



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD232/2009  
NNTT number: WC2009/003

**Application Name:** TR (dec) & Ors v State of Western Australia & Ors (Kariyarra-Pipingarra)

**Application Type:** Claimant

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

**Date application filed:** 18/12/2009

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**Current status:** Full Approved Determination - 13/12/2018

**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:** 06/05/2010

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 6/05/2010 to 20/12/2018,

**Date claim / part of claim determined:** 13/12/2018

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**Applicants:** TR (dec), Cyril Gordon, Donny Wilson, Kerry Robinson

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## Additional Information

Not applicable

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## Persons claiming to hold native title:

The native title claim group comprises those Aboriginal persons who:

a) are a descendant from one or more of the following apical ancestors:

- (i) Jinapi;
- (ii) Wirtinpangu (Jimmy);
- (iii) Dougal Robinson;
- (iv) Puyubungu;
- (v) Yanki Williams;
- (vi) Topsy McKenna;
- (vii) Fanny;
- (viii) Nyitji;
- (ix) Maggie;
- (x) Tommy Anderson;
- (xi) Fauntleroy (Pontroy);

and

b) recognise themselves as having rights and interests in the area of land and waters covered by the application under Kariyarra traditional law and custom.

**Native title rights and interests claimed:**

Area A means land within the application area that is landward of the high water mark and which comprises:

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

Area B means land and waters within the application area that is not included in Area A.

Subject to laws and customs

The native title rights and interests claimed in this application are subject to and exercisable in accordance with:

1. the common law, the laws of the State of Western Australia and the Commonwealth of Australia;

2. valid interests conferred under those laws; and

3. the body of traditional laws and customs of the Aboriginal society under which rights and interests are possessed and by which native title claim group have a connection to the area of land and waters the subject of this application.

#### Rights in Area A

In relation to Area A only, the applicant claims the right to possess, occupy, use and enjoy the area as against the whole world.

#### Rights in Area B

The applicant claims the following listed native title rights and interests in relation to Area B:

1. A right to hunt and otherwise take fauna in and from the area;
2. A right to fish in the area;
3. A right to gather and take flora (including timber) in and from the area;
4. A right to take soil, sand, gravel, stone, flint, clay, ochre, shells and other traditional resources, other than minerals, petroleum and gas, in and from the area;
5. A right to access and be present on or within the area;
6. A right to live, camp and erect shelters upon or within the area;
7. A right to speak for and make decisions about the use of the area by members of the Aboriginal society to which the native title claim group belong;
8. A right to invite and permit others to have access to and participate in or carry out activities in the area;
9. A right to conduct and participate in ceremonies, burials, other cultural activities and meetings within the area;
10. A right to visit, care for and maintain places and objects of importance within the area and protect them from physical harm;
11. A right to have access to and take water from within the area;
12. A right to trade in the resources of the area.

#### **Application Area:**

**State/Territory:** Western Australia

**Brief Location:** Pilbara area of Western Australia

**Primary RATSIB Area:** Pilbara

**Approximate size:** 333.9664 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):**

The external boundaries of the area of land and waters covered by the application are as set out in the document entitled "Kariyarra-Pipingarra - External Boundary Description" which is annexed as Attachment "B".

1. Subject to Schedule B paragraph 5, the applicant excludes from the application area any areas that are covered

by 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 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:

(a) Category A past acts;

(b) Category A intermediate period acts;

(c) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests; and

(d) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests.

2. Subject to Schedule B paragraph 5, the applicant excludes from the application area any areas in relation to which:

(a) a "previous exclusive possession act", as defined in s. 23B of the Act, was done and the act was an act attributable to the Commonwealth; or

(b) a "relevant act" as that term is defined in s. 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; or

(c) a previous exclusive possession act under s. 23B(7) of the Act was done in relation to the area and the act was attributable to the State of Western Australia;

3. Subject to Schedule B paragraph 5, the applicant does not claim any native title rights and interests which confer possession, occupation, use and enjoyment to the exclusion of all others over areas in relation to which:

(a) a "previous non-exclusive possession act" as defined in s23F of the Act was done and the act was an act attributable to the Commonwealth; or

(b) a "previous non-exclusive possession act" as defined in s12M of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) was done and the act is an act attributable to the State of Western Australia.

4. Subject to Schedule B paragraph 5, the applicant also excludes from the application area areas in relation to which native title rights and interests have otherwise been wholly extinguished.

5. The application area includes any area in relation to which the non-extinguishment principle (as defined in s. 238 of the Act) applies, including any area to which ss 47, 47A and 47B of the Act apply, particulars of which will be provided prior to the hearing but which include such areas as may be listed in Schedule L.

Schedule L:

Apart from the pastoral lease listed below, the applicant does not at this stage have details of:

1. any area for which a pastoral lease is held by or on behalf of the members of the native title claim group;

2. any area leased, held or reserved for the benefit of Aboriginal peoples or Torres Strait Islanders and occupied by or on behalf of the members of the native title claim group;

3. any vacant crown land occupied by the members of the native title claim group; or

4. any area mentioned in paragraph (a), (b) or (c) over which the extinguishment of native title is required by ss47, 47A or 47B of the Act to be disregarded.

The applicant has not had the opportunity nor do they have the resources to fully obtain or analyse the land tenure status of the whole of the claim area and so must take advice on the tenure history. It is to be noted that the applicant reserves the right to dispute the tenure history as may be provided by the State.

Pastoral leases:

Pippingarra station (pastoral lease 3114/860)

- Attachments:**
1. Attachment B - Kariyarra-Pippingarra - External Boundary Description, 3 pages - A4, 04/04/2014
  2. Attachment C - Map of claim area, 2 pages - A4, 04/04/2014
  3. Additional Map of claim area - clearer version, 1 page - A4, 18/12/2009

**NNTT Contact Details**

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End of Extract