



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD15/2006
NNTT number: WC2006/001

Application Name: Theresa Jessell & Ors v State of Western Australia & Ors (Gooring)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 17/01/2006

Current status: Full Approved Determination - 25/03/2020

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: 17/02/2006

Registration decision status: Accepted for registration

Registration history: Registered from 17/02/2006 to 27/03/2020,

Date claim / part of claim determined: 25/03/2020

Applicants: Theresa Jessell, Patrick Thomas, Henry Park, Madeline Purdie, Kevin Morgan, Jacqueline Gallagher, Deanne Gerrard, James Dixon

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Additional Information

On 18 December 2018 the Federal Court of Australia made a determination that native title exists in parts of the determination area – see Jessell on behalf of the Goorring Native Title Claimants v State of Western Australia [2018] FCA 2047 Order 2 of the determination provides that '[t]he determination is to take effect immediately upon the making of a determination under s 56(1) or s 57(2) of the Native Title Act 1993 (Cth) as the case may be' [i.e. determination of a prescribed body corporate]. Once in effect, the determination will be entered on the National Native Title Register. On 12 March 2020, the applicant nominated Goorring Aboriginal Corporation to be the prescribed body corporate and to be the trustee of the native title rights and interests for the Goorring native title holders. On 20 March 2020, Goorring Aboriginal Corporation accepted this nomination. On 25 March 2020, both the nomination and acceptance documents were filed in the Federal Court of Australia. Accordingly, this determination is in effect from 25 March 2020.

Persons claiming to hold native title:

The claim is brought on behalf of those Aboriginal People of the Miriuwung, Gija and Woolah language or dialect and country the subject of the claim and who hold in common the body of traditional law and custom governing the area the subject of the claim. Those persons are:

(a) the descendants of:

(i) Polly Munbi, King O'Malley and Sambo Djimbilainy;

(ii) Jangurangan / Old Jimmy McCarthy and Old Kitty; and

(iii) Paddy Wulbalminy and Nellie Wadibarl;

and

(b) persons adopted by those descendents in accordance with their traditional law and custom.

Native title rights and interests claimed:

1. The right to possession, occupation, use and enjoyment of the land and waters as against the whole world.

2. Subject to:

(a) 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 the State of Western Australia, they are not claimed by the applicants; and

(b) the claim area does not include any offshore places.

3 The claimants do not claim native title rights and interests that have been extinguished by operation of law.

Application Area:

State/Territory: Western Australia

Brief Location: Kimberley

Primary RATSIB Area: Kimberley

Approximate size: 11.6511 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 of Application (geographic extent)

1164.5 hectares

Area covered by the Application

The Application includes land and inland waters within part of Pastoral Lease 3114/953 (Doon Doon Station), now described as Lot 703 on Deposited Plan 220061 and Lot 64 on Deposited Plan 220061. The area covered by the Application is as described in Attachment B.

External Boundaries

The external boundaries of the claim are set out in the map attached (Attachment "C")

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 NTA, 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 s228 and s229;

(b) Category A intermediate period acts as defined in NTA s232A and s232B.

(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.

(3) The Applicants exclude from the claim 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.

(4) To avoid any uncertainty, the Applicants exclude from the claim area any of the areas contained within the following descriptions or tenures which have been validly granted:

(a) Any former or current unqualified grant of an estate in fee simple and all other freehold land.

(b) 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-

(c) A Lease of a Worker's Dwelling under the Workers' Homes Act 1911-1928;

(d) A 999 Year Lease under the Land Act 1898;

(e) A Lease of a Town Lot or Suburban Lot pursuant to the Land Act 1933 (WA), s.117; or

(f) A Special Lease under s.117 of the Land Act 1933 (WA).

(g) 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 has been constructed.

(h) 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.

(i) A Perpetual Lease currently in force under the War Service Land Settlement Scheme Act 1954.

(j) A Permanent public work and "the land or waters on which a public work is constructed, established or situated" within the meaning given to that phrase by the Native Title Act 1993 (Cth) s.251D.

(k) A public road.

(5) The Applicants do not claim exclusive possession, occupation, use and enjoyment of any part of the claim area to the exclusion of all others 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 that State has made provision as mentioned in section 23I in relation to the act.

(6) Paragraphs (2) to (5) above are subject of such of the provisions of s.47, 47A and 47B of the Act 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. WC2006_001 Attachment 1 Map of Area, 1 page - A4, 17/01/2006
 2. WC2006_001 Attachment B Technical Description, 1 page - A4, 17/01/2006
 3. WC2006/001 Attachment L Title Documents, 10 pages - A4, 17/01/2006

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