



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD568/2019
NNTT number: WC2019/013

Application Name: Pearl Gordon & Ors on behalf of the Malarngowem Native Title Claim Group Part B and State of Western Australia (Malarngowem Part B)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 29/10/2019

Current status: Full Approved Determination - 08/06/2021

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: 08/06/2021

Applicants: Pearl Gordon, Bernard Stretch, Shirley Purdie, Name withheld for cultural reasons, Mabel Peters, Gordon Barney, Mary Thomas, Queenie Malgil, Paddy McGinty

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Additional Information

On 11 August 2020 the Federal Court of Australia made a determination that native title exists in the entire determination area – see Gordon on behalf of the Malarngowem Native Title Claim Group Part B v State of Western Australia [2020] FCA 1149. Order 3 of the determination provides that '[t]he determination is to take effect immediately upon the making of a determination under s 56(1) or s 57(2) of the Native Title Act 1993 (Cth) as the case may be.' On 8 June 2021, the Malarngowem Native Title Claim Group nominated the Malarngowem Aboriginal Corporation to be the prescribed body corporate and to hold the native title on trust. The determination therefore came into effect on 8 June 2021.

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 Malarngowem Apical Ancestors who held rights and interests in one of the local estate countries comprising the claim area; or
- (b) are affiliated to a Malarngowem 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 **Malarngowem Apical Ancestors** are:

- (a) Bidy (Dirngorl);
- (b) Bilal;
- (c) Bulkbarria;
- (d) Chinabi Kargoyn / Mangirribany (Jangala skin);
- (e) Davy Madarning / Mardangin;
- (f) Dinah Ngowaya Gildjiringin Gumany (Julama skin);
- (g) Jumulu (aka Jumurul, or Lydia);
- (h) Jimmy Springvale;
- (i) Jungubany (Jungurra skin);
- (j) Jungurangan / Old McCarthy;
- (k) Karawala (Nangala skin);
- (l) Larlkuwanguny;
- (m) Lola Budbaria / Puttpariya (Nagara skin);
- (n) Lulurji / Lulurji (Bob Daylight);
- (o) Mamigurl;
- (p) Marmikul;
- (q) Mininjal;
- (r) Minmariya;
- (s) Morlabany / Mulabany;
- (t) Nyawalapan / Ngawalapany;
- (u) Wolabain (Jangala skin) (Father of Rowalji);
- (v) Minnie Barnjanjil;
- (w) Tommy Rosewood (Julama skin);
- (x) Jimmy Turrupany;
- (y) Nyidanguiny (Father of Dickie Gudangnyi Gali Durrdayny (Jungurra skin) / Tootany, Paddy Pirtawuny / Bedowyn (Jungurra skin) & Ruby Ngannannil);
- (z) Unnamed Father of Harry Kilpawaran / Gilbawaran and Jack Pullangi (Jangala skin);
- (aa) Unnamed Mother of Judy Bilayil and Judy Bilmaria;
- (bb) Unnamed Mother of Nybil / Kneevil, Djulmangurl, Werriyel, Djartintji & Kungkun;
- (cc) Wolameri (Jakarra skin); and
- (dd) Wulawulyan.

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: 4.5024 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:

Area 1

That portion of Lot 128 on Deposited Plan 39947 that falls north of a line commencing at the south western corner of Lot 96 on Deposited Plan 28264 and extending west to the prolongation northerly of the western boundary of Lot 76 on Deposited Plan 238428 (at approximately Longitude 128.245639° East Latitude 17.127004° South).

Area 2

That portion of Lot 130 on Deposited Plan 39943 that falls north of a line commencing at the intersection of the eastern boundary of Reserve 39898 (Purnululu Conservation Reserve) with the prolongation easterly of the northern boundary of Reserve 2263; then westerly along that prolongation to the north eastern corner of that Reserve.

Attachments:

- 1. Map of the claim area, attachment C of the application, 1 page - A4, 29/10/2019
- 2. Marlarngowem Part B Determination, 25 pages - A4, 11/08/2020

NNTT Contact Details

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