



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD6001/1995
NNTT number: WC1994/002

Application Name: State of Western Australia v Ward (Miriuwung Gajerrong #1)

Application Type: Claimant

Application filed with: National Native Title Tribunal

Date application filed: 06/04/1994

Current status: Full Approved Determination - 07/11/2013

Registration information: Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

Date claim entered on Register of Native Title Claims: 11/12/2009

Registration decision status: Not currently identified for Reg. Decision

Registration history: Registered from 26/05/1994 to 2/09/2005, Registered from 11/12/2009 to 13/12/2013,

Date claim / part of claim determined: 09/12/2003

Old Act* registered native title claimants: Ben Ward, John Toby and others (See attachment D).

Address(es) for Service: Judith Bornstein
Kimberley Land Council
PO Box 2145
BROOME WA 6725
Phone: (08) 9193 6199

Additional Information

Not applicable

Persons claiming to hold native title:

Native title rights and interests claimed:

Possession, occupation, use and enjoyment of the area. Special and exclusive relationship with and connection to the area in accordance with traditional customs, laws, practices and usages such that the area comprised Miriung and Gajerrong's traditional homeland.

(A) The Aboriginal people known as Miriung/Gajerrong ("Miriung/Gajerrong") are, and were, at and for some time before the acquisition of sovereignty over Western Australia by the British Crown ("the acquisition of sovereignty"), and have been since the acquisition of sovereignty, a community or society linked by a commonality and complex of social, economic and cultural practices, customs, usages and beliefs.

Particulars of common practices, customs, usages and beliefs among Miriung/Gajerrong and which determine membership of Miriung/Gajerrong:-

1. Possession, occupation, use and enjoyment of the land covered by this Application and identified in the attached maps ("the Land")
2. Residence on the Land
3. Geographical, topographical, ecological, environmental and climatic knowledge of the Land
4. Spiritual knowledge of the Land.
5. Belief in the special and exclusive relationship of Miriung/Gajerrong to the Land
6. Belief that the Land is the traditional homeland of Miriung/Gajerrong
7. Belief that the Land is Miriung/Gajerrong's land
8. Hunting and gathering food on the Land
9. Bearing, rearing and teaching children on the Land
10. Building and using shelter on the Land
11. Holding ceremonies on the Land
12. Conducting ceremonies concerning the Land
13. Conducting Law Business on the Land
14. Conducting Law Business concerning the Land
15. Conducting Men's Law Business on and concerning the Land
16. Conducting Women's Law Business on and concerning the Land
17. Holding meetings for secular purposes on the Land
18. Holding meetings for spiritual purposes on the Land
19. Using water from the Land
20. Digging for and using stones, ochres and minerals on and from the Land
21. Assumption of responsibility and acknowledgment of a spiritual obligation to care for the Land and particular places on the Land
22. Caring for the Land pursuant to spiritual obligations
23. Caring for the Land according to environmental requirements
24. Caring for the Land by burning the Land, harvesting produce and conducting Law Business
25. Maintaining and passing on to younger generations knowledge of the Land

26. Sharing and exchanging resources derived on and from the Land
27. Travelling on the Land
28. Visiting and/or camping at particular places on the Land
29. Recognition of particular connections of an individual to particular parts of the Land
30. Recognition of particular connections of an individual to particular parts of the Land by reference to multiple criteria, such criteria being one or a number of the following:
 - a) Place of birth
 - b) Place of mother's birth
 - c) Place of father's birth
 - d) Descent
 - e) Marriage
 - f) Kinship ties
 - g) Residence
 - h) Initiation and ritual entitlement
 - i) Spiritual affiliation
 - j) Caretakership of country and objects
31. Knowledge and use of language
32. Descent, including by adoption
33. Biological and marital family ties
34. Kinship ties
35. Use and application of a kinship system
36. Recognition of other persons who are Miriung/Gajerrong
37. Cultural beliefs and practices concerning death of a member of Miriung/Gajerrong
38. Attendance at funerals of deceased members of Miriung/Gajerrong and kinship obligations to attend funerals

(B) At and for some time before the acquisition of sovereignty Miriung/Gajerrong had a special and exclusive relationship with and connection to the Land in accordance with traditional customs, laws, practices and usages such that the Land comprised Miriung/Gajerrong's traditional homeland.

Particulars of customs, laws, practices and usages giving rise to Miriung/Gajerrong's relationship with and connection to the land:-

Miriung/Gajerrong:

1. possessed, occupied, used and enjoyed the Land
2. resided on the Land
3. maintained a nomadic way of life on the Land
4. derived sustenance from the Land
5. hunted and gathered food on the Land
6. hunted and gathered food differently according to gender
7. women generally searched for food in groups and often took children with them

8. men hunted and searched for food alone or in pairs as well as in groups
9. bore, reared and taught their children on the Land
10. built and used shelter on the Land
11. held ceremonies on the Land
12. held ceremonies concerning the Land
13. men conducted Men's Law Business on the Land
14. women conducted Women's Law Business on the Land
15. held meetings on the Land for secular purposes
16. held meetings on the Land for spiritual purposes
17. dug for and used stones, ochres and minerals on and from the Land
18. cared for the Land according to environmental requirements
19. assumed responsibility and acknowledged a spiritual obligation to care for the Land and particular places on the Land
20. cared for the Land pursuant to spiritual obligations
21. cared for the Land by burning the Land, harvesting produce and conducting Law Business
22. men and women maintained and passed on to younger generations spiritual knowledge of the Land
23. men and women maintained and passed on to younger generations geographical, topographical, environmental and climatic knowledge of the Land
24. shared, exchanged and/or traded resources derived on and from the Land.
25. visited and/or camped at special or particular places on the Land
26. knew and avoided spiritually dangerous places on the Land
27. recognised particular connections of an individual to particular parts of the Land
28. recognised particular connections of an individual to particular parts of the Land by reference to multiple criteria. Such connections were recognised by reference to one or a number of the following:
 - a) Place of birth
 - b) Place of mother's birth
 - c) Place of father's birth
 - d) Descent
 - e) Marriage
 - f) Kinship ties
 - g) Residence
 - h) Initiation and ritual entitlement
 - i) Spiritual affiliation
 - j) Caretakership of country and objects
29. regulated access to parts of the Land according to initiation status, status of spiritual knowledge and gender
30. regulated access to the Land by persons who were not members of Miriuwung/Gajerrong

31. prevented the Land being harmed physically and spiritually by observing or engaging in the customs, laws, practices and usages referred to in subparagraphs B (1) to B (30) herein.

(C) Miriuwung/Gajerrong have substantially maintained the special and exclusive relationship and connection described in paragraph B herein to the Land.

Application Area: **State/Territory:** Western Australia
Brief Location: North East Kimberley
Primary RATSIB Area: Northern Northern Territory
Approximate size: 600.2609 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: Yes

Area covered by the claim (as detailed in the application):

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The determination in relation to the area in Western Australia came into effect in two stages. In accordance with order 4(a), to the extent that native title was determined not to exist, the determination was effective immediately and registered on the National Native Title Register on 19 May 2004.

In accordance with order 4(b), the remainder of the determination, which deals with areas where native title was determined to exist, became effective immediately upon the determination of the prescribed body corporate for the area. This occurred on 26 July 2005. The determination, to that extent, was registered on the National Native Title Register on 31 August 2005. The application, to the extent that it covered part of Western Australia, was removed from the Register of Native Title Claims on the same day.

The determination in relation to the area in the Northern Territory was registered on the National Native Title Register on 21 May 2004. The native title holders were given 12 months from the determination date to nominate a prescribed body corporate.

Until this occurs the application, to the extent that it covers part of the Northern Territory, will remain on the Register of Native Title Claims as well as the determination appearing on the National Native Title Register.

For information in relation to the Western Australian and the Northern Territory determinations, please refer to the associated extracts on the National Native Title Register.>>

CLAIM AREA:

Land and water in and around Kununurra, Wyndham, Cambridge Gulf, Turkey Creek in Western Australia and the Keep River National Park in the NNTT region; West Northern Territory. The area includes Lacrosse, Kanggurra, Pelican, Monsmont and Guy Reid Islands and Lake Kununurra and Lake Argyle.

The area covered by the Application is clearly indicated in the attached series of 18 cadastral maps described below.

The boundary of the area covered by the Application is marked with a red line and includes all the coloured land within the red boundaries.

The Application includes land, inland waters, and coast as marked on the attached maps.

The different land status of each of the areas covered by the Application is represented in colour in each of the attached maps as follows:-

1. The areas shaded GREEN - represent various types of Reserve Land as identified below;
2. The areas shaded ORANGE - represent vacant crown land;
3. The areas shaded BLUE - represent inland waters;
4. The areas shaded RED - represent leasehold/freehold land as identified below;
5. The area shaded YELLOW - represents coastal tidal plains;

Following is a specific identification of the areas covered by the Application in relation to each cadastral map:-

(I) Western Australia

1. Medusa Banks SD 52-10, 1:250,000

a) Vacant Crown Land

(i) Vacant Crown Land - as indicated by the ORANGE shaded areas

(ii) Lacrosse Island

(iii) Kanggurru Island

b) Reserves - as indicated by the GREEN shaded area

i) Pelican Island

ii) Conservation of Flora and Fauna 31967/671

c) Tidal grass plains dotted with natural springs as indicated by the YELLOW shaded area

2. Cambridge Gulf SD 52-14, 1:250,000

a) Crown Land - all land indicated by ORANGE shaded area

b) Reserves

i) For the Use and Benefit of Aboriginal Inhabitants 40536/690

ii) Natural Regeneration 35289/512

iii) Conservation of Flora and Fauna 42155

iv) Tropical Agriculture 18810/736

v) Public Utility 1061

vi) Public Utility 1166

vii) Public Utility 1060

viii) Point Spring Nature Reserve 2904/68

ix) Government requirements 31165/373

x) Public Utility 1064

xi) Resting Place for Travellers and Stock 8663

xii) Palm Springs Nature Reserve 42155

xiii) All other places indicated by the GREEN shaded area

c) Tidal Grass Plains dotted with natural springs - as indicated by the YELLOW shaded area

3. Lissadell SE 52-2, 1:250,000

a) Crown Land

i) Monsmont Island

ii) Guy Reid Island

iii) All other Vacant Crown Land indicated by the ORANGE shaded areas

b) Reserves

i) For Government Requirements 31165/373

- ii) For Government Requirements 31165/374
- iii) For Government Requirements 31165/380
- iv) For Government Requirements 31165/12
- c) Lease (King Location 701) - Land indicated by the RED shaded area is leased to the traditional owners
4. Burt Range NW 466-11NW, 1:25,000
- a) Crown Land - all land indicated by the ORANGE shaded areas
- b) Reserves
- i) Recreation 41617/664
- ii) Use and Benefit of Aboriginal Inhabitants 40260/2238
- iii) Use and Benefit of Aboriginal Inhabitants 40536/690
- iv) Agricultural Research Station 1063/321
- v) Conservation and Recreation 31780
- vi) National Park 37883/1636
- vii) Natural Regeneration 35289/512
- viii) Government Requirements 31165/373
5. Pincombe Range SW 4666-1 SW, 1:25,000
- a) Crown Land
- i) King Location 332
- ii) King Location 328
- iii) All other land as indicated by the ORANGE shaded area
- b) Reserves
- i) Native Paintings 32446/334
- c) Lease (King Location 333 and 330) - land leased by traditional owners as indicated in the RED shaded area
6. Pincombe Range NW 4666-1 NW, 1:25,000
- a) Crown Land
- i) King Location 335
- ii) King Location 339
- iii) King Location 282
- iv) King Location 323
- v) All other land indicated by the ORANGE shaded area
7. Ivanhoe NE 4666-IV-NE, 1:25,000
- a) Crown Land - as indicated by ORANGE shaded area
- b) Reserves
- i) Public Utility 1062
- ii) Dumas Lookout 505

8. Ivanhoe SE 4666-IV-SE, 1:25,000

a) Crown Land - as indicated by the ORANGE shaded area

b) Reserves

i) Quarry 36951/514

ii) Park Land 38358/277

iii) Public Utility 1062

iv) Native Paintings 32446/234

v) All other land indicated by the GREEN shaded area

9. Deception Range NE 4666-III-NE, 1:25,000

a) Vacant Crown Land

i) Vacant Crown Land 715

ii) Vacant Crown Land 716

iii) All other land indicated by the ORANGE shaded area

b) Reserves

i) Natural Regeneration 35289/512 (including Lots 1, 2, 3 and 4 of Plan 18474 and Lots 2, 3 and 4 of Plan 17045 which were part of a subdivision which did not proceed

ii) Conservation and Recreation 31780

iii) Cattle Experiments 30356/976

iv) Irrigation Works 29277/313

v) Protection of Diversion dam 37380/515

vi) Quarry 36951/514

vii) Gravel 30804/352

viii) Tropical Gardens 38368/768

ix) Recreation 29297/714

x) Foreshore and Recreation 41812/667

xi) National Park 37883/1636

xii) Use and Benefit of Aboriginal Inhabitants 31504/1180

xiii) All other land indicated by the GREEN shaded area

10. Kununurra Townsite ORD DH79 22.17 1:2,000

a) Reserves

i) Drainage 39000/2228

ii) Use and Benefit of Aboriginal Inhabitants 41401

iii) Use and Benefit of Aboriginal Inhabitants 31221/2229

iv) Recreation and Community Facilities 29799/77

11. Kununurra Townsite ORD DH79 23.16, 1:2,000

a) Vacant Crown Land - as indicated by the ORANGE shaded area

b) Reserves

i) National Park 37883/1636

ii) Recreation and Community Facilities 29799/77

12. Kununurra Townsite ORD DH79 23.15 1:2,000

a) Vacant Crown Land

i) King Location 715

ii) All other land indicated by the ORANGE shaded area

b) Reserves

i) Foreshore and Recreation 41812

13. Kununurra Townsite ORD DH79 23.17 1:2000

a) Reserves

i) Use and Benefit of Aboriginal Inhabitants 31221/2229

ii) Use and Benefit of Aboriginal Inhabitants 41401

iii) National Park 37883/1636

iv) Landscape Protection and Recreation 42441/2422

v) Drainage 39000/2228

vi) Park 39128/2230

vii) Recreation and Community Facilities 29799/77

14. Kununurra Townsite ORD DH79 23.18 1:2000

a) Vacant Crown Land - as indicated by the ORANGE shaded area

b) Reserves

i) Landscape Protection and Recreation 42441/2422

ii) Use and Benefit of Aboriginal Inhabitants 31504/1180

iii) Use and Benefit of Aboriginal Inhabitants 26600/233

iv) Use and Benefit of Aboriginal Inhabitants 31221/2229

v) Park 39128/2230

vi) Drainage 39000/2228

vii) All other land indicated by the GREEN shaded area

15. Kununurra Townsite ORD DH79 24.15 1:2000

a) Vacant Crown Land - as indicated by the ORANGE shaded area

b) Reserves

i) National Park 37883/1636

ii) Cattle Experiments, Department of Agriculture 30356/976

16. Kununurra Townsite ORD DH79 24.16 1:2000

a) Vacant Crown Land - as indicated by the ORANGE shaded area

b) Reserves

i) National Park 37883/1636

17. Kununurra Townsite ORD DH79 24.18 1:2000

a) Reserves

i) National Park 37883/1636

(II) Northern Territory

Location Fitzmaurice Sheet 7 1:500,000 (A4 extract only)

Keep River National Park (as indicated by the GREEN shaded area)

Aboriginal Freehold (as indicated by the red shaded area) 3541, 3542 and 3863

Attachments:

1. Maps of Claim Area, Attachment A of the Application, 7 pages - A4, 17/10/1996
2. List of Registered Native Title Claimants, Attachment D of the Application, 1 page - A4, 06/12/1995
3. Schedule 3 of Attorney General of the Northern Territory v Ward [2003] FCAFC 283, 4 pages - A4, 01/07/2004

NNTT Contact Details

Address: National Native Title Tribunal
Perth Office
Level 5, Commonwealth Law Courts
1 Victoria Avenue
PERTH WA 6000

GPO Box 9973
PERTH WA 6848

Telephone: +61 8 9425 1000
Freecall: 1800 640 501
Fax: +61 8 9425 1193
Web Page: www.nntt.gov.au

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