



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD420/2013  
NNTT number: WC2013/009

**Application Name:** Elizabeth Sambo & Others v State of Western Australia & Others (Kaparn People)

**Application Type:** Claimant

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

**Date application filed:** 11/11/2013

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**Current status:** Dismissed - 26/08/2015

**Registration information:** Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

**Registration decision status:** Not Accepted for registration

**Registration history:** -

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**Applicants:** Elizabeth Sambo, Tessa Smith, Lillian Bonney, Steven Rule, Judy Sambo, Lyall Sambo

**Address(es) for Service:** The Applicant - Kaparn People  
31 Hawkins Street  
Kalgoorlie WA 6430

## Additional Information

Not applicable

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## Persons claiming to hold native title:

This claim is made for and on behalf of all the living descendants of Broad Arrow Tommy Udaji ("Udaji")(pronounced Urdutji). A list of Udaji's descendants is included at Attachment A.

## **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 s. 238 applies), the Kaparn People claim the right to possess, occupy, use and enjoy the lands and waters covered by the application (the application area) as against the whole world.

2. Over areas where a claim to exclusive possession cannot be recognised, the Kaparn People claim the following rights and interests:

- rights and interests to possess, occupy, use and enjoy the area;
- the right to participate in the making of decisions about the use and enjoyment of the area;
- the right to access the area;
- the right to use and enjoy the resources of the area;
- the right to trade in the resources of the area;
- the right to receive a portion of any resources taken by others from the area;
- the right to maintain and protect places of importance and significance under traditional laws, practices and customs in the area, including Aboriginal sites;
- the right to maintain, protect and prevent the misuse of cultural knowledge of the common law holders associated with the area;
- the right to hold traditional ceremonies in the area;
- the right to protect the environment in the claim area, including the waters therein;
- the right to camp on the application area;
- the right to erect shelters on the application area;
- the right to live on the application area;
- the right to move about the application area;
- the right to hold meetings on the application area;
- the right to hunt on the application area;
- the right to fish on the application area;
- the right to participate in cultural activities on the application area;
- the right to maintain and protect places of importance under traditional laws customs and practices in the application area.

The above rights and interests are subject to the following:

- Recognition that there may be other indigenous persons who have native title rights and interests in all or part of the claim area, which rights and interests are capable of being recognised by the Common Law of Australia.
- the valid laws of the State of Western Australia and the Commonwealth of Australia;
- the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the

State;

- the traditional laws and customs of the native title claim group.
- To the extent that any minerals, petroleum or gas within the claim area 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.
- The claim area does not include any offshore place.

**Application Area:**

**State/Territory:** Western Australia

**Brief Location:** Goldfields

**Primary RATSIB Area:** Goldfields

**Approximate size:** 80097.8626 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 external boundaries of the claim are the external line of the area as set out in an amended map attached "C" which has been prepared by the NNTT. There is no overlap with other native title claims that existed as at the date of lodgement. These are described as follows:

From a start point at Comet Vale (south of Menzies township) the boundary is orientated in an approximately northwest direction through Riverina to Lake Barlee, to include the Mount Elvire headland. On the western side of Lake Barlee, the boundary tends roughly southwest to Bimbijy, through Mouroubra and Remlap, to touch the eastern shore of Lake Moore. From there it tends generally south and then southeast to pass between Mollerin and Beacon, taking in an important Kaparn area at Wailki. Continuing on its south easterly orientation it passes between Bencubbin and Mukinbudin, to the west of Westonia, and then crosses the Great Eastern Highway and Goldfields Water Supply Pipeline between Burracoppin and Bodallin. At a point approximately ten kilometres southwest of the old Dulcie mine and townsite, it turns roughly east to pass through Barker Lake and continue on that orientation to cross the Coolgardie-Esperance Highway to the south of Widgiemooltha, then turning roughly north to take in the western sector of Lake Lefroy and pass to the east of Kambalda and Woolibar Station, Golden Ridge and Kanowna, turning then again in an approximately northwest direction to cross Lake Goongarrie and return to its start point at Comet Vale.

The claim includes all lands and waters within that area, with the following exceptions:

2. Subject to (3) and (4) below, the area of land and waters within the boundaries referred to in (1) above that are not covered by the application are:

a. Any area that is, or was, subject to any of the following acts as defined in the *Native Title Act 1993* (Cth) or the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA):

i. Category A past act;

ii. Category A intermediate period act;

iii. Category B past act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;

iv. Category B intermediate period act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;

v. previous exclusive possession act.

b. Any other area in relation to which native title rights and interests have otherwise been wholly extinguished

c. Any area for which there is an approved determination of native title, as defined in the Native Title Act.

d. Any area in relation to which a "relevant act" as defined in section 121 of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) has been done or a "previous exclusive possession act" under section 23B(7) of the Native Title Act has been done and the act is attributable to the State of Western Australia.

3. Notwithstanding anything contained elsewhere in this application, the area 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 or 47B of the Native Title Act 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 former prevail.

Schedule L:

No pastoral lease(s) within the claim area is/are held by members of the native title claimant group.

No area(s) leased, held or reserved for the benefit of Aboriginal people or Torres Strait Islanders is/are occupied by or on behalf of members of the claimant group.

There are no areas of VCL occupied by the members of the claimant group.

**Attachments:**

1. Attachment A - List of Descendants, 9 pages - A4, 19/12/2014
2. Attachment C - Map of claim area, 1 page - A4, 19/12/2014

**NNTT Contact Details**

<b>Address:</b>	National Native Title Tribunal Perth Office Level 5, Commonwealth Law Courts 1 Victoria Avenue PERTH WA 6000  GPO Box 9973 PERTH WA 6848
<b>Telephone:</b>	+61 8 9425 1000
<b>Freecall:</b>	1800 640 501
<b>Fax:</b>	+61 8 9425 1193
<b>Web Page:</b>	<a href="http://www.nntt.gov.au">www.nntt.gov.au</a>

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End of Extract