



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD196/2013  
NNTT number: WC2013/003

**Application Name:** David Stock & Ors (Niyiyaparli People #3) v State of Western Australia

**Application Type:** Claimant

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

**Date application filed:** 17/06/2013

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**Current status:** Full Approved Determination - 26/09/2018

**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:** 27/08/2013

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 27/08/2013 to 9/10/2018,

**Date claim / part of claim determined:** 26/09/2018

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**Applicants:** David Stock, Leonard Stream, Raymond Drage, Victor Parker, Billy Cadigan

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## Additional Information

Not applicable

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## Persons claiming to hold native title:

The persons who comprise the Niyiyaparli People's native title claim group are those persons who are

the descendants of the Nyiyaparli apical ancestors listed below:

- (i) Mintaramunya;
- (ii) Pitjirrpangu;
- (iii) Yirkanpangu (Jesse);
- (iv) Kitjiempa (Molly);
- (v) Mapa (Rosie);
- (vi) Billy Martin Moses;
- (vii) Parnkahanha;
- (viii) Wirlpangunha (Rabbity-Bung); and
- (ix) Wuruwurunha.

**Native title rights and interests claimed:**

**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.
- 4) In accordance with sub section 61A(3) of the Act, the Applicant does not make claim to native title rights and interests which confer possession, occupation, use and enjoyment to the exclusion of others in respect of any areas in relation to which a previous non-exclusive possession act, as defined in section 23F of the Act, 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 that act;
- 5) In accordance with sub section 61A (4), paragraph 3 above is subject to such of the provisions of section 47B of the Act as apply to any part of the area in this application.

The said native title rights are not claimed to the exclusion of any other rights or interests validly created by or pursuant to the Common Law, a Law of the State or a Law of the Commonwealth.

**Rights in Area A**

The Applicant claims the following listed native title rights and interests relating to exclusive possession in relation to Area A only.

- 1) The right to possess, occupy, use and enjoy the area as against the whole world;
- 2) A right to occupy the area;
- 3) A right to use the area;
- 4) A right to enjoy the area;
- 5) A right to make decisions about the use of the area by persons who are not members of the Aboriginal society to which the native title claim group belong;
- 6) A right to control access of others to the area;
- 7) A right to control access of others to the area except such person as may be exercising a right accorded by the common law, statute law of the Commonwealth or the State of Western Australia or a lawful grant by the British sovereign or its successor; and
- 8) A right to control the taking, use and enjoyment by others of the resources of the area.

#### **Rights in Areas A and C**

The Applicant claims the following listed native title rights and interests in relation to Areas A and C, but not Area B:

- 9) A right to hunt in the area;
- 10) A right to fish in the area;
- 11) A right to take fauna; and
- 12) A right to take traditional resources, other than minerals and petroleum from the area.

## Rights in Areas A, B and C

The Applicant claims the following listed native title rights and interests in relation to Areas A, B and C:

- 13) A right to be present on or within the area;
- 14) A right to make decisions about the use of the area by members of the Aboriginal society to which the native title claim group belong;
- 15) A right to invite and permit others to have access to and participate in or carry out activities in the area;
- 16) A right of access to the area;
- 17) A right to live within the area;
- 18) A right to erect shelters upon or within the area;
- 19) A right to camp upon or within the area;
- 20) A right to move about the area;
- 21) A right to engage in cultural activities within the area;
- 22) A right to conduct and participate in ceremonies and meetings within the area;
- 23) A right to visit, care for and maintain places of importance and protect them from physical harm;
- 24) A right to take flora (including timber);
- 25) A right to take soil;
- 26) A right to take sand;
- 27) A right to take stone and/or flint;

28) A right to take clay;

29) A right to take gravel;

30) A right to take ochre;

31) A right to take water;

32) A right to manufacture traditional items from the resources of the area;

33) A right to trade in the resources of the area; and

34) A right to maintain, conserve and protect significant places and objects located within the area.

**Application Area:**                   **State/Territory:** Western Australia  
**Brief Location:** 2 portions located approx. 20 km southwest and 65 km northwest of Newman, Pilbara Region, Western Australia  
**Primary RATSIB Area:** Pilbara  
**Approximate size:** 780.8637 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 "Description of External Boundary" which is annexed (attachment 'B').

**Areas of land and waters within those boundaries that are not covered by the Application**

1) Subject to 4), 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 4), 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 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 4), the Applicant also excludes from the Application area areas in relation to which native title rights and interest have otherwise been wholly extinguished.

4) 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

The Applicant does not yet 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; and
4. any area mentioned in paragraph (1), (2) or (3) which attracts the protection of sections 47, 47A or 47B of the Act, and hence prior extinguishment is to be disregarded.

**Attachments:**

1. Attachment B External Boundary Description, 3 pages - A4, 17/06/2013
2. Attachment C Map, 1 page - A4, 17/06/2013

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End of Extract