



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD472/2019
NNTT number: WC2019/011

Application Name: James Minning on behalf of the Untiri Pulka Native Title Claim Group and State of Western Australia (Untiri Pulka)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 19/09/2019

Current status: Full Approved Determination - 27/07/2020

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: 22/11/2019

Registration decision status: Accepted for registration

Registration history: Registered from 22/11/2019 to 29/07/2020,

Date claim / part of claim determined: 27/07/2020

Applicants: James Minning

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Additional Information

On 27 July 2020 the Federal Court made a determination that native title exists in the Determination Area. See *Minning on behalf of the Untiri Pulka Claim Group v State of Western Australia* [2020] FCA 1051. That determination is attached to this Extract. Order 1 of the determination provides that 'Any part of the Untiri Pulka Application that overlaps native title determination application WAD348/2017, being land and waters which fall outside of the Determination Area, be discontinued to the extent of the overlap and no determination be made in relation to the land and waters comprised in that part'.

Persons claiming to hold native title:

See Attachment A

Native title rights and interests claimed:

12. In this SCHEDULE E, the following words and phrases have the following meanings:

exclusive rights means the exclusive rights of possession, occupation, use and enjoyment of land and waters to the exclusion of all others; and

non-exclusive rights means:

- (a) the right to access, remain in and use that area;
- (b) the right to access, take and use the resources of that area for any purpose;
- (c) the right to engage in spiritual and cultural activities on that area; and
- (d) the right to maintain and protect places and objects of significance on that area,

and does not confer possession, occupation, use and enjoyment of the lands and waters covered by the application to the exclusion of all others.

13. In the lands and waters covered by the application:

- (a) where native title rights and interests are not partially extinguished, the native title rights and interests claimed are **exclusive rights**; and
- (b) in all other areas, the native title rights and interests claimed are **non-exclusive rights**.

14. Both the **exclusive rights** and the **non-exclusive rights** are:

- (a) exercisable in accordance with the traditional laws and customs of the native title claim group; and
- (b) subject to the valid laws of the State of Western Australia and the Commonwealth of Australia, including the common law.

Application Area:

State/Territory: Western Australia

Brief Location: South east area of the Central Desert region

Primary RATSIB Area: Central Desert

Approximate size: 66325.1123 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):

Part A. External boundaries and description

6. The area of land and waters covered by the application are described in the document entitled "Identification of Boundaries" which is attached as ATTACHMENT B.

7. The external geographical boundaries of the area of land and waters covered by the application are delineated and marked on the attached map at ATTACHMENT C.

Part B. Applicability of sections 61A(4), s47, 47A and s47B

8. For the purposes of the application of sections 61A(4), 47, 47A and 47B of the NTA, those sections apply to the entirety of the land shown as unallocated crown land on the attached map at ATTACHMENT C.

Part C. Areas within the external boundaries that are not covered by the application

9. Subject to paragraph 8 above, areas of land and waters within the external boundary 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 NTA, 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:

- (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; and
- (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 '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 NTA was done in relation to the area and the act was attributable to the Commonwealth;
- (e) any areas where native title rights and interests have otherwise been wholly extinguished; and
- (f) specifically, any areas where there has been:
 - (i) any unqualified grant of an estate in fee simple;
 - (ii) a lease which is currently in force, in respect of an area not exceeding 5000 square metres, upon which a dwelling house, residence, building or work is constructed, and which comprises:
 - (A) a lease of a worker's dwelling under the *Worker's Homes Act 1911-1928*;
 - (B) a 99 year lease under the *Land Act 1898 (WA)*;
 - (C) a Lease of a town lot or Suburban lot pursuant to section 117 of the *Land Act 1933 (WA)*;
 - (D) a Special Lease under section 117 of the *Land Act 1933 (WA)*; or
 - (E) any Reserves vested pursuant to section 33 of the *Land Act 1933 (WA)* that are not for the benefit of Aboriginal People.
 - (iii) a conditional purchase lease currently in force in the Agricultural areas of the South West Division under regulations 46 and 47 of the *Land Regulations 1887 (WA)* which includes a condition that the lessee reside on the area of the lease and upon which a residence has been constructed;
 - (iv) a conditional purchase lease of cultivatable land currently in force under Part V Division (1) of the *Land Act 1933 (WA)* in respect of which habitual residence by the lessee is a statutory condition in accordance with the Division and upon which a residence has been constructed;
 - (v) a perpetual lease currently in force under the *War Service Land Settlement Scheme Act 1954 (WA)*;
 - (vi) a public work as defined in section 253 of the NTA; and/or
 - (vii) an existing dedicated public road.

- Attachments:**
1. Native Title Claim Group, attachment A of the application, 1 page - A4, 19/09/2019
 2. Identification of Boundaries, attachment B of the application, 2 pages - A4, 19/09/2019
 3. Maps, attachment C of the application, 2 pages - A4, 19/09/2019

NNTT Contact Details

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