the right to hunt and gather on the land and waters for personal, domestic or non-commercial communal purposes (including social, cultural, religious, spiritual and ceremonial purposes);
- (d) the right to engage in spiritual and cultural activities on the land and waters;
- (e) the right to access, use and take any of the resources of the land and waters (including ochre) for personal, domestic or non-commercial communal purposes (including social, cultural, religious, spiritual and ceremonial purposes); and
- (f) the right to care for and maintain and protect the land and waters, including places of spiritual or cultural significance.

Qualifications on native title rights and interests (s 225(b); 225(e))

6. The native title rights and interests in paragraphs 4(b) and 5 do not confer possession, occupation, use and enjoyment on the native title holders to the exclusion of all others.

7. Native title rights and interests are subject to and exercisable in accordance with:

- (a) the traditional laws and customs of the native title holders; and
- (b) the laws of the State and the Commonwealth, including the common law.

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)*; or
- (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)*,

except the right to take and use ochre to the extent that ochre is not a mineral pursuant to the *Mining Act 1904 (WA)*.

Areas to which s 47B of the Native Title Act applies

9. Section 47B of the Native Title Act applies to disregard any prior extinguishment in relation to the areas described in Schedule 6.

The nature and extent of any other interests

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

Relationship between native title rights and other interests

11. The relationship between the native title rights and interests described in paragraphs 4 and 5 and the other interests is that the other interests coexist with the native title rights and interests, and:

- (a) to the extent that any of the other 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 interests to the extent of the inconsistency during the currency of the other 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 interests, and the doing of any activity required or permitted to be done by or under the other interests, prevails over the native title rights and interests and any exercise of the native title rights and interests, but does not extinguish them.

Definitions and interpretation

12. 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. In the event of any inconsistency between the written description of an area in Schedule 1 and the area as depicted

on the map in Schedule 2, the written description prevails;

"flowing and subterranean water" means the following water within the Determination Area:

- (a) water which flows, whether permanently, intermittently or occasionally, within any river, creek, stream or brook;
- (b) any natural collection of water into, through, or out of which a river, creek, stream or brook flows; and
- (c) water from and including an underground water source, including water that percolates from the ground;

"land" and **"waters"** respectively have the same meanings as in the Native Title Act to the extent that they refer to an area of land or waters;

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

"State" means the State of Western Australia.

REGISTER ATTACHMENTS:

1. WCD2019/013 Schedule 1 - Determination Area, 2 pages - A4, 04/11/2019
2. WCD2019/013 Schedule 2 - Map Of The Determination Area, 2 pages - A4, 04/11/2019
3. WCD2019/013 Schedule 4 - Exclusive Native Title Areas, 1 page - A4, 04/11/2019
4. WCD2019/013 Schedule 5 - Non-Exclusive Native Title Areas, 1 page - A4, 04/11/2019
5. WCD2019/013 Schedule 6 - Areas To Which Section 47B Native Title Act 1993 (Cth) Applies, 1 page - A4, 04/11/2019
6. WCD2019/013 Schedule 7 - The interests referred to in paragraph 10 of the Determination, 4 pages - A4, 04/11/2019

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.