



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD569/2019
NNTT number: WC2019/012

Application Name: Josephine Farrer & Ors on behalf of the Ngarrawanji Native Title Claim Group #2 and the State of Western Australia (Ngarrawanji #2)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 29/10/2019

Current status: Full Approved Determination - 28/04/2022

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: -

Date claim / part of claim determined: 28/04/2022

Applicants: Gregory Donald Tait, Josephine Farrer, Matt Dawson, Marty Stevens, Phyllis Wallaby, Mark Bin Bakar

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Additional Information

On 8 July 2020, the Federal Court of Australia made a determination that native title exists in the entire application area - see *Farrer on behalf of the Ngarrawanji Native Title Claim Group v State of Western Australia* [2020] FCA 929. That determination is attached to this Extract. The determination was to take effect upon the nomination of a prescribed body corporate. On 28 April 2022, the Ngarrawanji People nominated the Ngarrawanji Aboriginal Corporation as the prescribed body corporate for the Ngarrawanji common law holders. The determination therefore came into effect on 28 April 2022.

Persons claiming to hold native title:

1. The Native Title Claim Group are those Aboriginal people who:

- (a) are related through filiation (including by adoption) to one of the Ngarrawanji Apical Ancestors who held rights and interests in one of the local estate countries comprising the claim area; or
- (b) are affiliated to a Ngarrawanji Apical Ancestor and who have spirit conception and/or birth sites in one of the local estate countries in the claim area; or
- (c) are recognised by the persons described above as:
 - (i) holding rights and responsibilities for certain songs and ceremonies which make reference to important sites in the claim area; or
 - (ii) holding rights and interests in one of the local estate countries in the claim area under traditional law and custom.

2. The **Ngarrawanji Apical Ancestors** are:

- (a) Djulbir/Dzulbir;
- (b) Jurrigi;
- (c) Linmarji;
- (d) Mandangal (wife of Wolamerji);
- (e) Ngiliyayiny / Nyiliyang; and
- (f) Ngowanderin.

Native title rights and interests claimed:

Native title where traditional rights are wholly recognisable

1. Paragraph [2] applies to every part of the claim area where there has been no extinguishment of native title or where any extinguishment is required to be disregarded.

2. Where this paragraph applies, the nature and extent of the native title rights and interests is the right of possession, occupation, use and enjoyment of land and waters as against the whole world.

Native title where traditional rights are partially recognisable

3. Paragraph [4] applies to every part of the claim area to which paragraph [2] does not apply, being land and waters where there can only be partial recognition of native title or where there has been partial extinguishment of native title (other than where such extinguishment must be disregarded).

4. Where this paragraph applies, the nature and extent of the native title rights and interests are the rights:

- (a) to have access to, remain in and use the land and waters;
- (b) to access and take for any purpose the resources of the land and waters; and
- (c) to protect places, areas and things of traditional significance on the land and waters.

5. The native title rights and interests referred to in paragraph 4 above do not confer:

- (a) possession, occupation, use and enjoyment of those land and waters on the native title holders to the exclusion of all others; or
- (b) a right to control the access of others to those land or waters.

6. The native title rights and interests are exercisable in accordance with and subject to the:

- (a) traditional laws and customs of the native title holders; and
- (b) laws of the State of Western Australia and the Commonwealth, including the common law.

7. Notwithstanding anything in paragraphs 1 to 6 above, there are no native title rights and interests in or in relation to:

- (a) pursuant to the *Mining Act 1904 (WA)*, gold, silver, other precious metals, precious stones and all other minerals; or
- (b) petroleum as defined in the *Petroleum Act 1936 (WA)* (repealed) and in the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*.

Application Area: **State/Territory:** Western Australia
Brief Location: Kimberley Region of Western Australia
Primary RATSIB Area: Kimberley
Approximate size: 80.0983 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):

External boundary description

The application area covers all the land and waters within the external boundary described as:
Two Unallocated Crown Land parcels, being Lot 360 on Deposited Plan 76780, and Lot 361 on Deposited Plan 76779.

For the avoidance of doubt, the application excludes any areas subject to:

- Native Title Determination WAD41/2019 Ngarrawanji Part A (WCD2019/004) as determined by the Federal Court on 21 May 2019.
- Native Title Determination WAD43/2019 Malarngowem (WCD2019/005) as determined by the Federal Court on 23 May 2019.
- Native Title Determination Application WAD45/2019 Koongie-Elvire (WC1999/040) as accepted for registration on 15 November 1999.

Attachments:

1. Map of the claim area attachment C of the application, 1 page - A4, 29/10/2019
2. Ngarrawanji Part B determination, 13 pages - A4, 08/07/2020

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