



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD48/2019  
NNTT number: WC2001/001

**Application Name:** KD (Deceased) & Ors on behalf of the Mirning People and State of Western Australia & Ors

**Application Type:** Claimant

**Application filed with:** Federal Court of Australia

**Date application filed:** 27/02/2001

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**Current status:** Full Approved Determination - 12/08/2021

**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:** 14/09/2001

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 14/09/2001 to 17/08/2021,

**Date claim / part of claim determined:** 12/08/2021 , 19/03/2019

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**Applicants:** Kevin Dimer, John Graham, David Hirschhausen, Bruce Hogan, Desrae Kelly, Annette-Grace Lawrie, Clem Lawrie, James Peel, Raelene Peel, Fay Sambo, Pearl Scott, Daniel Tucker

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## Additional Information

On 24 October 2017, the Federal Court determined that native title exists in parts of the application area – see K.D. (deceased) on behalf of the Mirning People v State of Western Australia (No 4) [2017] FCA 1225 (Mirning People Part A). Order 2 provided that this determination would take effect once a prescribed body corporate for the native title holders was nominated. On 19 March 2019, the Mirning Traditional Lands Aboriginal Corporation was nominated to be the prescribed body corporate. Therefore the Mirning People Part A determination came into effect on 19 March 2019. On 18 January 2021, the Federal Court determined that native title does not exist in the remainder of the application area – see KD (deceased) on behalf of the Mirning People v State of Western Australia [2021] FCA 10 (Mirning People Part B). Order 2 provided that this determination would take effect on the date that the State of Western Australia files a notice that the Mirning Part B Indigenous Land Use Agreement (Mirning Part B ILUA) has been Conclusively Registered on the Register of Indigenous Land Use Agreements. On 12 August 2021, the State of Western Australia filed a notice that the Mirning Part B ILUA was Conclusively Registered. Therefore the Mirning People Part B determination came into effect on 12 August 2021.

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## Persons claiming to hold native title:

The Claim is brought on behalf of:

1) the Mirning people, being those persons who are the descendants of:

Jack Mountain = Rosie Yalgoo

Alice Bigfoot

Lucy => Mick Schultz and Pom Pom

Clara Giles

Sally Broome

Maggie

Tjabilja

Gumillya 'Carmelia' Button

Gordon Naley

Dick Stott

(Note: x=y means x and y were married/de facto;)

where descent can be either by birth or by adoption in accordance with Mirning tradition and custom (Adoption, under Mirning tradition and custom, refers to the situation where the child is 'grown up' by a relative or someone without a biological relationship. This applies regardless of whether or not the child has been formally adopted under the non-aboriginal legal system), AND are recognised by other native title holders as having realised their rights under the traditional laws and customs of the native title holders through knowledge, association and familiarity with the Determination Area; AND

2) Those persons, including members of the Spinifex People, who:

(a) hold mythical or ritual totemic knowledge and experience of Tjukurpa (Dreaming) associated with any part of the Determination Area so as to give rise to rights and responsibilities in relation to such part(s) of the Determination Area; AND

(b) are recognised by the other holders of ritual totemic knowledge as having native title rights and interests within the Determination Area by virtue of that knowledge and experience;

such persons being, as at the date of this amended application:

i. Stuart Baker

ii. Rohan (Scott) Baird

iii. Christopher Bennell

iv. Byron Brooks

v. Richard Brooks

vi. Lee Brown

vii. Derek Coleman

viii. Dwayne Coleman

ix. Jeremy (Anton) Currie

x. Justin Currie

xi. Glen Davies

xii. Alex Donnegan

xiii. Ashley (Troy) Franks

xiv. Delwyn Franks

xv. Jarrett Franks  
xvi. Justin Graham  
xvii. Ned Grant  
xviii. Fred Grant  
xix. Craig Hansen  
xx. Damien (Ethan) Hansen  
xxi. Milton Hansen  
xxii. Troy Hansen  
xxiii. Bruce Hogan  
xxiv. Kimberley Hogan  
xxv. Michael Hogan  
xxvi. Parka Hogan  
xxvii. Simon Hogan  
xxviii. Travis Hogan  
xxix. Trevor Hogan  
xxx. Dirk Jackson  
xxxi. William Jackson  
xxxii. James Minning  
xxxiii. Bernard Nixon  
xxxiv. James Peel  
xxxv. Lawrence Pennington  
xxxvi. Stanley Presley  
xxxvii. Ben Reynolds  
xxxviii. Damien Rictor  
xxxix. Ian Rictor  
xl. Noeli (Willy) Rictor  
xli. Winmati Roberts  
xlii. Lydon Stevens  
xliii. Michael Stevens  
xliv. Peter Thomas  
xlv. Gregory Thompson  
xlvi. Leslie Thompson  
xlvii. Roy Underwood  
xlviii. Dino Walker  
xlix. Leonard Walker  
l. Dennis Watson

Full Appraisal  
Determining

**Native title rights and interests claimed:**

The native title rights and interests claimed are the rights to the possession, occupation, use and enjoyment as against the whole world (subject to any native title rights and interests which may be shared with any others who establish that they are native title holders) of the area and any right or interest included within the same, and in particular, comprise:

- (a) rights and interests to possess, occupy, use and enjoy the area;
- (b) the right to make decisions about the use and enjoyment of the area;
- (c) the right of access to the area;
- (d) the right to control the access of others to the area;
- (e) the right to practice the traditional religious customs;
- (f) the right to use and enjoy resources of the area;
- (g) the right to control the use and enjoyment of others of resources of the area;
- (h) the right to trade in resources of the area;
- (i) the right to receive a portion of any resources taken by others from the area;
- (j) the right to maintain and protect places of importance under traditional laws, customs and practices in the area;
- and
- (k) the right to maintain, protect and prevent the misuse of cultural knowledge of the common law holders associated with the area.

Subject to:

- (i) To the extent that any minerals, petroleum or gas within the area of the claim are wholly owned by the Crown in right of the Commonwealth or the 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) a previous non-exclusive possession act, as defined in section 23F of the Native Title Act 1993, 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 23I of the Native Title Act 1993 in relation to the act;

(b) a valid non-exclusive tenure exists which at common law permanently affects the rights or interests of native title holders to possess, occupy, use or enjoy the area subject to that tenure to the exclusion of all others.

(iv) Paragraph (iii) above is subject to such of the provisions of sections 47, 47A and 47B of the Native Title Act 1993 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 said native title rights and interests are not claimed to the exclusion of any other rights and interests validly created by or pursuant to the common law of the State or a law of the Commonwealth.

**Application Area:**

**State/Territory:** Western Australia

**Brief Location:** Southern Goldfields

**Primary RATSIB Area:** Goldfields

**Approximate size:** 0.0948 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):**

(a) The external boundaries of the claim are the external lines of the area as set out in the map attached (Attachment B1) and described in Attachment B2. Where there is any written discrepancy between the map at Attachment B1 and written description at Attachment B2, the latter prevails.

(b) Internal boundaries:

(1) The applicants exclude from the claim any areas covered by valid acts done 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 Titles (Validation) and Native Title (Effect of Past Acts) Act 1995, as amended, at the time of the Registrar's consideration:

. Category A past acts, as defined in s228 and s229 of the Native Title Act 1993.

. Category A intermediate period acts as defined in s232A & s232B of the Native Title Act 1993.

. Acts attributable to the State (Titles Validation) and Native Title (Effect of Past Acts) Act 1995 as amended).

(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 Native Title Act 1993, 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 provisions as mentioned in section 23E of the Native Title Act 1993 in relation to the act.

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

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

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

and, to avoid any uncertainty, the applicants exclude from the claim areas the tenures set out in Attachment B3.

(4) Paragraphs (1) to (3) above are subject to such of the provisions of sections 47, 47A and 47B of the Native Title Act 1993 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.

**Attachments:**

1. Map of application area, Attachment B1, 1 page - A4, 28/04/2016
2. Description of the Application Area, Attachment B2, 1 page - A4, 28/04/2016
3. Excluded tenure, Attachment B3, 1 page - A4, 28/04/2016

**NNTT Contact Details**

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