

# **NATIONAL NATIVE TITLE TRIBUNAL**

*Wanjina-Wunggurr (Native Title) Aboriginal Corporation on behalf of Dambimangari v Strategic Metals Pty Ltd and Another* [2018] NNTTA 12 (14 March 2018)

**Application No:** WO2017/0325

**IN THE MATTER of the *Native Title Act 1993* (Cth)**

- and -

**IN THE MATTER of an inquiry into an expedited procedure objection application**

**Wanjina-Wunggurr (Native Title) Aboriginal Corporation on behalf of Dambimangari  
(WCD2011/002)**

**(native title party)**

- and -

**Strategic Metals Pty Ltd**

**(grantee party)**

- and –

**State of Western Australia**

**(Government party)**

## **DECISION TO DISMISS OBJECTION APPLICATION**

**Tribunal:** Ms H Shurven

**Place:** Perth

**Date:** 14 March 2018

**Catchwords:** Native title – future act – proposed grant of prospecting licence – expedited procedure objection application – objection application dismissed

**Legislation:** [\*Native Title Act 1993 \(Cth\)\*](#) ss 29, 148(a)

<b>Representatives of the native title party:</b>	Angela Booth, Kimberley Land Council Ania Maszkowski, Kimberley Land Council
<b>Representative of the grantee party:</b>	Jack Telford, Strategic Metals Pty ltd
<b>Representative of the Government party:</b>	Bethany Conway, Department of Mines, Industry Regulation and Safety

## REASONS FOR DETERMINATION

### Background

- [1] On 11 January 2017, the State Government of Western Australia gave notice under s 29 of the *Native Title Act 1993* (Cth) (the Act) of its intention to grant exploration licence E04/2325 to Strategic Metals Pty Ltd (Strategic Metals). By including an expedited procedure statement in the public advertisement of the licence, the State asserted that the grant could be made without Strategic Metals or the State being required to negotiate with any native title party for the relevant area.
  
- [2] On 10 May 2017, the Wanjina-Wunggurr (Native Title) Aboriginal Corporation (WWAC) lodged an objection application on behalf of Dambimangari (WCD2011/002) with the National Native Title Tribunal against the assertion the expedited procedure applied to the grant of the licence.
  
- [3] Mapping generated by the Tribunal's geospatial services shows 63.85 per cent of the licence area is located within the area of the Dambimangari determination, which determined native title does not exist in that area of overlap. A further 28.59 per cent of the licence is located within the area of the Wanjina-Wunggurr Wilinggin Native Title Determination No 1 (WCD2004/001), which found native title does exist in that area. The native title rights and interests determined in both these matters are held in trust by the WWAC on behalf of the Wanjina Wunggurr Community.
  
- [4] Pursuant to s 76 of the Act and Reg 4 of the *Native Title (Tribunal) Regulations 1993*, an objection application must be made by a native title party in the prescribed form of a Form 4. The Form 4 requires the native title party to identify its name, address, and whether it is a registered native title body corporate or a registered native title claimant. However, nothing in the Act or Regulations requires the native title party to specifically identify which determination gives rise to its procedural right to object.
  
- [5] The Form 4 lodged in this matter identified the WWAC as the registered native title body corporate for the area of the proposed licence. Although native title has been determined not to exist within the overlap between the proposed licence and the Dambimangari determination area, the WWAC remains a native title party with the

right to object by virtue of its status as a registered native title body corporate for the Wanjina-Wunggurr Wilinggin Native Title Determination No 1. As such, the objection was accepted.

- [6] To answer the question of whether the licence can be granted under the expedited procedure, I was appointed by the President of the Tribunal, Raelene Webb QC, to be the Member conducting the inquiry in this matter.

***Is the Tribunal entitled to deal with this application?***

- [7] The Tribunal has since identified the WWAC lodged another objection application on 11 May 2017 against the same licence, but identified it as on behalf Wilinggin Native Title Determination No 1 (objection number WO2017/0373). I accepted that objection on 29 May 2017. The duplication with this current inquiry was not identified at that time.

- [8] On 28 February 2018, the Tribunal wrote to parties to inform them of these circumstances and stated:

Member Shurven intends to process the WO2017/0325 objection for E04/2325 as a non-acceptance. If any party has any submissions she should consider in relation to that course of action, please let me know on or by Noon Tues 6 March 2018.

- [9] The State and WWAC's representative, Kimberley Land Council, agreed the matter could be dismissed pursuant to s 148(a) of the Act. The WWAC's procedural rights to object about the application of the expedited procedure to the grant of the licence are preserved under WO2017/0373.

**Determination**

- [10] The objection application against exploration licence E04/2325 is dismissed, according to s 148(a) of the *Native Title Act 1993* (Cth).

**Ms H Shurven**  
**Member**  
**14 March 2018**