



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD655/2015
NNTT number: WC2015/005

Application Name: Mark Manolis & Ors on behalf of the Yawuru Community v State of Western Australia (Edarrbur (Rubibi #18))

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 11/11/2015

Current status: Full Approved Determination - 04/11/2019

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: 03/12/2015

Registration decision status: Accepted for registration

Registration history: Registered from 3/12/2015 to 7/11/2019,

Date claim / part of claim determined: 04/11/2019

Applicants: Mark Manolis, Gordon Dixon, Kevin Puertollano, Caroline Everett, Stephen Pigram, Michael Corpus, Gavin Pigram, Dean Mathews

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Additional Information

Not applicable

Persons claiming to hold native title:

In accordance with the description of the Yawuru Community in WCD 2006/001 (the Rubibi Determination) the native title claim group are:

a) the descendants of Nyobing Babere, Chimbere Sitocay, Aloysius Louis Dolby, Jirawina, Jack and Pollyanna Mangain, Lija (wife of Phillip O'Brien Taylor), Nyilandin, Joseph Mary, Paddy Djiagween, Lucy Marcella Roe, Mary Mynyal, Cecilia Ngangon, Nyingula, Annie Mawunga, Milangka, Lena Charlie, Lucia "Lija" (daughter of Borna and Gurdan), Minbal Ester, Philomena Carter, Aubrey Kelly Edar, John Two fingers, Mary Budjinka, Yungula (first wife of George Harriot Roe), Yungula (second wife of George Harriot Roe), Tommy Roe "Guminy", Dorothy Kelly, Lydia Kanagai, Solong Archill, Jiriny, Dockan Harry Minbal, Maggie Kanado (Kangode), Lucy Warrdarr and Philomena "Polly" Vincent (nee Pedro) save that where a person has only one Yawuru parent, that person self-identifies as Yawuru; and

b) Aboriginal persons who have been adopted as children or been grown up by a Yawuru person as members of the Yawuru Community under the traditional laws and customs of the community and who self-identify and are generally accepted by other members of the community, as Yawuru persons; and

c) Aboriginal persons who possess high cultural knowledge and responsibilities in relation to the area described in Schedule 2 of the Rubibi Determination and/or the current application area and:

(i) were born in; or

(ii) have a long term physical association with,

that area under the traditional laws and customs of the Yawuru community and who self identify and are generally accepted by other members of the community, as Yawuru persons; and

d) the descendants of persons referred to in (b) or (c) save that where a person has only one Yawuru parent, that person self-identifies as Yawuru.

Native title rights and interests claimed:

Native title where traditional rights are wholly recognisable

In every part of the claim area (if any) where there has been no extinguishment to any extent of native title or where any extinguishment is required to be disregarded, and which is not subject to the public right to navigate or the public right to fish: The native title rights and interests claimed are the rights and interests possessed under traditional law and customs. Those native title rights and interests are 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

In relation to those parts of the claim area (if any) where native title has been extinguished in part, the native title rights and interests claimed are right to access, remain on and use the area and the resources of the land and waters for any and all purposes. This right includes but is not limited to the following incidents and uses:

(a) the right to live in the land and waters;

(b) the right to access, move about in and on and use the land and waters;

(c) the right to hunt and gather on the land and waters;

(d) the right to engage in spiritual and cultural activities on the land and waters;

(e) the right to access, use and take any of the resources of the land and waters (including ochre); and

(f) the right to care for, maintain and protect the land and waters of the application area, including places of spiritual or cultural significance.

Rights subject to laws of Australia

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.

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, Western Australia
Primary RATSIB Area: Kimberley
Approximate size: 113.2305 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):

a) The area covered by the application

The area covered by the application is all of the land and waters described in Attachment B.

b) any areas within those boundaries that are not covered by the application.

The following areas within the claim area, if any, are not covered by the application, except where any extinguishment by the acts mentioned is required by sections 47, 47A or 47B of the Native Title Act 1993 to be disregarded:

(1) 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 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;

(2) 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;

(3) 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;

(4) 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;

(5) any areas where native title rights and interests have otherwise been wholly extinguished; and

(6) specifically, any area where there has been:

(i) an unqualified grant of an estate in fee simple;

(ii) a public work as defined in section 253 of the Native Title Act 1993; or

(iii) an existing dedicated public road.

Attachments:
1. Attachment B - Identification of Boundaries, 1 page - A4, 11/11/2015
2. Attachment C - Map, 1 page - A4, 11/11/2015

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