



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD6181/1998
NNTT number: WC2000/007

Application Name: Alan Jones & Ors v State of Western Australia & Ors (Ballardong People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 03/07/2000

Current status: Full Approved Determination - 01/12/2021

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: 03/07/2008

Registration decision status: Accepted for registration

Registration history: Registered from 3/07/2008 to 3/12/2021,

Date claim / part of claim determined: 01/12/2021

Applicants: Reg Yarran (Jnr), Murray Yarran, Fay Slater, Carol Holmes, Reg Hayden, Allan Jones, Winnie McHenry, Doug Nelson, Ricky Nelson, Tim Riley, Dianne Taylor

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Additional Information

Not applicable

Persons claiming to hold native title:

The native title claim group comprises all those Aboriginal people who are:

1. the biological descendants of the unions between:-

- . Tommy Yarran + Mary Jane Kickett;
- . Winmar, an Aboriginal woman + Edwards, a European man;
- . William 'Bill' Humphreys + Susan White;
- . Tirban, an Aboriginal woman of Northam + a European man;
- . Frederick John Blurton + Mary Anne Juberan;
- . Thomas William Kickett + Mary Mellett;
- . Jack Nelson + Ada Foss;
- . George Borndrilditch Riley + Elizabeth Smith;

2. persons adopted by the individuals named in 1. above and those persons adopted by the biological descendants of the unions between the individuals named in 1. above or;

3. persons that are the biological descendants of the adopted persons included in 2. above.

Adoption occurs in the following manner: if a man dies and his brother or cousin marries the widow, any of the widow's children are adopted as the children of the new husband.

Native title rights and interests claimed:

The Qualifications:

The applicants claim in relation to the claim area, including land and waters, the native title rights and interests set out below ("The Rights and Interests") subject to the following qualifications.

(i) To the extent that any minerals, petroleum or gas within the area of the claim are wholly owned by the Crown in the right of the Commonwealth or State of Western Australia, they are not claimed by the applicants.

(ii) To the extent that the native title rights and interests claimed may relate to waters in an offshore place, those rights and interests are not to the exclusion of other rights and interests validly created by a law of the Commonwealth or the State of Western Australia or accorded under international law in relation to the whole or any part of the offshore place.

(iii) The applicants do not make a claim to native title rights and interests which confer possession, occupation use and enjoyment to the exclusion of all others in respect of any areas in relation to which a previous non-exclusive possession act, as defined in section 23F of the NTA, was done in relation to an area, and, either the act was an act attributable to the Commonwealth, or the act was attributable to the State of Western Australia, and a law of the State has made provision as mentioned in section 23I in relation to the act. Without limiting the foregoing, the applicants specifically exclude all enclosed pastoral lands and mining lease lands where extinguishment of native title has occurred.

(iv) Paragraph (iii) above is subject to such provision of sections 47, 47A and 47B of the NTA as apply to any part of the area contained within this application, particulars of which will be provided prior to the hearing but which include such areas as may be listed in Schedule L.

(v) The native title rights and interests claimed are subject to any valid rights created under the common law or a law of the State or Commonwealth.

Rights and Interests

Subject to the above qualifications, the rights and interests claimed in relation to the claim area, including land and waters, are:

(c) the right of access to the area;

(g) the right to maintain and protect places of importance under traditional laws, customs and practices in the area;

(i) the right to rear and teach children in their country.

Application Area: **State/Territory:** Western Australia
Brief Location: South West Western Australia
Primary RATSIB Area: South West
Approximate size: 62609.4042 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):

A technical description of the external boundary is provided at Attachment B.

Internal Boundaries:

1. The applicants exclude from the claim any areas covered by valid acts on or before 23 December 1996 comprising such of the following as are included as extinguishing acts within the Native Title Act 1993, as amended, or the Titles Validation Act 1994, as amended, at the time of the Registrar's consideration:

(a) Category A past acts, as defined in NTA s229;

(b) Category A intermediate period acts as defined in NTA section 232B.

2. The applicants exclude from the claim any areas in relation to which a previous exclusive possession act, as defined in section 23B of the NTA, was done in relation to an area, and, either the act was an act attributable to the Commonwealth, or the act was attributable to the State of Western Australia, and a law of that State has made provision as mentioned in section 23E in relation to the act as at the time of the Registrar's consideration.

3. The applicants exclude from the claim any areas in relation to which native title rights and interest have otherwise been extinguished, including areas subject to:

(a) an act authorised by legislation which demonstrates the exercise of permanent adverse dominion in relation to native title; or

(b) actual use made by the holder of a tenure other than native title which is permanently inconsistent with the continued existence of native title,

AND, to avoid any uncertainty, the applicants exclude from the claim:

(c) an unqualified grant of an estate in fee simple; or

(d) a lease which is currently in force, in respect of an area not exceeding 5,000 square metres, upon which a dwelling house, residence, building or work is constructed, and which comprises:

(i) a Lease of a Worker's Dwelling under the Worker's Homes Act 1911-1928; or

(ii) a 999 year Lease under the Land Act 1898; or

(iii) a Lease of a Town Lot or Suburban Lot pursuant to section 117 of the Land Act 1933 (WA); or

(iv) a Special Lease under section 117 of the Land Act 1933 (WA); or

(e) a Conditional Purchase Lease currently in force in the Agricultural Areas of the South West Division under clauses 46 and 47 of the Land Regulations 1887 which includes a condition that the lessee reside on the area of the lease and upon which a residence had been constructed; or

(f) a Conditional Purchase Lease of cultivable land currently in force under Part V, Division 1 of the Land Act 1933 (WA) in respect of which habitual residence by the lessee is a statutory condition in accordance with the Division and upon which a residence has been constructed; or

(g) a Perpetual Lease currently in force under the War Service Land Settlement Scheme Act 1954; or

(h) a permanent public work; or

(i) an existing public road or street used by the public.

(j) all areas of land and water which did not fall within the external boundary of native title determination application WAD6006 of 2003 (SNC Area 1) as at 1 July 2007.

4. Paragraphs (1), (2) and (3) above are subject to such of the provisions of sections 47, 47A and 47B of the NTA as apply to any part of the area contained within this application, particulars of which will be provided prior to the hearing but which include areas that are occupied by one or more of the native title claim group and may be listed in Schedule L at a later date.

Combination Details

Date of order to combine: 05/07/2000

This application is a combination of the following applications:

Application number(s)	Application name	Date application lodged/filed	Date claim entered on Register*	Registration History
WAD6032/1998, WC1995/036	Collard on behalf of the Noongar People v State of Western Australia	07/08/1995	N/A	Registered from 12/08/1995 to 11/05/2005
WAD6053/1998, WC1995/071	Collard and Sylvia Collard v State of Western Australia	20/10/1995	N/A	Registered from 20/10/1995 to 11/05/2005
WAD6160/1998, WC1997/027	Collard v State of Western Australia	10/04/1997	N/A	Registered from 10/04/1997 to 11/05/2005
WAD6181/1998, WC1997/056	Cedric Anderson & Others on behalf of the Ballardong People -v- the State of Western Australia & Others	10/07/1997	N/A	Registered from 10/07/1997 to 11/05/2005
WAD6205/1998, WC1997/085	Collard v State of Western Australia	09/10/1997	N/A	Registered from 09/10/1997 to 11/05/2005
WAD6214/1998, WC1997/097	Collard v State of Western Australia	21/11/1997	N/A	Registered from 21/11/1997 to 11/05/2005

*For further information on pre-combined applications, see the Schedule extract for each pre-combined application.

Attachments:

1. Interpretation Map of amended area., Attachment 1 of the Application, 1 page - A3, 21/02/2008
2. External Boundary Description interpretation of amended area, Attachment 2 of the Application, 2 pages - A4, 21/02/2008

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