



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD331/2014
NNTT number: WC2014/005

Application Name: Rona Charles & Ors on behalf of Mount Jowlaenga Polygon #2 v State of Western Australia (Mount Jowlaenga Polygon #2)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 07/11/2014

Current status: Pre-combination - 22/05/2020

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: 15/12/2014

Registration decision status: Accepted for registration

Registration history: Registered from 15/12/2014 to 22/05/2020,

Applicants: Rona Charles, Nathan Lennard, Preston Manado, Marie Manado, Rosemary Nunju, Francesa Ishiguchi

Address(es) for Service: Justine Toohey, Principal Legal Officer
Kimberley Land Council
11 Gregory Street (PO Box 2145)
BROOME WA 6725
Phone: (08) 9194 0100
Fax: (08) 9193 6279

Additional Information

Not applicable

Persons claiming to hold native title:

The members of the native title claim group comprise the descendants (including by adoption as a child) of the following persons:

- Balbararr and his wife Nani
- Bundangurru
- Dim (aka Dima), father of Lulu
- Gurupirin, father of Tommy Langilangi
- Jidnyambala, mother's father of Bobby Ah Choo
- Jinarib
- Narcis Yumit, Peter Biyarr, Anselem and Patrick (all brothers)
- Otto Kelly (aka Otto Gilley)

Native title rights and interests claimed:

Native title where traditional rights are wholly recognisable

1. In every part of the claim area (if any) where there has been:

(a) no extinguishment to any extent of native title or where any extinguishment is required to be disregarded; and

(b) which is not subject to the public right to navigate or the public right to fish,

the right possessed under traditional law and customs is properly interpreted as, and the native title right recognised by the common law of Australia is, the right of possession, occupation, use and enjoyment of land and waters as against all others.

Native title where traditional rights are partially recognisable

2. In all other parts of the claim area, the right possessed under traditional law and customs is properly interpreted as the right of possession, occupation, use and enjoyment of land and waters as against all others, but the native title rights and interests recognised by the common law of Australia are the rights to do all such things as may be done under the right referred to above, save for controlling the access to or the use of land or waters by others; being the (non-exclusive) rights to:

(a) have access to, remain on and use the land and waters;

(b) access and take the resources of the land and waters; and

(c) protect places, areas and things of traditional significance on the land and waters.

Area covered by the native title and who holds the rights

3. Each of the native title rights referred to in paragraph 1 and 2 in this Schedule E exist in relation to the whole of each part of the claim area to which those paragraphs respectively apply and is held by the members of the native title claim group subject to and in accordance with their traditional laws and customs.

Activities currently carried on

4. Activities in exercise of the native title rights referred to in this Schedule E are all such activities as are contemplated by those rights and interests and include the activities identified in Schedule G.

Rights subject to laws of Australia

5. The members of the native title claim group acknowledge that their native title rights and interests are subject to and exercisable in accordance with valid and current laws of the Commonwealth and the State of Western Australia including the common law.

6. In this Schedule E, “resources” does not include such minerals, petroleum, geothermal energy or geothermal energy resources, if any, as are, under the laws of the Commonwealth and the State of Western Australia including the common law as at the date of this application, wholly owned by the Crown.

Application Area: **State/Territory:** Western Australia
Brief Location: Kimberley, WA
Primary RATSIB Area: Kimberley
Approximate size: 45.2792 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 boundary of the area covered by the application commences at 496830 Easting 8067135 Northing (Zone 51 GDA 94), and then proceeds to:

493820 Easting 8069660 Northing;

491905 Easting 8073450 Northing;

494205 Easting 8076100 Northing;

496680 Easting 8075905 Northing;

499595 Easting 8073520 Northing; and

499885 Easting 8070770 Northing

before returning to the starting point.

2. The following areas within the claim area, if any, are not covered by the application, except where the non extinguishment principle as defined in section 238 of the Native Title Act 1993 applies to the area or any extinguishment by the acts mentioned is required by sections 47, 47A or 47B of the Native Title Act 1993 to be disregarded:

a) any area that, when the application is made, is subject to any of the following kinds of acts as they are defined in either the Native Title Act 1993, as amended (where the act in question is attributable to the Commonwealth), or 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 of any native title rights or interests;

iv. Category B intermediate period acts that are wholly inconsistent with the continued existence of any native title rights or interests;

b. any area in relation to which a ‘relevant act’ as that term is defined in section 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;

c. any area in relation to which a previous exclusive possession act under section 12J of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) was done and that act is attributable to the State of Western Australia;

d. any area in relation to which a previous exclusive possession act as defined by section 23B (including section 23B (7)) of the Native Title Act 1993 was done in relation to the area and the act was attributable to the Commonwealth;

and

e. any areas where native title rights and interests have otherwise been wholly extinguished.

3. Where there is any discrepancy between the map provided at Attachment C and the written description contained in paragraph 1 of this Schedule B, this Schedule prevails.

Attachments: 1. Map of Claim Area, Attachment C of the Application, 1 page - A4, 07/11/2014

NNTT Contact Details

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

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