



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD29/2019
NNTT number: WC1999/046

Application Name: Evelyn Gilla & Ors on behalf of the Yugunga-Nya People and State of Western Australia & Ors (Yugunga-Nya People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 09/12/1999

Current stage(s): Notification Complete, Part Determination

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: 12/06/2000

Registration decision status: Not Accepted for registration

Registration history: Registered from 12/06/2000 to 7/08/2020,

Date claim / part of claim determined: 02/11/2021

Applicants: Evelyn Gilla, William (Bill) Shay, Leonie Gentle, Russel Little, Audrey Shar, Troy Little, Robyn Kelly, Elaine King, Nathaniel Blane, Leonard Barnard

Address(es) for Service: Sam Hegney
Sam Hegney Solicitors
53 Fox Street
Walgett NSW 2832
Phone: 0417 470 343

Additional Information

On 2 November 2021, the Federal Court made a determination that native title exists in parts of the application area - see *Gilla on behalf of the Yugunga-Nya People v State of Western Australia (No 3)* [2021] FCA 1338. That determination was registered on the National Native Title Register (NNTT) on 4 November 2021. The application remains on the Schedule of Native Title Determination Applications only to the extent that it relates to the undetermined area. A map and technical description showing the area of the application that remains to be determined, as interpreted by the National Native Title Tribunal, are attached for information only. These attachments do not form part of the application.

Persons claiming to hold native title:

The native title claimants comprise those Aboriginal people who:

Under the traditional laws and customs of the Western Desert, have a spiritual connection to the claim area and the Tjukurpa associated with it on the basis of one or more of the following:

- i. the claim area is his or her country of birth (also reckoned by the area where his or her mother lived during the pregnancy); or
- ii. he or she has traditional geographical and religious knowledge of the claim area through a long-term association with the area; or
- iii. he or she has an affiliation to the claim area through a parent or grandparent with a connection to the claim area as specified in sub-paragraphs (i) or (ii) above;

and

who are recognised under the traditional laws and customs by the other native title holders as having rights in the claim area.

This currently includes the descendants of Annie Wilba, Dolly Ward Bootha and Jimmy Wheelbarrow.

Native title rights and interests claimed:

Native title where traditional rights are wholly recognisable:

1. Paragraph 2 applies to every part of the Claim Area:

(a) where there has been no extinguishment to any extent of native title rights and interests or where any such extinguishment is required to be disregarded pursuant to sections 47, 47A or 47B of the *Native Title Act 1993* (Cth); and

(b) which is not subject to the public right to navigate or the public right to fish.

2. Where this paragraph applies, the native title rights and interests possessed under traditional laws and customs confer possession, occupation, use and enjoyment of the land and waters as against all others.

Native title where traditional rights are partially recognisable:

3. Paragraph 4 applies to every part of the Claim Area to which paragraph 2 does not apply.

4. Where this paragraph applies, the customary rights and interests possessed under traditional laws and customs that are able to be and should be recognised by the common law of Australia being the (non-exclusive) rights to:

(a) have access to, remain on and use the land and waters;

(b) access and take the resources of the land and waters; and

(c) protect places, areas and things of traditional significance on the land and waters.

5. Each of the native title rights and interests referred to in each of paragraphs 2 and 4 exist in relation to the whole of each part of the Claim Area to which those paragraphs respectively apply and is held by the members of the native title claim group subject to and in accordance with traditional laws and customs.

Application Area: **State/Territory:** Western Australia
Brief Location: Geraldton Representative Area
Primary RATSIB Area: Central Desert
Approximate size: 9246.4380 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: No

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

Area covered by the Application:

1. The area covered by the application (claim area) is all the parcels of land and waters which are within the area described in Attachment B and shown in the map attached at Attachment C and which are not excluded by paragraph 2.

Areas not covered by the application:

2. The following areas are not covered by the application, except where any extinguishment by the acts mentioned is required by sections 47, 47A or 47B of the *Native Title Act* to be disregarded:

(a) any area that, when the application is made, is subject to any of the following kinds of acts as defined in either the *Native Title Act 1993*, as amended (where the act in question is attributable to the Commonwealth), or the *Titles (Validation) and Native Title (Effects of Past Acts) Act 1995 (WA)*, as amended (where the act in question is attributable to the State of Western Australia):

(i) Category A past acts;

(ii) Category A intermediate period acts;

(iii) Category B past acts that are wholly inconsistent with the continued existence of any native title rights or interests;

(iv) Category B intermediate period acts that are wholly inconsistent with the continued existence of any native title rights or interests;

(b) any area in relation to which a "relevant act" as defined in section 12I of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA)* was done and the act is attributable to the State of Western Australia;

(c) any area in relation to which a "previous exclusive possession act" under section 12J of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA)* was done and the act is attributable to the State of Western Australia;

(d) any area in relation to which a "previous exclusive possession act" as defined by section 23B (including section 23B(7)) of the *Native Title Act 1993* was done in relation to the area and the act was attributable to the Commonwealth; and

(e) any area where native title rights and interests have otherwise been wholly extinguished.

See "Attachment B"

Attachments:

1. Description of the remaining area, 9 pages - A4, 02/11/2021
2. Map of remaining area, 1 page - A4, 02/11/2021
3. Attachment B - External Boundary Description, 2 pages - A4, 10/03/2020
4. Attachment C - Map of area, 1 page - A4, 10/03/2020

End of Extract