



Kimberley Land Council

MEDIA RELEASE

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KIMBERLEY TRADITIONAL OWNERS HEAD TO HIGH COURT

Kimberley Traditional Owners will oppose an appeal by the Commonwealth and WA State Governments in the High Court of Australia next month.

The appeal relates to the public's ability to access beaches and waterways within the Bindunbur and Jabirr Jabirr/Ngumbarl determination area on the Middle Dampier Peninsula.

It will be heard in a full hearing on the 3rd and 4th of December, 2019, before the High Court in Canberra. The Kimberley Land Council is acting on behalf of the Bindunbur and Jabirr Jabirr/Ngumbarl native title holders in this matter.

In May 2018, the Federal Court of Australia made a determination of native title in Bindunbur and Jabirr Jabirr/Ngumbarl native title claims. A part of this determination which related to the public's ability to access beaches and waterways in the Bindunbur and Jabirr Jabirr/Ngumbarl determination area was appealed to the Full Federal Court by Bindunbur and Jabirr Jabirr/Ngumbarl native title holders.

On 20 December 2018, the Full Federal Court allowed the appeal of the Bindunbur and Jabirr Jabirr/Ngumbarl native title holders (*Manado on behalf of the Bindunbur Native Title Claim Group v State of Western Australia* [2018] FCAFC 238).

Following the decision, the State of Western Australia and Commonwealth of Australia sought special leave to appeal in the High Court, and on June 21, 2019, special leave was granted.

The High Court will now rule on whether public access to beaches and waterways should be recognised as an interest in the Bindunbur and Jabirr Jabirr/Ngumbarl native title determinations.

It is expected that the High Court will make a decision by mid 2020.

This is the first time since 2002 that the Kimberley Land Council has appeared for a party in an appeal hearing before the High Court. In that year, it appeared for the Balangarra peoples in *WA v Ward* (2002) 213 CLR 1.

This is also the first time that the High Court will make a ruling with respect to the meaning of s212 of the *Native Title Act* (2003).