



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD241/2004  
NNTT number: WC2004/007

**Application Name:** BP (Deceased) & Others v The State of Western Australia

**Application Type:** Claimant

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

**Date application filed:** 28/10/2004

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**Current status:** Full Approved Determination - 23/01/2015

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

**Registration decision status:** Not Accepted for registration

**Registration history:** -

**Date claim / part of claim determined:** 03/09/2013

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**Applicants:** Billy Patch, Tilly Stevens, Ken Clause, Benny Campbell, Betty Anderson

**Address(es) for Service:** Malcolm O'Dell  
Central Desert Native Title Services Limited  
76 Wittenoom Street  
EAST PERTH WA 6004  
**Phone:** (08) 9425 2000

## Additional Information

This determination of native title was handed down by the Federal Court on 3 September 2013 but is to take effect 'immediately upon the making of a determination under s 56(1) or 57(2)' [relating to the nomination of a PBC].

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## Persons claiming to hold native title:

Barry Abbott, Norman Abbott, Nigel Abbott, Clem Abbott, Reynold Allison, Monty Allison, Alwyn Anderson, Betty Anderson, Dora Anderson, Marlene Anderson, Michael Anderson, Sharon

Anderson, Rebecca Anderson, Stephanie Anderson, Roxanne Anderson, Beverley Anderson, William Anderson, Deirdre Anderson, Desrae Anderson, Gladys Ashwin, Victor Ashwin, Allan Ashwin, Judy Ashwin, Valerie Ashwin, Henry Ashwin, Moya Ashwin, Brendan Ashwin, Raymond Ashwin, Geoffrey Ashwin, Ralph Ashwin, John Ashwin, Catherine Adams, Maxine Beaman, Danny Beaman, Joanne Bingham, Christopher Bingham, Glen Bingham, Masey Bingham, Robery Bin Saia, Andrew Bin Saia, Russell Brand, Henry Brand, Ben Brown, Louie Brown, Natalie Brown, Andy Campbell, Clarrie Cameron, Maria Calyon, Brenda Calyon, Colin Cosmos, Shirley Connors, Mavis Curley, Collette Dhu, Raymond Dhu, Nadine Dhu, Naomi Dhu, Rita Elliot, Colin Elliot, Marilyn Elliot, Jane Elliot, Darren Farmer, Gordon Farmer, Jorna Farmer, Kenny Farmer, Wilma Freddie, Joan Farmer, Eddie Beaman, Cyril Bingham, Kaye Bingham, Douglas Bingham, Kevin Bingham, Jeanie Bingham, Grant Bingham, Carl Bingham, Noel Harris, Dallas Harris, Edward Harris, Raymond Harris, Pauline Callow, Ken Clause, Benny Campbell, Theonie Jacobs, Justine Jackman, Merlene Jackman, Calvin Jackman, Maurice Jackman, Molly Jackman, Dempsey James, Simon Jones, Sheila Friday Jones, Friday Jones, Sheila Yakka Jones, Trevor Jones, Fred Jones, Allison Jones, Barney Jones, Dean Jones, Lawrence Jones, Narida Jones, Michael Jones, Denise Jones, Paula Jones, Roderick Kelly, John Long, Desmond Freddie, Res Freddie, Tony Green, June Harrington Smith, Anne Harris, Andrew Harris, Janelle Murphy, Wesley Murphy, Reynold Nanji, Keith Narrier, Richard Narrier, Roslyn Narrier, Angeline Narrier, Graham Narrier, Jennifer Narrier, Billy Patch, Kelman Patch, Roselea Patch, Alanna Patch, Dion Patch, Gertie Atkins, Eddie Redmond, Lester Redmond, Angie Redmond, Jonathon Redmond, Sheree Redmond, Kitty Richards, Teddy, Richards, Bruce Richards, Margaret Richards, Selina Richards, Jennifer Richards, Kevin Riley, Hedley Riley, Mary Riley, Olive Riley, June Riley, Edith Riley, Harvey Scadden, Gilbert Long, Lesley Long, Grita Long, Alanna Lockyer, Lynette Lockyer, Lindsay Lockyer, Edward Lockyer, Bruce Michael, Jean Miller, Dara McGrath, Janice McNoulty, Jimmy Morgan, Musso Morrison, Mark Murphy, Barry Murphy, Alicia Stewart, Lance Stewart, Tammy Stewart, Glenda Stewart, Laurel Stewart, Linda Stewart, Louie Thompson, Norman Thompson, Sunshine Williams, Elaine Williams, Ronda Williams, Kresley Williams, Kim Williams, Dorothy Williams, John Williams, Glennys Williams, Annette Williams, Mickie Wongawol, Stanley Wongawol, Timmy Wongawol, Ruth Wongawol, Forrester Wongawol, Frank Wongawol, Lorna Wongawol, Marjorie Wongawol, Sandra Wongawol, Lionel Wongawol, Bradley Wongawol, Wayne Wongawol, Dudley Wongawol, Michael Wongawol, Rodney Wongawol, Philip Wongawol, Ivan Wongawol, Neville Wumi, Edna Sceghi, Keith Sceghi, Alison Sesar, Tilly Stevens, Dusty Stevens, Karlene Stevens, Gary Stevens, Cedric Stevens, Robert Stevens, Roderick Stevens, Lulu Stevens, Geoffrey Stewart, Norman Stewart, Ray Stewart, Jennifer Bingham

**Native title rights and interests claimed:**

The native title rights and interests claimed in relation to the area covered by the application are:

(a) the right to possess, occupy, use and enjoy the land and waters of the area covered by the application to the exclusion of all others, including the right to:

(i) live on the area covered by the application;

(ii) make decisions about the use and enjoyment of the area covered by the application;

(iii) hunt and gather, and to take the waters for the purpose of satisfying the native title claim group's personal, domestic, social, cultural, religious, spiritual, ceremonial and communal needs;

(iv) control access to, and activities conducted by others on, the land and waters of the area covered by the application;

(v) maintain and protect sites and areas which are of significance to the members of the native title claim group under their traditional laws and customs;

(vi) as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners of the area covered by the application;

(vii) trade in resources of the area;

(viii) receive a portion of any resources taken by others from the area;

(ix) maintain, protect and prevent the misuse of cultural knowledge of the common law holders associated with the area;

- (x) possess the land water and resources;
  - (xi) occupy the land water and resources;
  - (xii) use and enjoy the land, waters and resources;
  - (xiii) own and control knowledge and information comprising and concerning the traditional laws customs of the native title holders in relation to the land and waters and resources and the passing of this knowledge on to younger generations;
  - (xiv) bear, rear and teach children on the land;
  - (xv) conduct ceremonies on and for the land waters and resources and to attend sites of cultural and religious significance;
  - (xvi) erect residences and other infrastructure on the land, move freely about the land and waters including camping and seeking shelter;
  - (xvii) collect food from the land and waters;
  - (xviii) take and use the resources of the land including water plants medicines animals fisheries forest products and all other components and attributes of the land;
  - (xix) take from the land and waters and use all minerals and ores including extractive and quarry minerals such as flints clay soil sand gravel rock and like resources;
  - xx) manufacture materials artefacts tools and weapons from the products of the land waters and resources;
  - (xxi) dispose of products of the land waters and resources and manufactured product by trade or exchange;
  - (xxii) manage conserve and look after the land waters and resources including locating and cleaning water sources and drinking water on the land;
  - (xxiii) manipulate the environment by burning the land, harvesting produce, sowing seed and doing other like activities;
  - (xxiv) grant or refuse permission to any person to do some of all of subparagraphs (i) - (xxiii) above inclusive either at all or subject to terms and conditions;
  - (xxv) inherit native title rights and interests;
  - (xxvi) bestow and acquire native title rights and interests;
  - (xxvii) resolve amongst themselves any disputes concerning land, waters and resources;
  - (xxviii) regulate access to parts of the land according to initiation status and gender and otherwise to exclude strangers from the land;
  - (xxix) permit persons other than native title holders to enter the land; and
  - (xxx) exclude person other than native titleholders from the land;
- (b) the right to use the following traditionally accessed resources:
- (i) ochre;
  - (ii) soils;
  - (iii) rocks and stones; and
  - (iv) flora and fauna,
- for the purpose of satisfying their personal, domestic, social, cultural, religious, spiritual, ceremonial and communal needs; and
- (c) the right to take, use and enjoy the flowing and subterranean waters in accordance with their traditional laws and customs for personal, domestic, social, cultural, religious, spiritual, ceremonial and communal needs, including the right to hunt on and gather and fish from the flowing and subterranean water.

**Application Area:** **State/Territory:** Western Australia  
**Brief Location:** Central Desert, Western Australia  
**Primary RATSIB Area:** Central Desert  
**Approximate size:** 5605.1731 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):**

Information identifying the boundaries of:

a) the area covered by the application;

Part A(1)

All those lands and waters commencing from the westernmost northwestern corner of Unallocated Crown Land being Lot 4 on Department of Land Information Deposited Plan 220354 and extending easterly, northerly and again easterly along boundaries of that lot to the westernmost northwestern corner of Unallocated Crown Land being Lot 3 on Department of Land Information Deposited Plan 220354; Thence generally easterly, northerly, easterly, southerly and easterly along boundaries of that lot to Longitude 122.000000 East; Thence due south to Latitude 25.600000 South; Thence due east to Longitude 122.100000 East; Thence due north to a northern boundary of Unallocated Crown Land being Lot 3 on Department of Land Information Deposited Plan 220354; Thence easterly, southerly, westerly, again southerly and again westerly along boundaries of that lot to the southernmost southeastern corner of Unallocated Crown Land being Lot 4 on Department of Land Information Deposited Plan 220354; Thence westerly, northerly, again westerly and again northerly along boundaries of that lot back to the commencement point.

Part A(2)

All those lands and waters commencing from the westernmost northwestern corner of Unallocated Crown Land being Lot 27 on Department of Land Information Deposited Plan 220011 and extending easterly, northerly and generally easterly along boundaries of that lot to the westernmost corner of Unallocated Crown Land being Lot 8 on Department of Land Information Deposited Plan 220011; Thence easterly and southerly along boundaries of that lot to a northeastern corner of Unallocated Crown Land being Lot 27 on Department of Land Information Deposited Plan 220011; thence southerly, easterly and again southerly along boundaries of that lot to Latitude 26.198661 South; Thence westerly to Longitude 121.584723 East, Latitude 26.198662 South; Thence due south to Latitude 26.248662 South; Thence due east to a eastern boundary of Unallocated Crown Land being Lot 27 on Department of Land Information Deposited Plan 220011; Thence southerly generally westerly, northerly, westerly, northwesterly and northerly along boundaries of that lot back to the commencement point.

Note: Geographic Co-ordinates provided in Decimal Degrees

Cadastral boundaries sourced from Department of Land Information's Spatial Cadastral Database dated June 2004

Datum: Geocentric Datum of Australia 1994 (GDA94)

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

Prepared By: Land Claims Mapping Unit, DLI on 16 November 2004

Part B: Areas within the boundary identified in Part A not covered by the application

1. Subject to Part C paragraphs 2 and 3 below:

(a) any area that is or was subject to any of the following acts as these are defined in either the Native Title Act 1993 (Cth), as amended (where the act in question is attributable to the Commonwealth), or Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA), as amended (where the act in question is attributable to the State of Western Australia) at the time of the Registrar's consideration:

(i) Category A past acts;

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- (ii) Category A intermediate period acts;
- (iii) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;
- (iv) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;
- (b) any area in relation to which a 'relevant act', as that term is 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 that 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 (Cth), was done in relation to the area and that act was attributable to the Commonwealth;
- (e) any areas where native title rights and interests have otherwise been wholly extinguished; and
- (f) specifically, any areas where there has been:
  - (i) any unqualified grant of any estate in fee simple;
  - (ii) a lease which is currently in force, in respect of an area not exceeding 5000 square metres, upon which a dwelling house, residence, building or work is constructed, and which comprises:
    - (A) a lease of a worker's dwelling under the Worker's Homes Act 1911-1928;
    - (B) 999 year lease under the Land Act 1898 (WA);
    - (C) a lease of a town lot or suburban lot pursuant to section 117 of the Land Act 1933 (WA);
    - (D) a special lease under section 117 of the Land Act 1933 (WA);
    - (E) any reserves vested pursuant section 33 of the Land Act 1933 (WA) that are not for the benefit of Aboriginal people;
  - (iii) a conditional purchase lease currently in force in the Agricultural areas of the South West Division under regulations 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 has been constructed;
  - (iv) a conditional purchase lease of cultivatable 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;
  - (v) a perpetual lease currently in force under the War Service Land Settlement Scheme Act 1954;
  - (vi) a public work as defined in section 253 of the Native Title Act 1993 (Cth); or
  - (vii) an existing dedicated public road.

#### Part C: Applicability of sections 61A(4) and 47B

2. For the purposes of the application of sections 61A(4) and 47B of the Native Title Act 1993 (Cth), the application covers the entirety of area within the external boundary described under Part A above.
3. Where an act specified in Part B sub-paragraphs 1(a) to (f), above, affects or affected land or waters referred to in section 47B of the Native Title Act 1993 (Cth), the area covered by the act is not excluded from the application.
4. For the avoidance of doubt, the Applicant seeks to have section 47B apply to the entire area within the external boundary of the application described in Part A above and shown on the map provided at Attachment C.

**Attachments:** 1. Wiluna # 2 Native Title Claim Map, Attachment C of the Application, 1 page - A4, 06/04/2006

**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](http://www.nntt.gov.au)

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