



## FEDERAL COURT OF AUSTRALIA

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18 February 2022

Birriman-gan Native Title Holders  
C/- Ms Justine Toohey  
Principal Legal Officer  
Kimberley Land Council  
11 Gregory Street  
Broome WA 6725  
**By email:** [justine.toohey@klc.org.au](mailto:justine.toohey@klc.org.au)

Ms Rachel McGarry  
Legal and Governance Officer  
Yawuru Native Title Holders Aboriginal  
Corporation RNTBC  
PO BOX 425, Broome, WA 6725  
**By email:** [rachel.mcgarry@yawuru.org.au](mailto:rachel.mcgarry@yawuru.org.au)

Indigenous Land and Sea Corporation  
C/- Michael Pagsanjan  
MPS Law  
2/459 Morphett Street  
Adelaide SA 5000  
**By email:** [filing@mpslaw.com.au](mailto:filing@mpslaw.com.au)

Dear Birriman-gan Native Title Holders, Directors of Walalakoo PBC, Yawuru PBC and Karajarri PBC, Indigenous Land and Sea Corporation and legal representatives,

### **WAD541/2018 Mervyn Mulardy & Ors on behalf of the Birriman-gan Native Title Claim Group**

I am writing regarding the above Birriman-gan native title application which remains before the Federal Court of Australia awaiting the determination of a prescribed body corporate (PBC).

As part of the process of determining a PBC, Justice Banks-Smith of the Federal Court has ordered a series of individual conferences followed by a collective conference. A copy of the Court orders are attached to this letter for your information.

The purpose of the conferences are to talk about the PBC in the event that the Court decides that the Indigenous Land and Sea Corporation (ILSC) should perform the role of agent PBC and to allow each group an ability to ask questions of the ILSC. The discussion may also address questions such as how an ILSC agent PBC would work and how native title holders would interact with the ILSC agent PBC so Birriman-gan Native Title Holders are as informed as possible to decide if they wish to establish

### **REGISTRY**

Level 6  
Commonwealth Law Courts  
1 Victoria Avenue  
Perth WA 6000

GPO Box A30  
Perth WA 6837

Mr Raymond De Silva  
Chief Executive Officer  
Walalakoo Aboriginal Corporation RNTBC  
PO BOX 1115, Derby, WA 6728  
**By email:** [raymond.desilva@walalakoo.org.au](mailto:raymond.desilva@walalakoo.org.au)

Mr Martin Bin Rashid  
Chief Executive Officer  
Karajarri Traditional Lands Association  
(Aboriginal Corporation) RNTBC  
PO BOX 1539, Broome, WA 6725  
**By email:** [ceo@ktla.org.au](mailto:ceo@ktla.org.au)

their own PBC or accept an ILSC agent PBC. It will be important for native title holders to be fully informed in advance of any decision of the differences between its own PBC and that of the ILSC agent PBC as there are some very big differences. Those differences have been further considered by the ILSC since the last time they spoke to the Birriman-gan Native Title Holders, and some of the legal and practical differences (such as there will be no rule book for an ILSC agent PBC) are very important to understand.

It is not the intention, at the end of these conferences, to have the Birriman-gan Native Title Holders make a final decision on whether they appoint a PBC or have an ILSC PBC appointed. That will be done at a PBC nomination meeting required to be held on or before 6 May 2022 and to be arranged by your legal representative at the Kimberley Land Council.

As ordered by the Court, the conferences will involve separate conferences and conclude with one conference all together to occur over two days as follows:

1. Karajarri conference

**Wednesday 30 March 2022 at 10:30am by video using Microsoft Teams**

Federal Court confidential case management conference involving Karajarri native title holders who wish to attend, representatives of Karajarri Traditional Lands Association (Aboriginal Corporation) RNTBC (ICN 3333) who wish to attend, and Mr Joe Morrison as representative of the ILSC, along with Mr Ray Lennox and Mr Trevor Edmond of the ILSC.

2. Yawuru conference

**Wednesday 30 March 2022 at 2.00pm by video using Microsoft Teams**

Federal Court confidential case management conference involving Yawuru native title holders who wish to attend, representatives of Yawuru Native Title Holders Aboriginal Corporation RNTBC (ICN 7033) who wish to attend, and Mr Joe Morrison as representative of the ILSC, along with Mr Ray Lennox and Mr Trevor Edmond of the ILSC.

3. Nyikina conference

**Thursday 31 March 2022 at 10:30am by video using Microsoft Teams**

Federal Court confidential case management conference involving Nyikina native title holders who wish to attend, representatives of Walalakoo Aboriginal Corporation RNTBC (ICN 8041) who wish to attend, and Mr Joe Morrison as representative of the ILSC, along with Mr Ray Lennox and Mr Trevor Edmond of the ILSC.

4. All Birriman-gan conference

**Thursday 31 March 2022 at 2.00pm by video using Microsoft Teams**

Federal Court case management conference involving all Birriman-gan native title holders, representatives of Karajarri, Yawuru and Walalakoo Corporations who wish to attend, and Mr Joe Morrison as representative of the ILSC, along with Mr Ray Lennox and Mr Trevor Edmond of the ILSC.

Please note that when connecting by Microsoft Teams to these conferences, you will be required to identify yourself. To assist arrange these conferences, any persons seeking to attend these conferences should contact Senior Legal Case Manager Ms Jennifer Kershaw of the Federal Court by email at [jennifer.kershaw@fedcourt.gov.au](mailto:jennifer.kershaw@fedcourt.gov.au), or by phone on (08) 6317 5445 **by no later than Friday 18 March 2022**. Ms Kershaw will also liaise with the Karajarri, Yawuru and Walalakoo Corporations.

There will also be a video link set up in Broome for each conference at:

**Venue: The Hall  
The University of Notre Dame Australia  
88 Guy Street, Broome WA 6725**

If you wish to attend this venue in Broome please contact Ms Kershaw about this also as she can assist with these arrangements. Any persons attending the venue will be required to adhere to COVID-19 requirements. Please note if in person attendance at the venue is not possible due to COVID-19 restrictions, the conferences will be convened by Microsoft Teams only and individuals will need to make their own arrangements to participate by Microsoft Teams.

You can also contact the legal representative Ms Justine Toohey or Ms Claire Saffery at the Kimberly Land Council on (08) 9194 0100 if you have any questions regarding these conferences.

Yours faithfully

A handwritten signature in blue ink that reads "Kershaw". The signature is written in a cursive style with a large, looped initial 'K'.

Jenny Kershaw  
Senior Legal Case Manager – Native Title  
Federal Court of Australia

Attachment: Orders made by Justice Banks-Smith dated 27 October 2021.



Federal Court of Australia

District Registry: Western Australia

Division: General

No: WAD541/2018

**MERVYN MULARDY** and others named in the schedule (on behalf of the Birriman-gan Native Title Claim Group)  
Applicant

**STATE OF WESTERN AUSTRALIA** and others named in the schedule  
Respondent

### **ORDER**

**JUDGE:** JUSTICE BANKS-SMITH

**DATE OF ORDER:** 27 October 2021

**WHERE MADE:** Perth

#### **THE COURT ORDERS THAT:**

1. By 14 April 2022, the Registrar is to conduct:
  - (a) a confidential case management conference attended by:
    - (i) representatives of those native title holders who are Karajarri; and
    - (ii) Mr Joe Morrison, as the representative of the Indigenous Land and Sea Corporation (**ILSC**); and
    - (iii) such representatives of the Karajarri Traditional Lands Association (Aboriginal Corporation) RNTBC (ICN3333) as may be invited by the Registrar to voluntarily attend;for the purpose of discussing the ILSC's performance of the role of prescribed body corporate in the event the Court were to determine that the ILSC should perform that role;
  - (b) a confidential case management conference attended by:
    - (i) representatives of those native title holders who are Yawuru; and
    - (ii) Mr Joe Morrison, as the representative of the ILSC; and



- (iii) such representatives of the Yawuru Native Title Holders Aboriginal Corporation RNTBC (ICN7033) as may be invited by the Registrar to voluntarily attend;

for the purpose of discussing the ILSC's performance of the role of prescribed body corporate in the event the Court were to determine that the ILSC should perform that role;

- (c) a confidential case management conference attended by:

- (i) representatives of those native title holders who are Nyikina; and
- (ii) Mr Joe Morrison, as the representative of the ILSC; and
- (iii) such representatives of the Walalakoo Aboriginal Corporation RNTBC (ICN8041) as may be invited by the Registrar to voluntarily attend;

for the purpose of discussing the ILSC's performance of the role of prescribed body corporate in the event the Court were to determine that the ILSC should perform that role;

- (d) a case management conference attended by:

- (i) representatives of those native title holders who are Karajarri, Yawuru and Nyikina; and
- (ii) Mr Joe Morrison, as the representative of the ILSC; and
- (iii) such representatives of the Karajarri Traditional Lands Association (Aboriginal Corporation) RNTBC (ICN3333), the Yawuru Native Title Holders Aboriginal Corporation RNTBC (ICN7033), the Walalakoo Aboriginal Corporation RNTBC (ICN8041) as may be invited by the Registrar to voluntarily attend;

for the purpose of discussing the ILSC's performance of the role of prescribed body corporate in the event the Court were to determine that the ILSC should perform that role.

2. By 29 April 2022, the ILSC is to file and serve a report to the Court concerning the conduct case management conference under paragraph 1(d) above, and on any agreed outcomes arising from that conference.
3. Liberty to apply.



Date that entry is stamped: 27 October 2021

*Sia Lagos*  
Registrar



**Schedule**

No: WAD541/2018

Federal Court of Australia  
District Registry: Western Australia  
Division: General

Applicant	TRENT MARSHALL
Applicant	SHIRLEY SPRATT
Applicant	RENE HOPIGA
Applicant	DEL ROE
Applicant	BRENDAN CHARLES
Applicant	LINDA NARDEA
Applicant	DEBORAH SHADFORTH
Applicant	THOMAS EDGAR
Applicant	NEIL MCKENZIE
Applicant	ROSLYN DIXON
Applicant	DIANNE APPLEBY
Respondent	BURU ENERGY LIMITED
Respondent	ROC OIL PTY LIMITED ABN: 12 626 049 278
Respondent	INDIGENOUS LAND AND SEA CORPORATION