



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD253/2006
NNTT number: WC2006/004

Application Name: William Webb & Ors and State of Western Australia & Ors (South West Boojarah #2)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 05/09/2006

Current status: Full Approved Determination - 01/12/2021

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: 06/10/2006

Registration decision status: Accepted for registration

Registration history: Registered from 6/10/2006 to 3/12/2021,

Date claim / part of claim determined: 01/12/2021

Applicants: William Webb, Donald Hayward, Bertram Williams, William Thompson, Margaret Culbong, Barbara Corbett-Councillor Stammner, Wendy Williams

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Additional Information

Not applicable

Persons claiming to hold native title:

Subject to paragraph 4, the native title claim group comprises those Aboriginal people who are:

1. biological descendants of the unions between: -

- Ryan and Wooragan, an Aboriginal woman from Augusta
- Saul Isaacs and Dorinder, a Wardandie Aboriginal woman
- John Herring and Elizabeth, an Aboriginal woman from Busselton
- Billy Colbung and Nina Bayla Brockman
- Billy Colbung and Clara Brockman
- Billy Colbung and Cloe Wynn
- James Wynne and Bussels Fanny
- George Wattling and Cloe Wynn
- Timothy Harris and Caroline 'Cleo' 'Yorjup' Mallane/Malony/Milany
- George 'John' Dawson and Rebecca, an Aboriginal woman from Busselton
- James Mippy, an Aboriginal man and Edie Ann, an Aboriginal woman from Margaret River
- Mowem Underwood and Ruby Dalgaitch; or

2. persons adopted by the individuals named in paragraph 1 above and those persons adopted by the biological descendants of the unions between the individuals named in paragraph 1 above; or

3. those persons that are the biological descendants of the adopted persons included in paragraph 2 above.

4. The members of the native title claim group for application WC96/41 are excluded from the native title claim group for this application. The members of that native title claim group through its authorised applicants have asserted rights and interests to certain lands and waters and certain benefits under native title agreements which are inconsistent with the rights and interests claimed in this application pursuant to the traditional laws and customs acknowledged and observed by the members of the native title claim group. Accordingly, it is claimed that they are not persons who acknowledge and observe the traditional laws and customs of the native title claim group, and are therefore not among those persons who hold the common or group native title rights and interests claimed (see Attachment F paragraph (iv)).

5. It is claimed in this application that all other identifiable descendants of the persons who fall within the alternative criteria listed in paragraphs 1, 2 and 3 above are all persons who do acknowledge and observe the relevant traditional laws and customs. Accordingly, the Registrar would not need to make inquiries as to whether or not a particular person who fell within one or more of those criteria did or did not acknowledge and observe those laws and customs, in order to ascertain whether that person was a member of the native title claim group.

Adoption occurs in the following manner: if a man dies and his brother or cousin marries the widow, any of the widow's children are adopted as the children of the new husband.

Native title rights and interests claimed:

The Qualifications:

The applicants claim in relation to the claim area, including land and waters, the native title rights and interests set out below ("The Rights and Interests") subject to the following qualifications.

(i) 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.

(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 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.

(iv) Paragraph (iii) above is subject to such of the provisions of sections 47, 47A and 47B of the NTA 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 native title rights and interests claimed are subject to any valid rights created under the common law or a law of the State or the Commonwealth.

The Rights and Interests

Subject to the above qualifications, the rights and interests claimed in relation to the claim area, including land and waters, are:

- (a) rights and interests to exclusively 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 use and enjoy resources of the area
- (f) the right to control the use and enjoyment of others of resources of the area
- (g) the right to maintain and protect places of importance under traditional laws, customs and practices in the area
- (h) the right to rear and teach children in their country
- (i) the right to live on and erect residences and other infrastructure on the land
- (j) Not established
- (k) the right to manage, conserve and look after the land, water and resources, including locating and cleaning water sources and drinking water on the land.

[Note: Rights (a), (b), (d), (f) and (k) above are established prima facie only in relation to those parts of the application area where a claim to exclusive possession can be recognized]

Application Area: **State/Territory:** Western Australia
Brief Location: South West corner of Western Australia
Primary RATSIB Area: South West
Approximate size: 10088.7293 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 technical description of the external boundary is attached as Attachment B.

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 Native Title Act 1993, 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 section 229;
- (b) Category A intermediate period acts as defined in NTA section 232B.

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 as at the time of the Registrar's consideration.

3 The Applicants exclude from the claim any areas in relation to which native title rights and interests 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 which is permanently inconsistent with the continued existence of native title,

AND, to avoid any uncertainty, the applicants exclude from the claim:

- (c) an unqualified grant of an estate in fee simple; or
- (d) 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:
 - i) a Lease of a Worker's Dwelling under the Workers' Homes Act 1911-1928; or
 - ii) a 999 year Lease under the Land Act 1898; or
 - iii) a Lease of a Town Lot or Suburban Lot pursuant to section 117 of the Land Act 1933 (WA); or
 - iv) a Special Lease under section 117 of the Land Act 1933 (WA); or
 - (e) 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; or
 - (f) 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; or
 - (g) a Perpetual Lease currently in force under the War Service Land Settlement Scheme Act 1954; or
 - (h) a permanent public work; or
 - (i) an existing public road or street used by the public.

4 Paragraphs (1), (2) and (3) above are subject to such of the provisions of sections 47, 47A and 47B of the NTA 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 areas that are occupied by one or more of the native title claim group and may be listed in Schedule L at a later date.

- Attachments:**
- 1. Technical description of external boundary, Attachment B of the Application, 6 pages - A4, 05/09/2006
 - 2. Map of claim area, Attachment C of the Application, 1 page - A4, 05/09/2006

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