KUNIN LAW: CROW AND COUNTRY

A Letter To All First Nations

Ronald Roe

Walman Yawuru descendant,
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Please note: Aboriginal and Torres Strait Islander people should be aware that this document contains images and names of deceased persons in photographs or printed material.

OPENING ADDRESS

Dear Countrymen and First Nation Peoples,

The Goolaraboolooo[1], West Coast, Sundown, Saltwater Law and Culture of the Northern and Southern Tradition of the Kimberley region, Western Australia is shared by everyone. The First Nation people of the Goolaraboolooo have been duly guided by a Visionary, the late Paddy Roe OAM[2], and recently misguided by a Missionary, namely Patrick Lionel Djargun Dodson[3], Senator for Western Australia.

This open and public letter provides an account of recent events in Western Australia that inform the reader of how the Missionary seeks to overpower the Visionary, concluding with a call for complete revocation of the Rubibi Native Title Claim.[4]

The Missionary has indelible spiritual character received as the Catechism[5] with sacraments of holy order first conferred as Baptism. This Baptism can never be erased, as a baptised Christian can cease to practice their faith and even publicly deny Christ, but they cannot deny their point of Baptism.

> *"….(n.) Missionary who is a member of a society or religious order, (2.) (often i. c.) a crafty, intriguing or equivocation person; (3) of or pertaining to Jesuits or Jesuitism."* [6]

The Visionary conversely is;

> *"... steeped in knowledge of what lies below the topsoil, a manifestation from Bugardigarra[7], the Yungudu[8]."*

This letter will now introduce the Reader to the main challenges facing the broader Aboriginal community across the Kimberley Region of Western Australia.

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[1] Goolaraboolooo Millibinyarri is a small Aboriginal community, located 12 km north of Broome in the Kimberley Region of Western Australia, within the Shire of Broome
[2] (Benterrak et al. 1996)
[3] (Parliament of Australia n.d.)
[4] Rubibi Community v State of Western Australia & Ors, WCD2001/003.
[5] Available at http://canonlawmadeeasy.com/2009/11/12/can-a-priest-ever-return-to-the-lay-state/
[6] Available at https://universalium.academic.ru/135850
[7] Bugardigarra / Bugarre Garre / Bookarrarra - meaning 'beginning' - Birr Nganka Nyikina Dictionary - (Hattersley 2014)
[8] Yungudu /Yoongoorrokoo - meaning 'serpent' - Birr Nganka Nyikina Dictionary - (Hattersley 2014)

VISIONARY - PADDY ROE OAM (LULU)

The Visionary, Paddy Roe OAM[9] (Lulu) was a great and respected man, an indelible spiritual character with focus opposite to that of a Missionary.

Contrary to any other claim of title, Lulu was and remains known widely as the '*Grandfather of Reconciliation*' well before his obituary.[10] Importantly, Lulu was not stolen by the authorities, removed to the missions nor baptised, continuing throughout his life to protect Country and maintain traditional Laws and customs.

In September 1987, under the title '*Paddy Roe Speaks Out*'[11] it is stated in an article that:

> "*...LURUJARRI is an area of land which runs from the MINJER (Gantheaume Point) to MINARING, being an essential part of an overall cycle. This cycle extends from ONE ARM POINT to SOUTH of La GRANGE, to KING SOUND, returning to ONE ARM POINT. LURUJARRI is also part of the overall LAW and SONG CYCLE. This Law belongs to BARDI, NJULNJUL, DJABERADJABER, NIMANBURU, WUMBAL, DJUGUN, YAWURU, GARADJARI, NYIGINA and WARWA peoples. Each area has its own GUARDIANS and LAW KEEPERS. The GUARDIAN and LAW KEEPER of LURUJARRI is PADDY ROE. Paddy's function as GUARDIAN and LAW KEEPER, is to MAINTAIN and KEEP THE LAW and SONG CYCLE IN MOTION and ENSURE THAT THE LEARNING IS PASSED ON. Today the Law continues and the land is SUNG. Each song represents a part of LURUJARRI. To keep the Law and Song Cycle in motion means that in no way can there by an interference to SONG CYCLE and DREAMTIME SITES, nor with TRADITIONAL CAMPING GROUNDS. Within the LURUJARRI area there is a stretch of land from DJILBANUNGU to MINARING, which is of vital importance to Aboriginal People to keep in motion their LAW and SONG.*"

[9] (Rau 2001)
[10] (Rau et al. 2001)
[11] Broome News (1987) *Paddy Roe Speaks Out: Paddy Roe. Access: https://www.scribd.com/document/75818694/1987-09-Lurujarri-Paddy-Roe-Speaks-Out-Broome-News*

Figure 1: (L) Ronnie Carter, Djugun and (R) Paddy Roe, Nyikina, Goolarabooloo on the first Lurujarri Trail walk, 1988 (photographer unknown)

Figure 2: (L) Paul Sampi and Peter Angus, Bardi Law Bosses on the first Lurujarri Trail walk, 1988. (photographer unknown)

In 1990, in honour of his contribution to protecting Law and culture, Lulu was awarded the Order of Australia medal. Upon presentation of the medal Lulu immediately questioned;

> *"...This is my Gulbinna[12]. The government gave me this medal. This Gulbinna is asking the medal, you going to break up this country or keep it the same since Bugarre Garre. Paddy Roe. 1990. [13]*

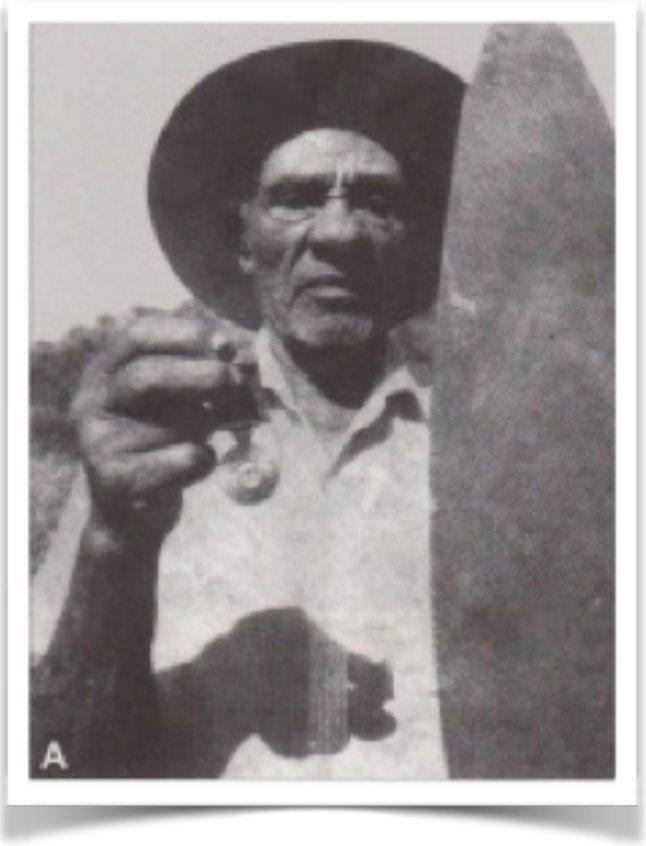

Figure 3: The late Paddy Roe (b. 1912), also known as Lulu, who was chosen to be Maja for this area by Walmadany, the last great Jabirr Jabirr Maja (Salisbury, Steven. 2016.)

The resilience of Lulu's Daughter, Theresa Roe (Waddar) and Families[14], whose Rai is at Bindinungun, as well as significant others, has imbued the Goolarabooloo with courage and determination against continued genocidal adversities, including the James Price Point campaign[15].

[12] *Gulbinna meaning 'shield'*
[13] (Ourania Emmanouil 2016)
[14] (Muir 2012)
[15] Walmadany - https://newmatilda.com/2013/02/14/who-gets-develop-james-price-point/

Along the entire path which was created by the Ancestor, those looking can see trees which were sown in for ceremonies beyond the demarcation of the Minyirr Djugun country.

It is important to recognise that the Goolaraboolo has maintained and practised their Law over the last eighty (80) years, keeping traditional Law and culture alive which was handed down from the Djugun, Ngumbarl and Jabbir Jabbir Majas[16].

KUNIN LAW GROUND

Figure 4: Kunin Law Grounds - circa 191.0 (photographer unknown)

[16] Maja's - meaning 'Law Boss' (Leader)

Figure 5: David Djiagween (L) and Paddy Djiagween (R) on Kunin Law Ground holding ceremonial boards - circa 1960. (photographer unknown)

Figure 6: Law men gathered at Kunin Law Ground - circa 1970. (photographer unknown)

Figure 7: Law men gathered at Kunin Law Ground - circa 1970. (photographer unknown)

KUNIN LAW - CROWS LORE

The term ‘lore’ is understood to be associated with a body of knowledge which is anecdotal or popular in form. There are however two variations or meanings associated with the term ‘lore’.

A distinction will now be elucidated to inform the reader of how significant these are in relation to Aboriginal Law. Despite its deprecative associations (folk) lore is defined as:

> “*...noun. 1. The lore of the common people, the traditional beliefs, legends, customs etc. of a people.* [17]

In the context of this letter, the term ‘lore’ is understood specific to be a traditional belief known as Bugardigarra[18] which is stored in the lore of the crow.

The ‘lore’ of the crow is defined as;

> *“...noun. 1. The space between the eye and the bill of a bird, or a corresponding space in other animals, as snakes.*[19]

With respect to Kunin and Traditional Law, the Author declares the crow now waits in anticipation upon the Lulgardi[20] tree for revival of proper Law.

> *“… As I see, the signatory discretely, for unity, upon the Lulgardi tree, where it is meant to be. It’s now plain to see, immorally, disunity for where it was meant to be. See stupidity away from the tree of unity. From the passage of time you have broken the line of the Law and its Dreaming. A new day is dawning. Now comes the day where you will repay disunity upon the Law and its Dreaming.” - Ronald Roe. (2018)*

[17] Macquarie Dictionary, (2009) Fifth Edition; p.998. Macquarie Dictionary Publishers Pty Ltd. Sydney, Australia.
[18] Bugardigarra / Bugarre Garre / Bookarrarra - meaning ‘beginning’ - Birr Nganka Nyikina Dictionary - (Hattersley 2014)
[19] Macquarie Dictionary, (2009) Fifth Edition; p.998. Macquarie Dictionary Publishers Pty Ltd. Sydney, Australia.
[20] Lulgardi / Larrkardiy- meaning Adansonia Gregorii or boab tree - Birr Nganka Nyikina Dictionary - (Hattersley 2014)

Figure 8: Ronnie Roe, Walman Yawuru descendant, Goolarabooloo on Kunin Law Ground, location of the Rubibi Community v State of Western Australia & Others Native Title Determination, 2001. (Photographer: Alexander Hayes, April 7, 2018)

CONSENSUS

The evidence of how the Australian 'Native Title' in all its manifestations and orchestrations continues as a dispossession of country for all Aboriginal people in this 21st century will now be discussed.

> "...*Australian land title is based on the English common law land title system of feudal socage, rather than on the ancient subsisting Indigenous Australian systems of land title. This implies a severe disadvantage to holders of ancient subsisting land title.*" (Lilienthal & Ahmad 2017)

From the Communal allodial land title determination, the Coalition brings to your attention, evidence in the actions of the Nyamba Buru Yawuru (NBY)[21], as a signatory of '*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men.*' [22]

Of specific concern is that this 'consensus' document contains a statement that Northern Traditions will not be practised nor continued on communal allodial title. The Coalition disagrees with the term 'Bardi Law' used in this document. The Coalition[23] however, agrees that the creator of the Northern Tradition continued towards Wabana, in Karajarri country who took that Law and directed another man from Wabana for the continuance of the Songlines.

Historically, the term 'Northern Tradition' was created by a Native Title Act during the Rubibi Native Title claim Determination in 2001, in effect creating two parallel Laws, the Southern Tradition and the Northern Tradition that do not cross, sitting side by side. The Northern Tradition was implemented by the Bardi, Nyul Nyul, Jabirr Jabirr, Minyirr Djugun, Walman Djugun, Yawuru and Karrajarri.

The Coalition reminds signatories for the '*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men'* that the NBY in the past respected and is on record as accepting the late Paddy Roe as Maja, keeper of the Northern Tradition in Minyirr Djugun country, today as incorporated under native title with Yawuru.

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[21] Available at http://www.yawuru.com/our-organisation/nyamba-buru-yawuru-about/

[22] Appendix Item 1 - Kimberley Land Council (KLC) office, Broome, Western Australia, 2 June, 2017

[23] Coalition meaning the Yawuru broader community

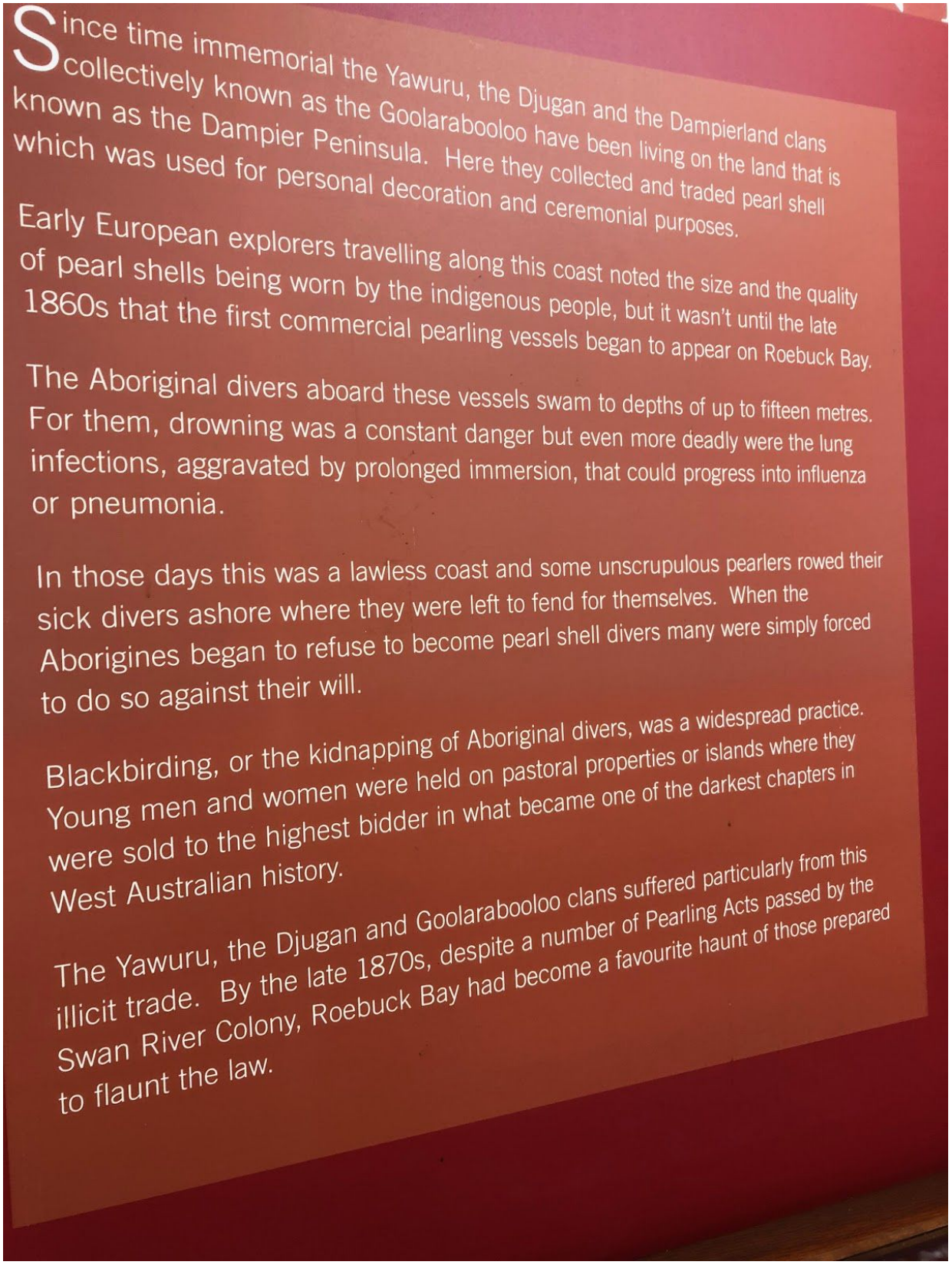

Figure 9: Didactic panel, Broome Historical Society & Museum, Western Australia. (Photographer: Alexander Hayes, 25 June, 2018)

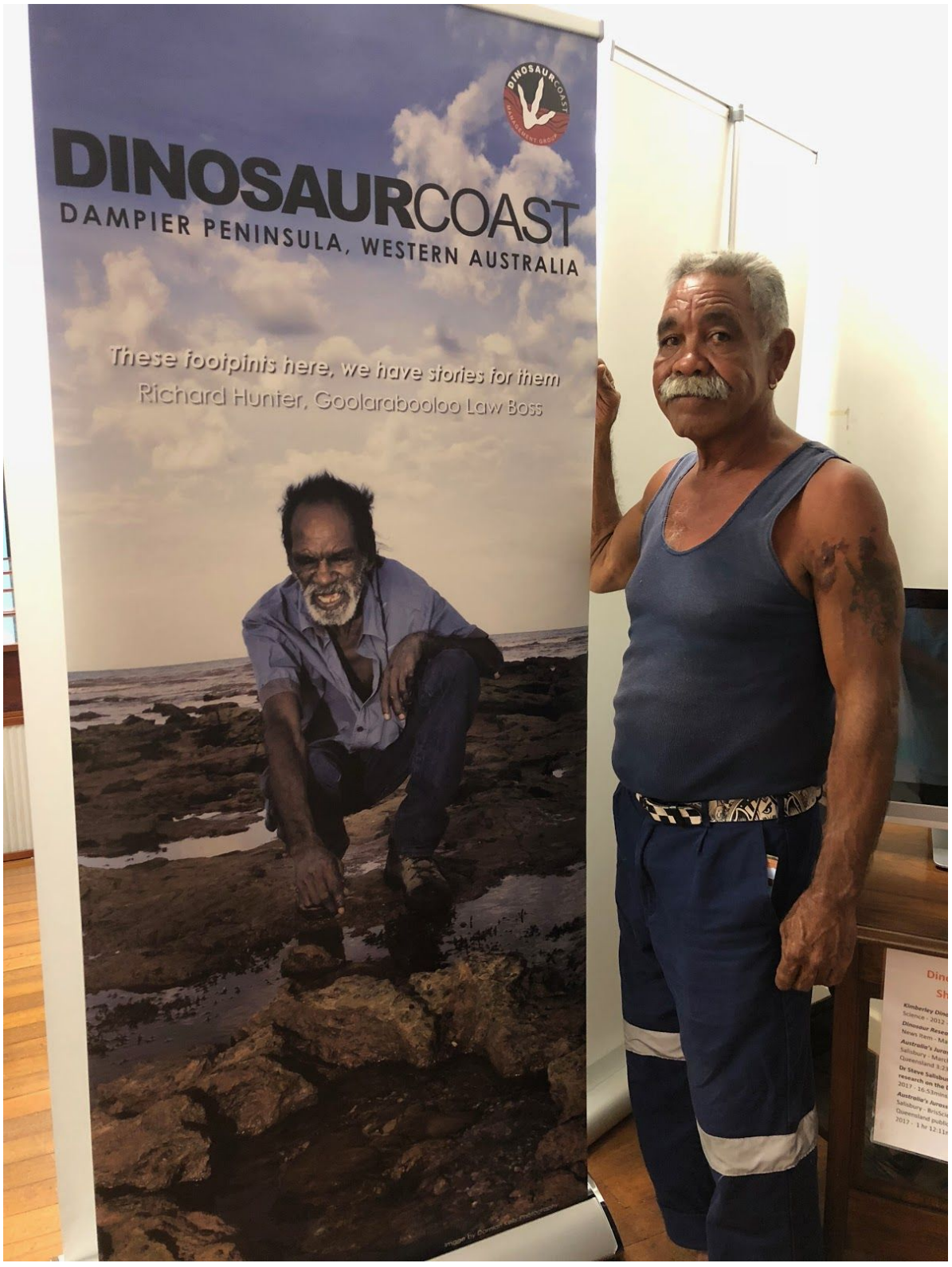

Figure 10: Ronald Roe acknowledging Goolarabooloo Law Boss, Richard Hunter at Broome Historical Society & Museum. (Photographer: Alexander Hayes, 25 June 2018)

In the outcome of the Rubibi Native Title Claim (2001) signed at Kunin Law Grounds, the NBY also acknowledged Paddy Roe as Maja, participating in ceremonies for the Northern Tradition, conducted by Paddy Roe, and during the Native Title hearings the Goolaraboolloo people spoke for their Northern Tradition.

When the NBY was questioned during the Native Title proceedings the NBY referred to the Goolaraboolloo as of the Northern Tradition. The NBY is also credited as helping the Goolaraboolloo in protecting the Northern Tradition against sand mining. which historically would have lead to the destruction of significant parts of the Lurujarri Song Cycle.

However, the Nyamba Buru Yawuru (NBY) as evidenced in the Rubibi Determination and current lack of consultation with the Coalition[24] is now perpetrating assimilation by using expediency of consultation as a means to make ‘it easier for the Old People’. This genocide has been further perpetrated by members of the Nyamba Buru Yawuru (NBY) the Author asserts, in an event in late 2017 that is now anecdotally known as the ‘Abomination’[25] breaching traditional Law preparation, ceremony and celebration, as it was not conducted in the proper traditional Law manner.

[24] The Coalition meaning with broader Yawru
[25] Refer to Figure 12.

Eliminating Culture As Economic Capitalist Commodity

The Coalition[26] believe that the main reason Goolaraboolo are getting 'kicked' is purely due to the politics that the NBY employ to control their own people, as economic advantage in a sea of disadvantage. Despite the genocidal activity of the NBY cultivated as an institution for economic expediency, the most dangerous of all forms of cultural genocide, the Coalition and the Djugun People people stand united in protecting the Northern Tradition.

> *"...Cultural capital can exist in three forms: in the embodied state, i.e., in the form of long-lasting dispositions of the mind and body; in the objectified state, in the form of cultural goods (pictures, books, dictionaries, instruments, machines, etc.), which are the trace or realization of theories or critiques of these theories, problematics, etc.; and in the institutionalized state, a form of objectification which must be set apart, because, as will be seen in the case of educational qualifications, it confers entirely original properties on the cultural capital which it is presumed to guarantee." (Bourdieu, Pierre. 1986)*

McDuffie (2018) provides an explanation for how these three forms of cultural capital implode when examining Bourdieu's work in the Australian Native Title context.

> *"...An institutional tool amongst others, Native Title could be construed, in Bourdieu's words, as a legitimising tool for the colonial power to exert more control over Aboriginal people. Through making Aboriginal culture part of the cultural arbitrary of the dominant power (Bourdieu and Passeron 1990), by making it an integral part of the Western institutional system, the cultural capital which previously rested in the hands of Aboriginal people, as embodied (Bourdieu 1986) finds itself dis-aggregated through anthropological reports, legal findings, and held by various corporations, not individuals or communities - becoming, for some, the source of economic capital and of perceived symbolic power, and generating divisions amongst the community." (McDuffie, Magali. 2018)*

[26] Coalition meaning the broader Yawuru community.

Within the seminal paper '*The Australian 'songlines': Some glosses for recognition*' (Lilienthal & Ahmad 2017) this assimilation and controlling mechanism of controlling culture is described by Kuyper as 'frames'. By definition, these frames command rhetorical entities which are the equivalent in rhetorical force to an 'act of state' in effect, repositioning and eliminating culture as economic capitalist commodity, an example which includes 're-branding' of important historical cultural sites, appropriating one dominant corporate rhetoric by pretence over those it claims to protect.

> *"…The anglo Australian legal system views mythical narrative as mere religion and art. However, these Indigenous narratives may well serve a similar common Law purpose, in Indigenous Australia, to that of the English maxims in England, namely as containing and transmitting widely accepted customary Law."* (Kuypers, Jim. 2009)

As Kuyper notes, reframing the Indigenous customary Law into a religion, song or art simply allows Anglo-Australian churches, Christian Judaism, for example to;

> *'...deploy and reframe the Indigenous customary Law. They can force the most recent doctrine of Christianity onto the people whose cultural systems are tens of thousand years old.' (Lilienthal & Ahmad 2017, p.81)*

Erving Goffman (1974) named this framing process of transformation in action as 'keying', a systematic transformation across materials which are already meaningful, according to a schema or interpretation. For keying to be successful, Goffman states that stable frame transformation must take place by informed consent or else the strength of the archaic heritage may reverse the process, adversely affecting the past and future understandings of a current frame.

The Coalition believes the NBY is using this 'frame' mechanism to filter the perceptions of the Goolarabooloo as 'multi-dimensional reality', most notable in its corporate behaviours making some information more salient, simpler or appealing whilst selectively using, burying and suppressing important information such as proper anthropological data.

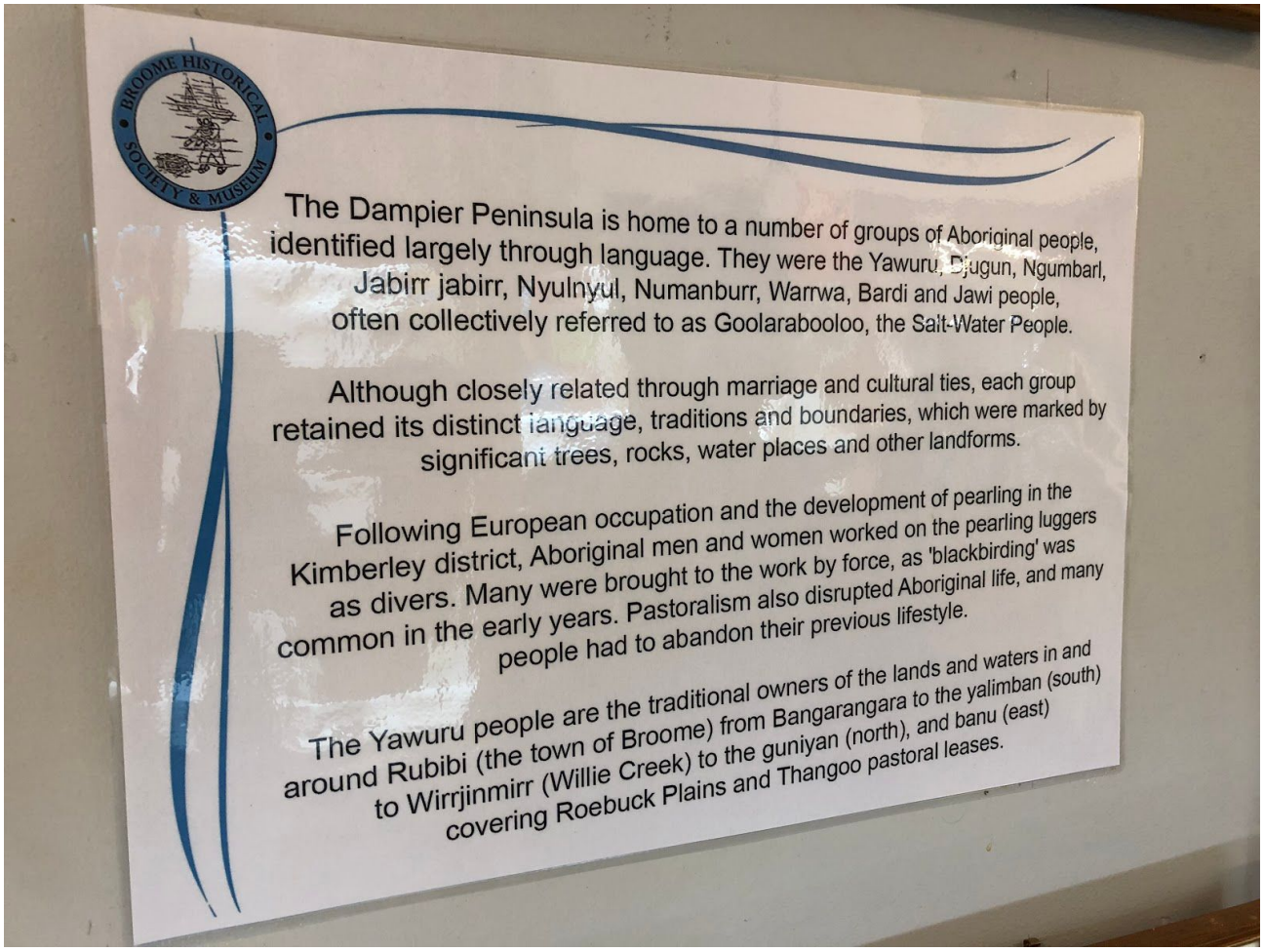

Figure 11: 'Keying in action' - Didactic panel, Broome Historical Society & Museum, Western Australia. [27]

Figure 11 provides an example of '*keying in action*' whereby, using the maxims of an institution that purports to accurately depict history, by publication, appropriates the names of one group alone over the collective understandings of the contemporaneous culture it purports to represent. Likewise, the publication '*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men' or* 'consensus' demonstrates how the NBY abuses its position as an approved Native Title agency to dispossess Traditional Custodians, an ongoing issue by the very Parliament of Australia that enacts the worst of 'keying' as:

> *"…they have progressively been disposed of their lands. This dispossession occurred largely without compensation, and successive governments have failed to reach a lasting and equitable agreement with Aboriginal Peoples and Torres Strait Islanders concerning the use of their lands." (Native Title Act Preamble, 1993. p.1, pp. 3)*

[27] Photographer: Alexander Hayes - 25 June, 2018.

United Nations Declaration on the Rights of Indigenous Peoples

The ‘Native Title Act Preamble’ distinctly outlines the main constitution with which to protect the rights of all of its citizens and in particular its First Nation peoples by recognising and enacting these human rights, abiding by international standards.

The Coalition asserts the NBY ‘consensus’ directly breaches the main constitutions of two specific Articles detailed in the corpus of the *United Nations Declaration on the Rights of Indigenous Peoples, March 2008*:

- **Article 7** - (1.) Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. (2.) Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group;

- **Article 8** - (1.) Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. (2.) States shall provide effective mechanisms for prevention of, and redress for:

  (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
  (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
  (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
  (d) Any form of forced assimilation or integration;
  (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

THE RULE BOOK

It is now determined by the Coalition that a land-grabbing culture has completely infiltrated the Nyamba Buru Yawuru (NBY) corporation where people of Aboriginal heritage in this corporation are now using this to politically benefit themselves.

The Author asserts that it is evident by the actions of the NBY that there is no empathy being demonstrated for the proper people who have been here since time immemorial to protect country, to teach young people their Law and Culture.

The Registrar initiated *Rule Book* registered by the *Delegate of the Registrar on June 2009, the Kunin (Native Title) Aboriginal Corporation RNTBC* sets out as the *Prescribed Body Corporate (PBC) for Kunin* by stating;

1. We are required to comply with the kardiya law in setting up this PBC to hold our native title. But the restrictions of the kardiya law do not reflect our understanding of our community under Yawuru law and custom;
2. In accordance with that law and custom, we acknowledge the position of Lulu and other senior bosses, now deceased, in defending, protecting and caring for the law grounds of the Kunin area;
3. Under our law and custom, we do not elect our law bosses. Our law bosses hold their roles and responsibilities until, under our law and customs they are retired;
4. Under our Law and custom, the law bosses are responsible for deciding the composition of the committee and the membership of any Western corporation to hold the title for the law grounds at Kunin.

Considering the national and international accords, the Coalition determines the '*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men*'' as being genocidal and with intent to harm by extinguishment the Goolarabooloo people.

> *"...Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."* [28]

[28] Convention on the Prevention and Punishment of the Crime of Genocide - Article 2 ©. Available at http://www.un.org/en/genocideprevention/genocide.html

EQUIVOCATION

In correspondence received from Ghillar, Michael Anderson[29] on the 24th March, 2018 the Author acknowledges a phone discussion in which Anderson explained:

> *"...The Kimberley Land Council (KLC) was setup originally in the 1980's arguing that they have a better and closed relationship with their grassroots communities and argued that they were best placed to represent the people within their region. But this was on the basis of working with government strategies where they worked on community needs with no reference to dealing with individual Nations. Their original intention was to deal with policies for governments and service delivery strategies to address the needs of Aboriginal people."*

Anderson also provided a contextual reference to the Mabo High Court Decision stating:

> *"....Today we have a different set of circumstances where, Aboriginal people have now shifted their attention to asserting sovereignty of their language group within their defined territories. Mabo (No. 2) High Court decision and the subsequent Native Title has also changed the face of Aboriginal Affairs and in this case the Native Title requirements for the Kimberley Land Council being vested with the interest as being a service organisation to facilitate claims by First Nation Peoples through their bloodline connection to Country in accordance with their customary Laws."*

The Author concurs with Anderson's assertion that:

> *"...It should be known that Michael Dodson, a First Nations Peoples connection to the area around Broome has been the Chair of the Australian Institute of Aboriginal and Islander Studies (AIATSIS) for many years. His friendship and relationship with Peter Yu, a founding member of the KLC has witnessed an incestuous relationship between the KLC through Peter Yu and AIATSIS, where the KLC has been able to acquire genealogical data of Aboriginal people who have, through the Aboriginal Protection Board era, been removed from the Kimberley and Pilbara regions from the 1920s onwards."*

[29] Ghillar, Michael Anderson - Available at http://nationalunitygovernment.org/content/about-sovereign-union

Furthermore, within that correspondence the Author recognises and reinforces Anderson's findings of equivocation[30] that:

> *"...This data shows families who have bloodline connection to Country but have never been back into these areas in their lives. It is unfortunate that the KLC has not facilitated information and family connections and the reunion of these families with their family relations who continue to occupy their families Homelands. The KLC appears to be reuniting these people to Country through the Native Title process but for dishonourable reasons, in that they use their numbers against the locally uneducated peoples in terms of facilitating the rights of government to strategically develop projects such as mines and other infrastructure, without any real consideration for cultural obligations to protect Country."*

As this Letter to First Nations composed by the Author claims, a collusion exists between mining companies and government infrastructure as detailed by Anderson:

> *"...Those who have never been back to their Country understand economics as opposed to the people who have never left their Country and their only concern is to facilitate the expectations of mining companies and government infrastructure needs. It is sad to think that our people can be, and are being used against their own kind in this fashion. This is achieved because the government and the KLC are fully aware of these peoples connections to Country and the local people are strangers to those that the KLC bring back to Country. This is an absolute abuse of a program that effectively destroys the local people who are not familiar with process and rights. Unfortunately they get outvoted."*

The Author acknowledges his own disappointment in this entire assimilatory process contained in Anderson's concluditory remarks:

> *"...The most disappointing factor associated with this is the fact that these people who come from far away and outside of the lands may have bloodline connections to Country but without the Elders and people who continue to live on Country with all the ancient and cultural knowledge of the lands and waters they would never succeed in a Native Title application. So it is the*

[30] Equivocation Meaning "...the use of ambiguous language to conceal the truth or to avoid committing oneself; prevarication."

local people who have the continuing connection under law and culture that makes it possible for a Native Title to succeed. It is disheartening and unjust when it comes to signing away / surrendering Country for profit. I hope this information gives you enough insight into the abuse that is being perpetrated by these people and the KLC."

ABOMINATION

The Author posits that as an Aboriginal man, Patrick Lionel Djargun Dodson is hypocritical as a signatory on '*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men*' as are all those signatories.

The Coalition vehemently and collectively assert, that Patrick Dodson has flagrantly shown disrespect to the Elders as aforementioned, of the Rubibi Determination 2006 of Kunin, by:

- Failing to conduct appropriate consultation with the Coalition;
- Using and abusing his position to facilitate these genocidal actions;
- Facilitating a fictitious non-cultural event in late 2017 in a location without essence, endangering the health and well being of those coerced into attending what is now known as the 'abomination'.

By ignoring the rights of people duly affected collectively, the Author and the Coalition questions Dodson's capacity for any self mediation by virtue of his obvious Christian Judaic bias.

The Coalition therefore places no confidence in Patrick Dodson nor the CEO Peter Yu of Nyamba Buru Yawuru to officiate any Native Title claim based on the veracity and contestable honesty of their facilitation as evidenced by ''*Record of the consensus of a meeting of Bardi, Yawuru and Jabirr Jabirr Law Bosses and Law Men*''.[31]

[31] Appendix 1

CALL FOR REVOCATION

The Author and the Coalition now calls for either ‘substantial variation’ or ‘complete revocation' of the Rubibi Claim. under Section 13 of the Native Title act, as;

> *“…all Parties do not agree on the Claim as valid, current nor correct.”*

The following pertains to the corresponding sections of the contemporaneous Native Title Act which provides and outlines the grounds for any variation or revocation claim.

Native Title Act, Part 2, Recognition and Protection of Native Title, Division 1.

Variation or revocation of determination.

(4) If an approved determination of native title is varied or revoked on the grounds set out in subsection (5) by:

1. the Federal Court, in determining an application under Part 3; or
2. a recognised State / Territory body in an order, judgement or other decision; then
3. in the case of a variation, the determination as varied becomes an approved determination of native title in place of the original; and
4. in the case of a revocation, the determination is no longer an approved determination of native title.

Grounds for Variation or Revocation

(5) For the purposes of subsection (4), the grounds for variation or revocation of an approved determination of Native Title are;

1. *that events have taken place since the determination was made that have caused the determination no longer to be correct; or*
2. *that the interests of justice require the variation or revocation of determination.*

CONCLUSION

Countrymen and First Nation Peoples,

The purpose of this Milli Milli[32] is of interest in that justice should prevail. Let's all stand united in protecting our beliefs.

Ronald Roe

Walman Yawuru descendant
Goolaraboolo Elder
Broome, Western Australia.

[32] Milli Milli - Meaning ‘paper’ in Yawuru, Djugun, Nyikina and many other Aboriginal languages.

APPENDIX 1

[Withheld.]

APPENDIX 2

[*Withheld.*]

APPENDIX 3

[Electronic Statement received Wednesday, 4th July 2018.]

MEDIA STATEMENT

Sovereign Union of First Nations and Peoples in Australia
Asserting Australia's First Nations Sovereignty into Governance

http://www.sovereignunion.mobi

Media Statement
4 July 2018.

How Native Title backfires – big time …

'Ghillar, Michael Anderson[33], calls for a national summit and Royal Commission into the operations of Native Title Services organisations, Native Title lawyers and Native Title Prescribed Body Corporates across Australia. Ghillar is Convener of the Sovereign Union, last surviving member of the founding four of the Aboriginal Embassy and Head of State of the Euahlayi Nation.

'Speaking from Cowra on his way Home from the launch of the Report on First Nations' Cultural Flows research (www.culturalflows.com.au), Anderson said that because of the enormous number of complaints he has received relating to Native Title, he is calling for a national summit and a Royal Commission into the operations of all Australian Native Title Service organisations, their lawyers and Prescribed Body Corporates (PBCs).

> *"...In the last two years I have been inundated with complaints from First Nations Peoples throughout Australia about the operations of Native Title Services organisations, that are supposed to represent First Nations' interests, only to find the opposite is happening", Anderson said.*

[33] Ghillar, Michael Anderson - Available at http://nationalunitygovernment.org/content/about-sovereign-union

'The bulldozing of homes on 1 July 2018 in the marginalised Mallingbar community on Yawuru[34] country at Kennedy Hill, Broome, Western Australia, to make way for a tourist lookout, is one of the latest examples. This incident brings into sharp relief the roles of the local Yawuru Native Title Prescribed Body Corporate of which Senator Pat Dodson is a director; of Wayne Bergmann, CEO of KRED Enterprises; and the inaction of June Oscar, Aboriginal and Torres Strait Islander Social Justice Commissioner.

'The demolition at Mallingbar, in the name of economic development, began the day after the end of the National Native Title Conference that was held at Cable Beach, Broome, Western Australia from 5 to 7 June 2018. Cable Beach is only five kilometres from Kennedy Hill, which is between two tourist resorts. Kennedy Hill is an ancient campground with large middens and is only half a block away from Broome's Old Chinatown. Mallingbar was also home to displaced people from the One Mile settlement, which was bulldozed to make way for the runway extension at Broome airport.

> *"...The demolition was approved by the Prescribed Body Corporate that evolved from the Native Title determination, known as Yawuru Native Title Holders Aboriginal Corporation RNTBC ICN 7033, of which Senator Pat Dodson is a Director. It administers a charitable trust called Nyamba Buru Yawuru Ltd. The Yawuru.com.au website states: "The Yawuru Agreement provides an opportunity for Yawuru to influence the future development of Broome, where Yawuru have opportunities in this development and can continue to safeguard Yawuru culture, way of life and strengthen our identity."*

[34] Minyirr Djugun [contention] as noted by Author - Ref. Appendix 4

‘But as we see, the pressures of economic development override the well-being of the people, whether they are Sovereign Owners, or displaced First Nations people.

‘The Yawuru website also states: ‘The Economic Development section of this website is currently being reviewed.’(!!)

‘Walman Yawuru descendant and Goolarabooloo Elder, Ronnie Roe report on 29 June 2018 describes how homes on Kennedy Hill[35] are bulldozed while families are still living in them, making them homeless with nowhere to go.

‘You can watch videos about this incident at:

https://www.youtube.com/watch?v=Zy7B-4kyjSA&feature=youtu.be

https://www.youtube.com/watch?v=ZMAZf8R3zxg&t=36s

‘Magali McDuffie, PhD student and filmmaker, expands on Native Title and genocide on YouTube at:

https://www.youtube.com/watch?v=hzwrN-4FRvE&feature=youtu.be

‘The complaints began when Native Title Services organisations and their appointed anthropologists and genealogists brought the wrong people into Native Title claims for Country and thus dominated and often outnumbered the real Sovereign Owners, thereby thwarting the real Sovereign Owners’ rights to halt mining and development companies’ interests on their lands.

‘The second complaint focuses on the establishment of Prescribed Body Corporates (PBCs) that the Native Title Act states are for common law holders, who consent to Native Title determinations. A PBC is the colonial legal entity that holds Native Title rights and interests in trust for common law holders.

‘In many cases, once a PBC becomes an ‘Indigenous / Aboriginal Corporation’, registered with the Office of the Registrar of Indigenous Corporations (ORIC), the constitution can be amended so that it allows membership for non-common law holders, who in many cases, then outnumber the real Sovereign Owners and as a

[35] Sic. Mallingbar Community

consequence gain control of the PBC, facilitate mining agreements and development agreements against the wishes of the real Sovereign Owners.

'Another shocking feature of PBCs is that their constitutions are framed in such a way that the membership of real Sovereign Owners' can be cancelled and/or refused by non-common law holders. For example, in The Rule-book of Yawuru Native Title Holders Aboriginal Corporation RNTBC ICN 7033 section 5.2.4(e) on membership it states:

> *(e) The directors may refuse to accept a membership application, even if the applicant has applied in writing and complies with all the eligibility requirements.*

'What is even more astonishing and concerning, is the fact that these "historical" people and non-Sovereign Owners get to control and expend any or all trust funds and / or royalty monies and the real Sovereign Owners, in many cases, miss out on any advantages or financial rewards that should be theirs as quasi-compensation for the destruction of their Homelands.

'In respect of any trust monies that come from Native Title determinations, these non-common law holders manipulate when and how Sovereign Owners' royalties are paid through purchase orders. In many cases the Prescribed Body Corporates or Native Title Services organisations engage non-Aboriginal administrators to administer the trust accounts on annual salaries that range between $150,000 to $350,000, plus additional expenses that may be occurred by them for their services, which include rented office space with phones and computers. The Sovereign Owners generally have no say as to who is appointed and they certainly don't have the power to dismiss them.

'There is one such Trust Account where funds to the amount of $100,000 per year were allegedly paid to a husband and wife for conducting female and male cultural events, but the Sovereign Owners have never witnessed, in the past 10 years, any such cultural events taking place. In the case of the Kimberley, the Argyle diamond mine is winding down, yet Gelganyem Trust expenses doubled between 2015 and 2016 to $1.2 million for the administration of the Argyle royalty related to the mine, negotiated under the Native Title Act.[36]

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[36] *See: Michael West and Suzanne Smith, "Diamonds are not forever: Indigenous communities grapple with end of the mining boom", ABC Foreign Correspondent, 28 June 2017 at: http://www.abc.net.au/news/2017-06-28/indigenous-communities-end-of-mining-boom/8657418*

‘A third complaint is that Indigenous Land Use Agreements (ILUAs) have been placed before Sovereign Owners, who can barely read and write in English, and there is no translation in their mother tongue. Those to whom I have spoken in the last 12 months, say they have never been left a copy of the Indigenous Land Use Agreement or other documents they were coerced to sign. Indigenous Land Use Agreements have never been explained to the people in terms of what they mean, in particular, the consequences that flow from that agreement, in terms of their rights and interests; nor are they told what a “past act” is; nor how far back in time that “past” act reaches; and they certainly are not told what type of “past acts” they are authorising with their signatures.

“...Clearly, this is an absolutely illegal practice.” Anderson said.

‘What makes this so horrific and beyond belief, is the fact that it is lawyers who are advising the Sovereign Owners to approve these terms in ILUAs.

‘These Native Title lawyers certainly do not inform the people, that by signing the agreements, they forego ALL future rights to negotiate on development on their lands and, in the case of coastal people, they also give away rights to any operations on their coastline and out to sea, where their stories reach. This includes lands that are beyond the original claim, in respect to islands and reefs in particular.

‘What makes this situation even worse, is the fact that the lawyers do not explain to the people the effects of approving “future acts to be past acts”. In effect, Native Title common law holders sign away any future rights to negotiate about development on their lands. Who would knowingly do this?

‘There is another insidious and evil practice being perpetrated against Sovereign Owners involved in Native Title claims by these Native Title service lawyers and that is, they do not explain that there are certain sections within the Native Title Act which absolutely racially discriminate against them as First Nations Peoples, in respect of their ordinary civil rights under the colonial common law.

‘Native Title lawyers certainly do not go anywhere near explaining that there are other sections within the Native Title Act that racially discriminate against First

Peoples' customary Laws and cultural practices, for example, native vegetation laws in every State and Territory, as they relate to the Peoples' totemic relationships under their Law and cultures.

'Native Title Services lawyers discourage First Nations Peoples from claiming mineral rights, especially their rights to the Royal metals – gold and silver. I am yet to find the section within the Native Title Act that says that First Nations Peoples are NOT permitted to claim rights to the natural resources that are on or beneath their lands. What should be of interest to all concerned, in this regard, is the advice to former PM John Howard from lawyers of the Samuel Griffith Society, which I have referred to in the past and I quote:

> *"..NSW relies on the Royal prerogative to underpin its ownership of the Royal Minerals (gold and silver). A case is likely to be constructed by Aboriginal people, on the basis of sovereignty, to test the Crown ownership of minerals. If a case for sovereignty is successful, then there may be latitude for a claim for compensation in respect of at least the royal minerals, or a royalty payable to indigenous groups for royal minerals extracted, both past and future. If Crown ownership of minerals is affirmed in the amendments then there may well be a case for compensation mounted by indigenous groups. The States are wary of this possibility and have subsequently encouraged the federal Government to avoid any affirmation of Crown ownership.' (Native Title: A Path to Sovereignty, Dr Stephen Davis, p. 1)*

'On this point alone, First Nations Peoples should be encouraged to claim compensation for all those past acts. Moreover, Native Title Services lawyers should be (and I emphasise should be) advising Native Title applicants that they do have a right to claim compensation for mineral, petroleum and gas extraction on all lands, not just Crown lands, because of what the High Court determined in Mabo and again I repeat:

> *33. International law recognized conquest, cession, and occupation of territory that was terra nullius as three of the effective ways of acquiring sovereignty. No other way is presently relevant … but if the land were occupied by the indigenous inhabitants and their rights and interests in the land are recognized by the common law, the radical title which is acquired with the acquisition of sovereignty cannot itself be taken to confer an absolute beneficial title to the occupied land.*

49. It is not surprising that the fiction that land granted by the Crown had been beneficially owned by the Crown was translated to the colonies and that Crown grants should be seen as the foundation of the doctrine of tenure which is an essential principle of our land law. It is far too late in the day to contemplate an allodial or other system of land ownership. Land in Australia which has been granted by the Crown is held on a tenure of some kind and the titles acquired under the accepted land law cannot be disturbed.

'I know that some lawyers argue that the parliaments can make laws to overturn decisions of a court but what these lawyers fail to accept is the fact that, if such changes impact and change the rights of the First Nations Peoples which are affected by those changes, then just terms compensation is in order. The fact that Mabo made this ruling, commits ALL legislatures in this Country to negotiate just terms settlements.

'Now I turn to Howard's Ten Point 1998 Native Title Act amendment that was regularly condemned by the UN CERD in its Concluding Observations of the Committee on the Elimination of Racial Discrimination – AUSTRALIA:

'On 18 March 1999:

3. The Committee recognizes that, within the broad range of discriminatory practices that have long been directed against Australia's Aboriginal and Torres Strait Islander peoples, the effects of Australia's racially discriminatory land practices have endured as an acute impairment of the rights of Australia's indigenous communities.

6. While the original 1993 Native Title Act was delicately balanced between the rights of indigenous and non-indigenous title holders, the amended Act appears to create legal certainty for Governments and third parties at the expense of indigenous title.

'On 14 April 2005:

16. The Committee notes with concern the persistence of diverging perceptions between governmental authorities and indigenous peoples ***and*** *others on the compatibility of the 1998 amendments to the Native Title Act with the Convention. The Committee reiterates its view that the Mabo case and the 1993 Native Title Act constituted a significant development in the*

recognition of indigenous peoples' rights, but that the 1998 amendments roll back some of the protections previously offered to indigenous peoples and provide legal certainty for Government and third parties at the expense of indigenous title. The Committee stresses in this regard that the use by the State party of a margin of appreciation in order to strike a balance between existing interests is limited by its obligations under the Convention (art. 5).

> *"...The Committee recommends that the State party refrain from adopting measures that withdraw existing guarantees of indigenous rights and that it make every effort to seek the informed consent of indigenous peoples before adopting decisions relating to their rights to land. It further recommends that the State party reopen discussions with indigenous peoples with a view to discussing possible amendments to the Native Title Act and finding solutions acceptable to all."*

17. The Committee is concerned about information according to which proof of continuous observance and acknowledgement of the laws and customs of indigenous peoples since the British acquisition of sovereignty over Australia is required to establish elements in the statutory definition of native title under the Native Title Act. The high standard of proof required is reported to have the consequence that many indigenous peoples are unable to obtain recognition of their relationship with their traditional lands (art. 5).

> *"...The Committee wishes to receive more information on this issue, including on the number of claims that have been rejected because of the requirement of this high standard of proof. It recommends that the State party review the requirement of such a high standard of proof, bearing in mind the nature of the relationship of indigenous peoples to their land. (CERD/C/AUS/CO/14) - 14 April 2005.*

'On 8 December 2017:

22. The Committee recommends that the State party moves urgently to effectively protect the land rights of Indigenous Peoples including by amending the Native Title Act 1993 with the view to lowering the standard of proof and simplifying the applicable procedures. It also urges the State party to ensure that the principle of free, prior and informed consent is incorporated in the Native Title Act 1993 and in other legislation as appropriate, and fully implemented in practice. Moreover, the Committee recommends that the

> *State party respect and apply the principles enshrined in the United Nations Declaration on the Rights of Indigenous Peoples, and consider adopting a national plan of action to implement these principles. The State party is also encouraged to reconsider its position and ratify the ILO Indigenous and Tribal Peoples Convention, 1989. (No. 169). (CERD/C/AUS/CO/18-20).*

'Considering what was held to be racially discriminatory by the CERD, First Nations Peoples throughout this country should be coming together to sue the Commonwealth government for compensation for breaching international jus cogens and international legal norms, which the Australian government is legally bound to observe.

'There is also another very important legal question that our people should be looking at and that is: How did the Australian government under Keating construe their Constitutional rights to even pass the Native Title Act in the first instance? Considering land tenure is the sole responsibility of the States, there is no section in the Australian Constitution that gives the executive government of the Commonwealth the head of power to pass any type of laws dealing with land tenure in the States. To acquire this head of power under the Australian Constitution, the State parliaments would have had to have had ceded those land tenure rights to the Commonwealth.

'In this case I am reminded of the correspondence between the Australian Capital Territory government and John Howard, in which the Australian Capital Territory informed Howard that they could not agree to his Ten Point Plan if it meant that the States and Territories had to pay just terms compensation to First Nations Peoples for their rights that were taken away. It was these questions from the States and Territories that forced Howard to suspend the Racial Discrimination Act. In this correspondence there are also records of handing to the Commonwealth government responsibility to pass laws for land tenure within the States and Territories.

'We do know that the Commonwealth government can pass laws in respect to land within the Commonwealth and their territories, e.g. Native Title and for the Australian Capital Territory. The Commonwealth's interference with land tenure in the Territories is now questionable.

'This question becomes a reality when we understand that the Commonwealth Attorney-General applied for a demurrer in the High Court challenge by the

community council of Maningrida, when they sued for compensation because the Northern Territory Emergency Response law (the Intervention) took away their rights to have ownership and control over their lands in that community. Wurridjal v The Commonwealth of Australia [2009] HCA 2 (2 February 2009).[37]

'A "demurrer" is equivalent to a gag-order. A "demurrer" is also a pleading in a lawsuit that objects to, or challenges, a pleading filed by an opposing party. The word "demur" means "to object"; a demurrer is the document that makes the objection. The demurrer challenges the legal sufficiency of a cause of action in a complaint or of an affirmative defence in an answer.

'A further complaint that needs to be investigated urgently is represented by two factors:

> *'...There are Native Title Services organisations around this country that are encouraging First Nations Peoples to make Native Title claims over lands that are exclusively reserved for "the use of Aborigines only" under State laws, as was the case with the New South Wales Aboriginal Land Trusts. In these cases, State laws also recognise that the First Nations Peoples in these instances own all the minerals on, and below, that ground. When Native Title claims are placed over these lands and Native Title is agreed to by the States, the rights to the ownership of minerals above and below the ground, including petroleum and gas, reverts back to Crown ownership and are thus controlled by the State governments. Native Title Services organisations are encouraged by transnational corporations, and locally-owned Australian mining companies that have contributed financially to encourage Native Title Services, to do just that. The companies do not want to have to negotiate with First Nations owners of minerals, gas and petroleum on and within their lands and waters."*

'The list goes on. First Nations Peoples are beginning to realise how extensive is the damage that is being done to their rights as the true Sovereign Owners of this land and waters.

'A full legal enquiry, such as a Royal Commission, may well establish that such actions by Native Title Services could constitute fraudulent misappropriation of

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[37] *See http://nationalunitygovernment.org/content/dangers-single-treaty*

funds specifically identified for Native Title claims. Too many of our Peoples are being deprived of their rights under the Native Title process.

'Too many of our Peoples are validating all land laws in the States dating back to the original grants of lands that were illegally appropriated and/or where the Crown benefitted and profited from the proceeds of crimes that amount to absolute genocide right across this country.

'There is no time limit on murder and as a consequence our people have an absolute inherent right to be justly compensated for the wrongful acts that have been committed against us.

'In this regard, I am proposing a National Summit be convened to discuss these and other matters for presentation to the national Parliament and I recommend that those wishing to participate in this summit bring with you all the stories of the wrongdoings by Native Title instrumentalities, because I believe that our Peoples not only have evidence for an action against the Commonwealth government, but also the Native Title Services organisations themselves.

'Our Peoples are beginning to understand that there is something very wrong, especially when Native Title lawyers tell community members that the only way to acquire sovereignty is to acquire an army, navy and air force and declare war!!

'Read more about this in our media release at:

http://nationalunitygovernment.org/content/kimberley-land-council-klc-agencies-wrong-about-sovereignty

> *"...Worse still, there is a resident Catholic nun advising an Aboriginal community that you HAVE TO have Native Title before you can get sovereignty!! Where does this stop?." Anderson said.*

'Our people must understand that Native Title Services organisations around this country, be they Land Councils or Native Title Services, are fully funded by the Commonwealth government to facilitate the "legal" theft of our lands, and the mechanisms in the Native Title Act enable the absolute "legal" theft, through Indigenous Land Use Agreements (ILUAs). In ILUAs you not only authorise past acts, but also "future acts as past acts", but there is also a word in the Native Title

Act, which is used in ILUAs and that is, that you agree to surrender all future claims to your country, waters and natural resources. I am yet to hear of a Native Title Services lawyer explaining to First Peoples what these three elements truly mean to the people now, for their children into the future and the impacts that they have. Additionally, ILUAs generally require those signing to agree to surrender their land, called the 'surrender area', to the local Shire.

'In short, it means that those who sign have authorised everything for the British occupying power to have absolute ownership. In my opinion, as a stalwart for Land Rights and Sovereignty, if we do not take a stand now, then we will lose everything and all our efforts now and over the past 230 years will have been for nothing. The legacy that we will leave behind is First Nations Peoples, who no longer own their language, who no longer own their culture, who no longer own their water, who no longer teach their own children, who are no longer at Home on their own Country. If this were to happen, we will be like leaves on a dying tree. What Nation will be the last leaf to fall?

Or do we keep the dreams alive?

'In the last written words of Kevin Gilbert[38] (1933 -1993):

> *"...If we want the Dream to come true,*
> *we must be true to the Dream,*
> *but all this is only meaningful,*
> *if there are Dreamers who respond,*
> *to make the Dream come true."*

'We will organise a National Summit to address these issues and challenge the operations of Native Title lawyers and Native Title Service organisations. So, attend the National Summit to keep the dream alive – time and date to be advised.

Ghillar, Michael Anderson.
Convenor of Sovereign Union[39] of First Nations and Peoples in Australia.
Head of State of the Euahlayi Peoples Republic.

[38] Kevin Gilbert, Aboriginal Author - Available at http://ia.anu.edu.au/biography/gilbert-kevin-john-18569
[39] Website: Available at http://www.sovereignunion.mobi

APPENDIX 4

[Electronic Statement and Photographs received and witnessed on Thursday, 5th July 2018.]

STATEMENT

Statement taken by Author - 10:35 AM, 5th July 2018.

Location - 'Pensioners Quarters' - Lot 3, 14 Saville Street, Broome, Western Australia.

"...I, Damian Balacky, Senior Law Man for the Northern Tradition, Bardi, from Swan Point tracking right through and ending in Wabana. The Northern Tradition stops at demarcation of Dampier Creek, then Yawuru begins other side of that creek. Nobody can stop the Law and the Yawuru cannot interfere with that Northern Tradition Law, but we can invite them in, only.

When the Old People were alive, Sandy Paddy, Peter Angus, Freddy Bin Sali and Paul Sampi Senior, who were Law Bosses for the Northern Tradition, they were invited in by the late Paddy Roe. I do not know whether Patrick Dodson has gone through Law or if he is a Law Boss.

The Nyamba Buru Yawuru Corporation (NBY) cannot stop us practising Law here because this is Northern Tradition Law here.

Signed. [40]

[40] Ref. Figure 12:

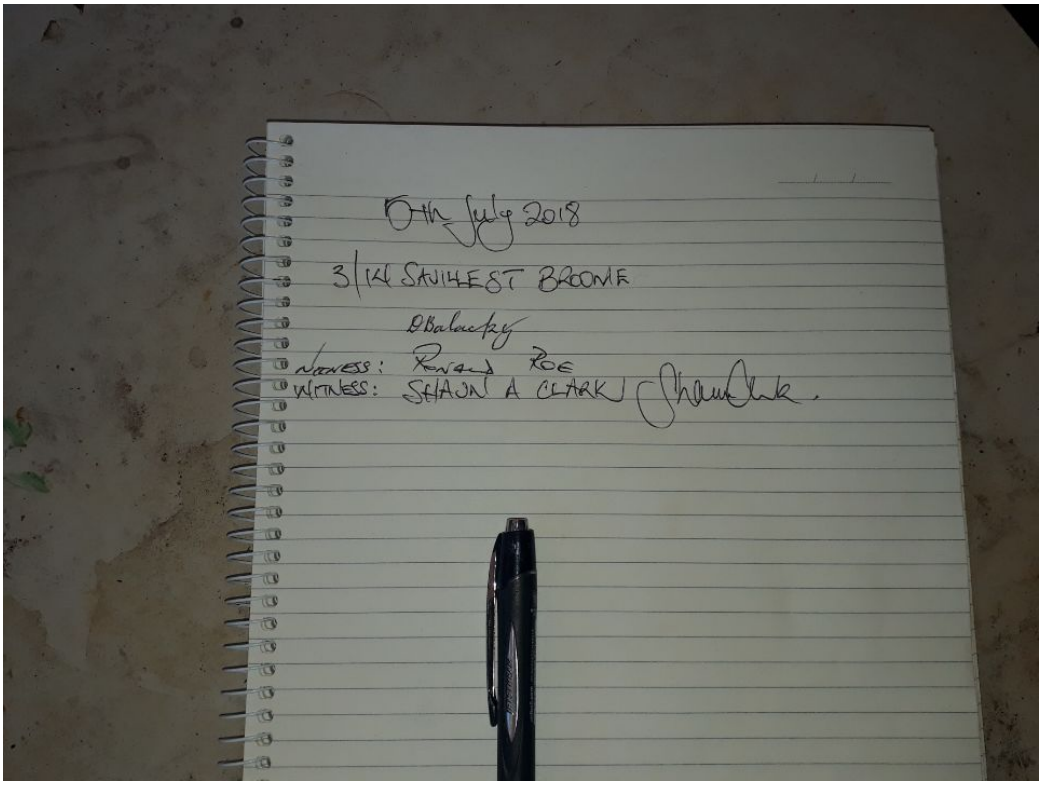

Figure 12 : Signed statement: Damian Balacky, Senior Law Man, Bardi - 5th July, 2018 (Photographer: Shaun Bob)

Figure 13: Damian Balacky, Senior Law Man, Bardi, signing Statement, 5th July 2018 (Photographer: Shaun Bob)

Figure 14: Damian Balacky, Senior Law Man, Bardi (L) with Ronald Roe, Walman Yawuru descendant, Goolarabooloo Elder, signing Statement, 5th July 2018. (Photographer: Shaun Bob)

Figure 14: Ronald Roe, Walman Yawuru descendant, Goolarabooloo Elder signing ‘Kunin Law: Crow & Country’ - 5th July (Photographer: Johari Bin Denim**)**

Figure 15: Ronald Roe, Walman Yawuru descendant, Goolarabooloo Elder witnessed by Marion Pilkington, Yamatji Nyungar descendant, Goolarabooloo - 5th July (Photographer: Johari Bin Denim*)*

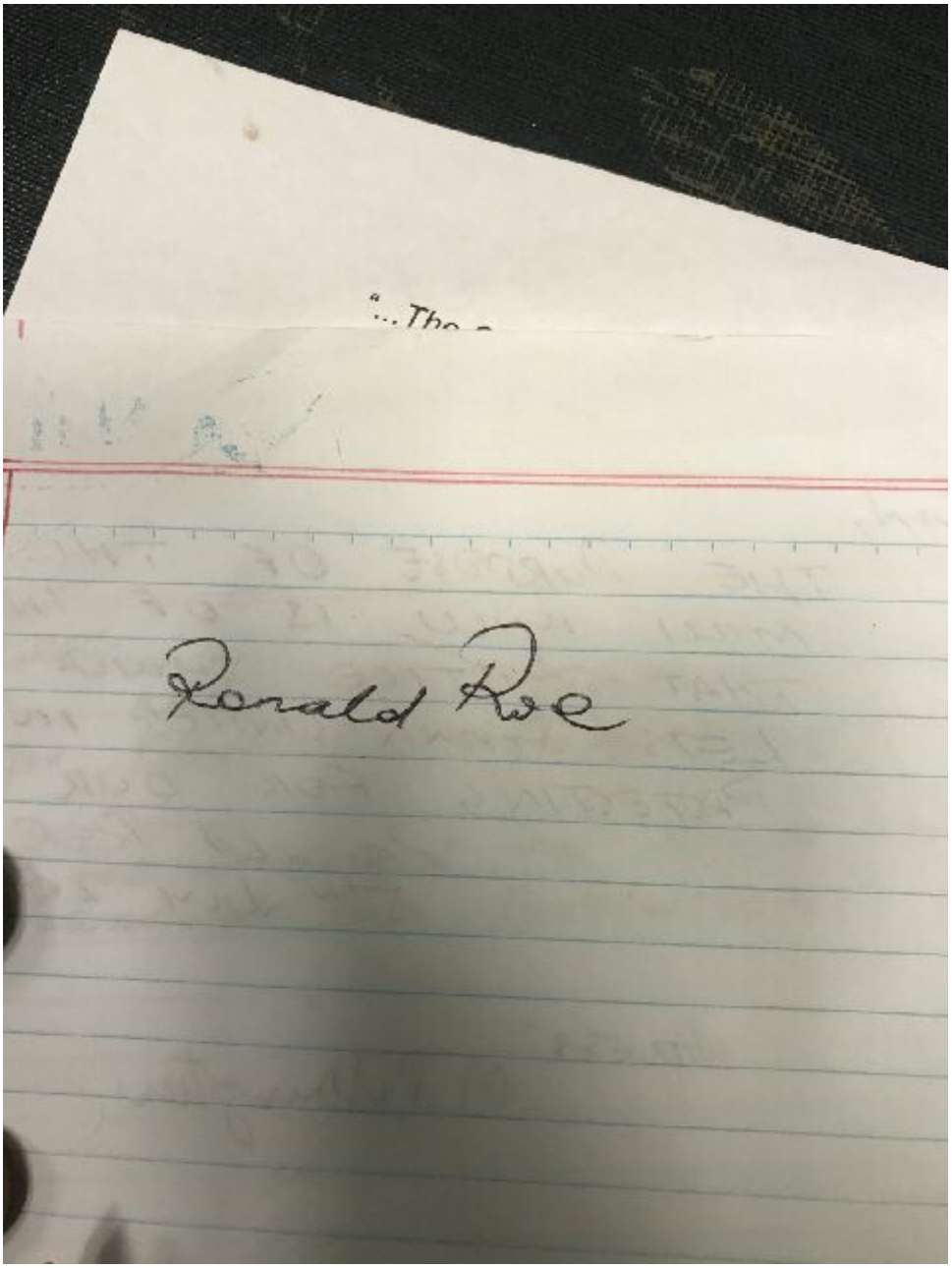

Figure 16: Signature, Ronald Roe - 5th July, 2018. - 58 Anne Street, Broome, Western Australia 6725

GRAPHICS

Front Cover Graphic - Andras Bodecs: Available at https://www.behance.net/gallery/16111311/Crow

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