



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD6002/2003
NNTT number: WC2006/002

Application Name: Miriam Atkins & Others v State of Western Australia & Others (Gingirana)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 10/03/2006

Current status: Full Approved Determination - 11/05/2018

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: 13/04/2006

Registration decision status: Accepted for registration

Registration history: Registered from 13/04/2006 to 29/05/2018,

Date claim / part of claim determined: 07/12/2017

Applicants: Miriam Atkins, Slim Williams, Stan Hill, Grace Ellery, Timmy Patterson, Darryl Jones, Robert Hill

Address(es) for Service: Malcolm O'Dell
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Additional Information

On 7 December 2017, the Federal Court made a determination that native title exists – see the determination attached. The determination of native title was entered on the National Native Title Register (NNTR) on 19 December 2017. As detailed at Orders 2-4 of the determination, a prescribed body corporate is to be nominated.

Persons claiming to hold native title:

The native title claim group comprises those Aboriginal people who hold in common the body of traditional law and culture governing the area the subject of the claim and who:

(a) are descended from the following people, and who, in terms of traditional law and custom, are associated with the area covered by the application:

- (i) Jiriji Wallaby Wallace;
- (ii) Parnapuru Bluey Atkins;
- (iii) Parnapuru Bill Atkins;
- (iv) Minmi Clancy;
- (v) Yanangara Maude Stumpy Atkins;
- (vi) Midjibunku Sandy Clause;
- (vii) Yawi (also known as Yalwi);
- (viii) Polly Wongi Telfer; and
- (ix) Lucy Gibbs; or

(b) have a personal connection to the area covered by the application through their own birth and/or the birth of their ancestors on the area covered by the application or possession of traditional cultural knowledge of the area covered by the application, by which they claim the rights and interests and that claim is recognised by the wider native title claim group according to its traditional decision making processes. Claimants in this category include:

- (i) Timmy Patterson;
- (ii) Miparrl (Frankie Wongawol);
- (iii) Mara Kuja (Norman Thomson); and
- (iv) Stan Hill.

Native title rights and interests claimed:

In relation to the lands and waters of the area covered by the application, except for the areas where native title has been partially extinguished and including any areas where extinguishment must be disregarded pursuant to section 47B of the Act, the native title rights and interests are the right to possess, occupy, use and enjoy the land and waters of the application area to the exclusion of all others.

In relation to land and waters of the area covered by the application, except for areas where native title is wholly recognised, the native title rights and interests are the right to:

- (a) access, remain in and to use that part for any purpose;
- (b) access resources and to take for any purpose resources in that part;
- (c) engage in spiritual and cultural activities on that part;
- (d) maintain and protect areas, places and objects of significance in or on that part;
- (e) protect resources and the habitat of living resources in that part;
- (f) make decisions about the use and enjoyment of land and waters; and
- (g) receive a portion of any resources taken by others from the land and waters.

The native title rights and interests are:

- (a) exercisable in accordance with the traditional laws and customs of the native title claim group;
- (b) subject to the valid laws of the State of Western Australia and the Commonwealth of Australia, including the common law.

The applicant makes no claim to any minerals, petroleum or gas wholly owned by the Crown in the right of the Commonwealth or State of Western Australia.

Application Area: **State/Territory:** Western Australia
Brief Location: Central Desert
Primary RATSIB Area: Central Desert
Approximate size: 12154.5870 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):

1. External Boundaries and Description

Commencing at the intersection of a southern boundary of Pastoral Lease 3114/926 (Three Rivers) and an eastern boundary of Area 1 of native title determination WAD72/98 Nharluwangga Wajarri & Ngarla People (WC99/13) and extending generally northerly along boundaries of that determination to a northern boundary of Pastoral Lease 3114/926 (Three Rivers) at Longitude 119.417299°East; then northeasterly to the southern corner of WC99/13 Area 2 (being on the western boundary of Reserve 16733 at Latitude 24.716374°South); then northeasterly along the eastern boundary of WC99/13 Area 2 to its northeastern corner (being on the northern boundary of again Reserve 16733 at Longitude 119.539360°East); then northeasterly to again an eastern boundary of WC99/13 Area 1 on a southeastern boundary of Reserve 35104 (Collier Range National Park) at Longitude 119.548416°East; then northeasterly along an eastern boundary of that determination to a southeastern corner of native title determination application WAD78/05 Ngarlawangga People (WC05/3) (being on a northern boundary of again Collier Range National Park at Longitude 119.643774°East); then northeasterly along eastern boundaries of WC05/3 to a southwestern corner of native title determination application WAD6280/98 Nyiyaparli (WC05/6) on the centreline of an intermittent creek at Latitude 24.424384°South; then generally southeasterly along the centreline of that creek (being southern boundaries of WC05/6) to Longitude 119.685799°East; then east along a southern boundary of that application to the centreline of Ilgarari Creek at Longitude 119.854290°East; then generally easterly along the centreline of that creek (being southern boundaries of that application) to Longitude 120.292336°East, (being the southeastern corner of WC05/6); then north-easterly along the south-eastern boundary of that application to a western boundary of native title determination application WAD6284/98 Birriliburu People (WC98/68) at Latitude 24.012185°South. Then south, south-easterly and easterly along the western and southern boundaries of that application to the northernmost north-western corner of Pastoral Lease 3114/654 (Granite Peak) (being on a northern boundary of native title determination application WAD6164/98 Wiluna (WC99/24) at Longitude 120.713364°East); then generally southerly and westerly along northern boundaries of that application (being a western boundary of Pastoral Lease 3114/654 (Granite Peak) and northern boundaries of Pastoral Lease 3114/1049 (Cunyu)) to an eastern boundary of native title determination application WAD6132/98 Yugunga-Nya People (WC99/46); then generally northerly and generally southwesterly along boundaries of that application (being northern boundaries of Pastoral Lease 3114/1157 (Neds Creek) and southern boundaries of again Pastoral Lease 3114/926 (Three Rivers)) back to the commencement point.

Note:

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Unit and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time.

Data Reference and source

- Application boundary compiled by NNTT from data sourced from & used with the permission of Dept of Land Information, WA.

- Native Title Determination Applications:
- WAD6284/98 Birriliburu People (WC98/68) as accepted for Registration on 24/09/1999
- WAD6164/98 Wiluna (WC99/24) as accepted for Registration on 24/09/1999
- WAD6132/98 Yugunga-Nya People (WC99/46) as accepted for Registration on 12/06/2000
- WAD78/05 Ngarlawangga People (WC05/3) as accepted for Registration on 09/06/2005
- WAD6280/98 Nyiyaparli (WC05/6) as accepted for Registration on 29/11/2005
- Native Title Determination:
- WAD72/98 Nharnuwangga Wajarri and Ngarlawangga (WC99/13) as determined on 05/07/2001
- Topographic features (Ilgarari Creek & intermittent creek) sourced from LCMU WC99/4 amendment data.
- Cadastre data sourced from Dept of Land Information, WA (July 2005).

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 Geospatial Services, National Native Title Tribunal (31/01/2006)

2. Areas within the external boundaries that are not covered by the application

Subject to paragraph 3 below, the areas of land and waters within the boundary that are not covered by the application are:

(a) any area that is or was subject to any of the following acts as these are defined in either the Act, as amended (where the act in question is attributable to the Commonwealth), or the 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;
- (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 Act was done in relation to the area and the act was attributable to the Commonwealth);
- (e) any areas where native title rights and interests have otherwise been wholly extinguished;
- (f) specifically, any areas where there has been:
 - (i) any unqualified grant of an 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); or
- (E) any reserves vested pursuant to 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 (WA) 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 Act; or
- (vii) an existing dedicated public road; and
- (g) notwithstanding anything contained elsewhere in this application (including the attachments to it), any areas not covered by the original application.

3. Applicability of sections 61A(4) and 47B

For the purposes of the application of sections 61A(4) and 47B of the Act, the application covers a number of portions of unallocated Crown land, as identified in the map at Attachment C and in Attachment L, which is subject to section 47B.

Attachment L - Tenure and Land Use Issues

3. There is a significant portion of unallocated Crown land in the eastern part of the area covered by the application which is covered by the application which is occupied by or on behalf of members of the native title claim group and which is identified on the map at Attachment C to this application.

4. In addition to the area described at paragraph 3 above, there are four small areas of unallocated Crown land occupied by members of the native title claim group identified in the tenure list at Attachment D.

5. The areas mentioned in paragraph 3 and 4 above are areas over which the extinguishment of native title is required by section 47B of the Act* to be disregarded. [*This refers to the *Native Title Act 1993 (Cwlth)*]

Combination Details

Date of order to combine: 10/03/2006

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
WAD6002/2003, WC2003/002	Daisy Charles & Ors on behalf of the Gingirana Claim Group	09/05/2003	N/A	Registered from 12/06/2003 to 13/04/2006
WAD364/2005, WC2005/008	DAISY CHARLES & ORS and STATE OF WESTERN AUSTRALIA	30/11/2005	N/A	

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

Attachments:

1. Map of area, 1 page - A4, 24/07/2013
2. Searches over area, 2 pages - A4, 24/07/2013
3. Gingirana People Determination, 26 pages - A4, 07/12/2017

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