



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD6005/2003
NNTT number: WC2003/003

Application Name: Stanley Warrie & Ors on behalf of the Yindjibarndi People v State of Western Australia & Ors (Yindjibarndi #1)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 09/07/2003

Current status: Full Approved Determination - 13/11/2017

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: 08/08/2003

Registration decision status: Accepted for registration

Registration history: Registered from 8/08/2003 to 17/11/2017,

Date claim / part of claim determined: 13/11/2017

Applicants: Stanley Warrie, Kevin Guinness, Angus Mack, Michael Woodley, Joyce Hubert, Pansy Sambo, Jean Norman, Esther Pat, Judith Coppin, Maisie Ingie

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Additional Information

Not applicable

Persons claiming to hold native title:

See Attachment A

Native title rights and interests claimed:

The claim area has three divisions- "Area A", "Area B", and, "Area C";

"Area A" comprises:

- (i) areas of unallocated Crown land that have not been previously subject to any grant by the Crown,
- (ii) areas to which section 47 of the Native Title Act 1993 applies,
- (iii) areas to which section 47A of the Native Title Act 1993 applies,
- (iv) areas to which section 47B of the Native Title Act 1993 applies, and
- (v) other areas to which the non-extinguishment principle, set out in section 238 of the Native Title Act, applies and in relation to which to [sic] there has not been any prior extinguishment of native title."

The native title rights and interests claimed in relation to Area A comprise:

- (1) The right to possess, occupy, use and enjoy the area as against the world;
- (2) A right to occupy the area;
- (3) A right to use the area;
- (4) A right to enjoy the area;
- (5) A right to be present on or within the area;
- (6) A right to be present on or within the area in connection with the society's economic life;
- (7) A right to be present on or within the area in connection with the society's religious life;
- (8) A right to be present on or within the area in connection with the society's cultural life;
- (9) A right to hunt in the area;
- (10) A right to fish in the area;
- (11) A right to make decisions about the use of the area by members of the Aboriginal society to which the native title claim group belong;
- (12) A right to make decisions about the use of the area by persons who are not members of the Aboriginal society to which the native title claim group belong;
- (13) A right to make decisions about the enjoyment of the area by members of the Aboriginal society to which the native title claim group belong;
- (14) A right to make decisions about the enjoyment of the area by persons who are not members of the Aboriginal society to which the native title claim group belong;
- (15) A right of access to the area;
- (16) A right to live within the area;
- (17) A right to reside in the area;
- (18) A right to erect shelters upon or within the area;
- (19) A right to camp upon or within the area;
- (20) A right to move about the area;

- (21) A right to engage in cultural activities within the area;
- (22) A right to conduct ceremonies within the area;
- (23) A right to participate in ceremonies within the area;
- (24) A right to hold meetings within the area;
- (25) A right to participate in meetings within the area;
- (26) A right to teach as to the physical attributes of the area;
- (27) A right to teach as to the significant attributes of the area;
- (28) A right to teach upon the area as to the significant attributes of the area;
- (29) A right to teach as to the significant attributes within the area of the Aboriginal society connected to the area in accordance with its laws and customs;
- (30) A right to control access of others to the area.
- (31) A right to control access of others to the area except such person as may be exercising a right accorded by the common law, statute law of the Commonwealth or the State of Western Australia or a lawful grant by the British sovereign or its successor;
- (32) A right to take resources, other than minerals and petroleum, used for sustenance from the area;
- (33) A right take resources, other than minerals and petroleum, used for sustenance within the area;
- (34) A right to gather resources, other than minerals and petroleum, used for sustenance within the area;
- (35) A right to use and/or enjoy resources, other than minerals and petroleum, for sustenance within the area;
- (36) A right to use and/or enjoy resources, other than minerals and petroleum, for food, on, in or within the area;
- (37) A right to use and/or enjoy resources, other than minerals and petroleum, for shelter, on, in or within the area;
- (38) A right to use and/or enjoy resources, other than minerals and petroleum, for healing on, in or within the area;
- (39) A right to use and/or enjoy resources, other than minerals and petroleum, for decoration on, in or within the area;
- (40) A right to use and/or enjoy resources, other than minerals and petroleum, for social purposes on, in or within the area;
- (41) A right to use and/or enjoy resources, other than minerals and petroleum for cultural, religious, spiritual, ceremonial and/or ritual purposes on, in or within the area;
- (42) A right to take fauna;
- (43) A right to take flora (including timber);
- (44) A right to take soil;
- (45) A right to take sand;
- (46) A right to take stone and/or flint;
- (47) A right to take clay;
- (48) A right to take gravel;
- (49) A right to take ochre;
- (50) A right to take water;
- (51) A right to control the taking, use and enjoyment by others of the resources of the area, including for the said purposes (set out at sub-paragraphs (32) - (41) above) and/or in the said form (set out at sub-paragraphs (42) - (50) above), other than minerals and petroleum and any resource taken in exercise of a statutory right or common law

right, including the public right to fish;

(52) A right to manufacture from and trade in the said resources of the area, upon or within the area, other than minerals and petroleum including the manufacture of objects, materials or goods for sustenance, and/or food, shelter, healing, decoration, social, cultural, religious, spiritual, ceremonial, and/or ritual purposes and/or including objects, materials or goods in the form of tools, weapons,

clothing, shelter and/or decoration;

(53) A right to receive a portion of the said resources (other than minerals and petroleum) taken by other persons who are members of the Aboriginal society from the area;

(54) A right to receive a portion of the said resources (other than minerals and petroleum) taken by other persons other than those who are members of the Aboriginal society from the area;

(55) A right, in relation to any activity occurring on the area, to

i. maintain,

ii. conserve; and/or

iii. protect

significant places and objects located within the area, by preventing, by all reasonable lawful means, any activity which may injure, desecrate, damage, destroy, alter or misuse any such place or object;

(56) A right, in relation to any activity occurring on the area, to –

i. maintain

ii. conserve; and/or

iii. protect

significant ceremonies, artworks, song cycles, narratives, beliefs or practices by preventing, by all reasonable lawful means any activity occurring on the area which may injure, desecrate, damage, destroy, alter or misuse any such ceremony, artwork, song cycle, narrative, belief or practice;

(57) A right, in relation to a use of the area or an activity within the area, to:

(i) prevent any use or activity which is unauthorised in accordance with traditional laws and customs

(ii) prevent any use or activity which is inappropriate in accordance with traditional laws and customs

in relation to significant places and objects within the area or ceremonies, artworks, song cycles, narratives, beliefs or practices carried out within the area by all reasonable lawful means, including by the native title holders providing all relevant persons by all reasonable means with information as to such uses and activities, provided that such persons are able to comply with the requirements of those traditional laws and customs while engaging in reasonable use of the area and are not thereby prevented from exercising any statutory or common law rights to which that person may be entitled;

(58) A right to enjoy all the features, benefits and advantages inherent in the environment of the area;

(59) A right of individual members of the native title holding group or groups to be identified and acknowledged, in accordance with the traditional laws adhered to and traditional customs observed by the group or groups, as the holders of native title rights in relation to the land and waters of the area; and

(60) A right of the group or groups who hold common or group native title rights and interests to identify and acknowledge individual members of the native title holding group, in accordance with the traditional laws adhered to and traditional customs observed by the group or groups, as the holders of native title rights in relation to the land and waters of the area.

“Area B” comprises:

(i) land and waters which are subject to a non-exclusive pastoral lease;

(ii) areas of Crown Land that have been set aside as Crown reserves, but are not vested in a person or body to be

held in trust, or otherwise, for a specified purpose pursuant to section 33 of the Land Act 1933 (WA) other than those described in Area C;

(iii) land and waters which are subject to a mining lease as defined in s. 245 of the Native Title Act 1993 (Cth);

(iv) any area which at the time of the application, is

(a) not covered by a freehold estate or a lease, but

(b) covered by a reservation, proclamation, dedication, condition, permission, or authority, made or conferred by the Crown in any capacity, or by the making, amendment repeal of legislation of the Commonwealth or a Territory, under which the whole or a part of the land or waters in the area is to be used for a public purpose or for a particular purpose; or

(c) subject to a resumption process (as defined in s47B(5)(b) of the Native Title Act); and,

(v) any area which, at the time of the application, is:

(a) not covered by a freehold estate or a lease, but

(b) not covered by a reservation, proclamation, dedication, condition, permission, or authority, made or conferred by the Crown in any capacity, or by the making, amendment repeal of legislation of the Commonwealth or a Territory, under which the whole or a part of the land or waters in the area is to be used for a public purpose or for a particular purpose; or

(c) not subject to a resumption process (as defined in s47B(5)(b) of the Native Title Act); and

(d) no member of the native title claim group occupies the area when this application is made.”

The native title rights and interests which are claimed in Area B are all the rights claimed in relation to Area A, except the right to possess, occupy, use and enjoy the area as against the world and the rights set out at Schedule E paragraphs (12), (14), (30), (31) and (51).

“**Area C**” comprises:

land and waters which are a “nature reserve” or “wildlife sanctuary” (as those terms are defined in the Wildlife Conservation Act 1950 (WA)) created before 31 October 1975).

The native title rights and interests which are claimed in Area C are all the rights claimed in relation to Area A, except the right to possess, occupy, use and enjoy the area as against the world and the rights set out at paragraphs (12), (14), (30), (31) and (51) and the right to hunt, gather or take fauna, in so far as such right is contained within paragraphs (3), (4), (9), (10), (21), (32)-(42), (52) and (53).

For the avoidance of any doubt, except where any prior extinguishment is required under the *Native Title Act 1993* to be disregarded:

(a) no rights are claimed in relation to any area where a previous exclusive possession act covered by para 61A(2) of the *Native Title Act 1993* has been done; and

(b) the right to possess, occupy, use and enjoy land or waters as against the whole world is not claimed in relation to any area where a previous non-exclusive possession act covered by para 61A(3) of the *Native Title Act 1993* has been done.

The members of the native title claim group acknowledge that their native title rights and interests are subject to and exercisable in accordance with valid and current laws of the Commonwealth and the State of Western Australia including the common law.

Application Area: **State/Territory:** Western Australia
Brief Location: Pilbara region of WA
Primary RATSIB Area: Pilbara
Approximate size: 2725.3555 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):

See Attachment B

- Attachments:**
1. Attachment A - Claim Group Description, 1 page - A4, 02/05/2017
 2. Attachment B - External Boundary Description, 6 pages - A4, 02/05/2017
 3. Attachment C - Map, 2 pages - A4, 02/05/2017

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