



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD25/2012

NNTT number: WC2012/002

**Application Name:** Josephine Forrest & Ors v State of Western Australia & Ors (Yi-Martuwarra Ngurrara)

**Application Type:** Claimant

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

**Date application filed:** 01/02/2012

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**Current status:** Dismissed - 09/08/2019

**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:** 29/02/2012

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 29/02/2012 to 12/08/2019,

**Date claim / part of claim determined:** 13/08/2018

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**Applicants:** Josephine Forrest, Benjamin Laurel, Malcolm Moora, Harry Yungabun, Peter Clancy, Bernadette Williams, Mervyn Numbagardie, Elsie Dickens, Dunba Nunju, Claude Forrest, Sammy Costain

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## Additional Information

On 12 March 2018, the Federal Court of Australia made a determination that native title exists in parts of the determination area - see *Forrest on behalf of the Ngurrara People v State of Western Australia* [2018] FCA 289. Order 1 of the determination provides that the determination will take effect upon the making of a determination under s 56(1) or 57(2) of the Native Title Act 1993 (Cth) as the case may be. The Yanunijarra Aboriginal Corporation RNTBC ICN 7478 was nominated on 13 August 2018 and registered on the National Native Title Register on 4 September 2018. A copy of that determination is attached to this extract. Pursuant to s 190(4)(e), details of the claim made in relation to the determination area are removed from the application area as and from 13 August 2018. The attached NNTT external boundary description and map are an interpretation by the NNTT of the remaining application area that is yet to be determined. These attachments do not form part of the application and are provided for general information only. Persons should seek their own independent advice in relation to the correct description of the area.

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### Persons claiming to hold native title:

The names (including Aboriginal names) of the persons (the **native title claim group**) on whose behalf the application is made or a sufficiently clear description of the persons so that it can be ascertained whether any particular person is 1 of those persons.

The claimant group comprises those Aboriginal people who hold in common the body of traditional laws and customs concerning the claim area. Those people are :

(a) the biological descendants of the following apical ancestors: Barney Barnes, Bidy Tipultipul, Charcoal Waluparlka, Charlie Wirramin, Hairpin Marna, Hector McClarty, Jack Butt, Jack Pindan, Jalal, Janyi, Jarlanyja, Jarraly, Jarralyi, Jijuru, Jiminalajarti, Jimmy Cherrabun, Jimmy Kuku, Jimmy Milmilipiri, Jinakurrji, Jinaparralyaparralya, Jiyapa, Jukajuka, Jutaji, Kakaji, Kakartuku, Kakural, Karljuwal, Kilankara, Kingkarraji, Kinkarraji, Kinki, Kipi, Kujiman, Kulurr, Kumparrngarla, Kungayi, Kunyu, Kurtinyja, Kurukuru, Kurumanyu, Liramilin, Lirra, Maggie Wipula, Manjankarri, Maramara, Maramimi, Marjorie Baldwin-Jones, Marra, Milal, Milimili, Mimi, Mitanga, Mukula, Napiya, Nat Beadell, Ngaramgarapungu, Ngarpitangky, Ngartaya, Nujnuj, Nyapita, Nyinganyiga, Nyintakura, Nyinyingka, Paju, Pampi, Papilparri, Paralirl, Parnayi, Parrangali, Peter Francis, Pika, Piluwulu, Pingana, Piniarti, Possum Waja, Pukurli, Pulyukupulyuky, Puri, Purgurrkarraji, Roger Rakartu, Shovel, Tampitampi, Tiepin Forrest, Tommy Kampuranti, Ulayi, Upatirri, Waji Karripal, Walkarr, Wamakulangu, Wamukarraji, Wangala, Wangkarrkura, Warrapan, Warrmala, Wawajati, Wayanjarri, Wintiki, Witikirriny, Yalyayi, Yanji, Yanparr, Yiyayi, Yita, Yungkurla, Yurrijarti, Yurungu,

Ngampupartu, Japarti, Mayaparna, Yirrajarti, Partaly, Jurnurinyja, Yakarla, Charlie Nyarnjarn, Jintabi, Ngurrujukurr, Wakunya, Pinanpali, Lilpala, Ngalpijukurr,

Jurniyaku, Kangkayi, Kilkatarr, Kiminy, Kuni, Pangkayi, Tarrungka, Wayinamaliny, Jurrkapitirra-Dicky Costaine, Tartiku-Frank Forrest, Minyarri, Pajinka, Jinanyili/ Alec Laurel, Milaluwa Bob, Turljarri, Wanakara, Kirrirri and Warrkaya, Tjinamunturr, Pinkarraji, Jerry Purungpurung, Toby Dickens; and

(b) are acknowledged by the native title claimants in (a) as having rights and interests in the claim area through a direct relationship by birth/finding and growing up in places ("Ngurrara") within the application area.

### Native title rights and interests claimed:

1. Over areas where a claim to exclusive possession can be recognised (such as areas where there has been no prior extinguishment of native title or where s238, ss47, 47A or 47B apply), the native title claim group claims the right to possess, occupy, use and enjoy the lands and waters of the application area to the exclusion of all others.
2. Over areas where a claim to exclusive possession cannot be recognised, the native title claim group claims the following rights and interests:

- (a) the right to travel over, move about and have access to the application area;
- (b) the right to hunt, fish and forage on the application area;
- (c) the right to take, use and enjoy the natural resources of the application area such as food, medicinal plants, wild tobacco, timber, stone, ochre and resin;
- (d) the right to trade in resources of the application area;
- (e) the right to have access to and use and maintain the natural water resources of the application area including the beds and banks of watercourses;
- (f) the right to live on the land in the application area;
- (g) the right to camp on the application area;
- (h) the right to erect shelters and other structures on the application area;
- (i) the right to:
  - i. engage in cultural activities;
  - ii. conduct ceremonies;
  - iii. hold meetings;
  - iv. teach the physical and spiritual attributes of places and areas of importance on or in the land and waters; and
  - v. participate in cultural practices relating to birth and death, including burial rights;
- (j) the right to have access to, care for, maintain and protect places, sites and areas of importance in the application area;
- (k) the right to speak for and make non-exclusive decisions about the application area;
- (l) the right to light fires for domestic purposes and customary practices;
- (m) the right to uphold, regulate, monitor and enforce customary law;
- (n) the right to control access to, and use of, the application area by other Aboriginal People who seek access to use of the lands and waters;
- (o) the right to share or exchange subsistence and other traditional resources obtained on or from the land or waters (but not for any commercial purpose); and
- (p) the right to regulate and resolve disputes among the native title claimants of the application area.

3. The native title rights and interests are subject to:

- (a) the valid laws of the State of Western Australia and the Commonwealth of Australia; and
- (b) the rights (past) or present conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State.
- (c) the traditional laws and customs of the native title claim group.

**Application Area:**                   **State/Territory:** Western Australia  
**Brief Location:** Kimberley region of Western Australia  
**Primary RATSIB Area:** Kimberley  
**Approximate size:** 1526.8367 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. The boundaries of the area covered by the application are described in the document annexed as 'Attachment B'.
2. Subject to (3) and (4), the area of land and waters within the boundaries described in Attachment B 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 Native Title Act 1993 (Cth), as amended (where the act in question is attributable to the Commonwealth), 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);
    - 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 previous exclusive possession act, as defined in section 23B of the NTA was done and the act was an act attributable to the Commonwealth;
  - c. Any area in relation to which a 'relevant act' as that term is defined in section 121 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;
  - d. Any area in relation to which a previous exclusive possession act under s23B(7) of the Native Title Act 1993 (Cth), as amended, was done in relation to the area and the act was attributable to the State of Western Australia;
  - e. Any area in relation to which native title rights and interests have otherwise been wholly extinguished.
3. Notwithstanding anything contained elsewhere in this application, the area of land and waters covered by the application includes any area in relation to which the non-extinguishment principle (as defined in section 238 of the Native Title Act) applies, including any area to which section 47, 47A and 47B of the Native Title Act 1993 (Cth) applies. Particulars of these areas will be provided prior to the hearing but any area as may be listed in Schedule L is included in the area covered by the application.
4. Where there is any discrepancy between the map provided at Attachment C and the written description contained in this schedule and in Attachment B the latter prevail.

More information is provided and labelled as 'Attachment B'.

A map showing the boundaries of the area covered by the application is provided and labelled as "Attachment C".

**Attachments:**

1. External Boundary Description - Attachment B, 7 pages - A4, 10/09/2014
2. Map of Application Area - Attachment C, 2 pages - A4, 10/09/2014
3. Yi-Martuwarra Ngurrara Part A Determination, 46 pages - A4, 12/03/2018
4. Description of Remaining Application Area, 2 pages - A4, 12/03/2018
5. Map of Remaining Application Area, 1 page - A3, 12/03/2018

**NNTT Contact Details**

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