



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD222/2020  
NNTT number: WP2020/003

**Application Name:** Daisy Tjuparntarri Ward & Ors on behalf of the Gibson Desert Nature Reserve Compensation Claim Group and State of Western Australia (Gibson Desert Nature Reserve Compensation Claim Group)

**Application Type:** Compensation

**Application filed with:** Federal Court of Australia

**Date application filed:** 18/09/2020

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**Current status:** Full Approved Determination - 15/06/2022

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**Applicants:** Daisy Tjuparntarri Ward, Ben Junior Ralph Brown, Andrew Jones, Leese Giles, Paul Carnegie, Clarabelle Ward Kenda

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## Additional Information

Not applicable

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## Persons claiming compensation:

1. The compensation claim group are those persons who:
  - (a) have rights under traditional laws and customs in part or all of the claim area through:
    - (i) being conceived in the claim area;
    - (ii) being born in the claim area;
    - (iii) the birth of an ancestor on the claim area;
    - (iv) the acquisition of knowledge through long association with the claim area;
    - (v) an ancestor's acquisition of knowledge through long association with the claim area;
    - (vi) the burial site of an ancestor in the claim area; and/or
    - (vii) having religious, sacred, ritual, practical and historical knowledge of the claim area; and

(b) are recognised under traditional laws and customs by other members of the compensation claim group as having rights in the claim area.

2. As at the date of this application, the compensation claim group includes the descendants of the following people:

- (a) Malungka;
- (b) the siblings Wirun/Wallace Davies, Tjuturumul/Billy Campbell and Marnupa Banks;
- (c) Katurapulparr;
- (d) the siblings Wunkurpa, Ngawili/Nolene Campbell, Tjintutjitji, Mulyamaru/Barney Ward and Nangkawan/Robert Ward;
- (e) Lenny Morrison;
- (f) Kaliya/Amy Anderson;
- (g) the cousin-siblings Mirta-Mirta/Andy Campbell, Dinny Campbell and Nyipi Ward;
- (h) the siblings Kautjuku/Polly Bond, Red Robertson, Walampari Mitchell and Tatitjarra/Arthur Robertson;
- (i) Minmarna/Chinaman/John Carnegie;
- (j) the siblings Yaluwila/Violet Ward and Neva Butler;
- (k) the siblings Tjiltjirrkurnyu and Tjapiyatjara;
- (l) the siblings Matjuwa Campbell and Nyingura Martin;
- (m) Kuku/Kirintji;
- (n) Dr George Ward/George Ward;
- (o) the siblings Dolly Smith and Eileen Robinson;
- (p) Pulpurru Davies; and
- (q) Nyaraurr/ Nama Cutline/ Ben Brown.

#### **Native title rights and interests for which compensation is claimed:**

1. Compensation is claimed for the total extinguishment of the following native title rights and interests in the claim area:

- (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 in that area; and
- (d) the right to maintain and protect places, areas and objects of significance in that area.

2. By reason of prior extinguishment, as at the time of the act for which compensation is claimed (see [1] of Schedule I) the native title rights and interests did not confer possession, occupation use and enjoyment of the claim area to the exclusion of all others (*Ward v State of Western Australia (No 3)* [2015] FCA 658 (**Ward (No 3)**)).

#### **Details of acts claimed to have extinguished or affected native title:**

1. The vesting of Reserve 34606 in the Western Australian Wildlife Authority on 22 April 1977 (published in the Government Gazette that day) for the reserve purpose under s 33 of the Land Act 1933 (WA) (**Land Act**) resulted in the total extinguishment of native title rights and interests in the claim area (**compensable act**).

2. The compensable act was immediately preceded by the following acts (also on 22 April 1977):

- (a) the reservation of the land as Reserve 34606, for the purpose of the conservation of fauna and flora, under s 29 of the Land Act; and
- (b) the classification of Reserve 34606 as a Class 'A' reserve in accordance with section 31 of the Land Act.

3. To the extent that the acts referred to in paragraph [2] are compensable, those acts and the compensable act are essentially the same act for the purposes of s 49 of the NTA and no additional compensation is claimed in respect of the acts referred to in paragraph [2] over and above the compensation payable for the compensable act.

4. The compensable act is attributable to the State of Western Australia. Copies of tenure documents for the compensable acts are included at **Attachment I**.

5. The compensable act is valid despite the existence of native title (*Western Australia v Ward* (2002) 213 CLR 1, [253] (Gleeson CJ, Gaudron, Gummow and Hayne JJ)).

6. Insofar as the act referred to in paragraph [2(a)] extinguished any native title, that act has been validated as a category D past act under s 19 of the NTA and s 5 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA).

7. The applicant has not conducted searches of official title registers (such as the title register of crown lands and the land title register of Western Australia) that identify existing or expired non-native title rights and interests in relation to the land or waters covered by the compensation application.

8. As a result of *Ward (No 3)*, the applicant has in its possession searches conducted by the State of Western Australia as at 19 December 2014 which identify expired non-native title rights and interests in relation to the land or waters covered by the compensation application.

9. The tenure documents referred to in paragraph [8] also included historical tenure data in relation to expired non-native title rights and interests in relation to the claim area which preceded the compensable acts, being:

(a) the following Oil Prospecting Areas, which covered the entirety of the claim area, granted pursuant to the *Mining Act 1904 (WA)*, the *Mining Act Amendment Act 1920 (WA)* and the *Mining Regulations 1925 (WA)*:

(i) OPA-26H, granted 13 September 1921 and expired 19 September 1923;

(ii) OPA-120H, granted 18 February 1924 and expired 29 April 1924;

(iii) OPA-127H, granted 19 June 1924 and expired 19 May 1925;

(b) an additional Oil Prospecting Area, OPA-183H, which covered part of the claim area, granted 4 September 1928 pursuant to the *Mining Act 1904 (WA)*, the *Mining Act Amendment Act 1920 (WA)* and the *Mining Regulations 1925 (WA)*, expired 17 December 1928;

(c) the following permits to explore under the *Petroleum Act 1936 (WA)*:

(i) PE-146H, granted 17 August 1959, expired 26 June 1962;

(ii) PE-147H, granted 17 August 1959, expired 1 August 1966;

(iii) PE-161H, granted 25 August 1960, expired 1 August 1966;

(iv) PE-207H, granted 18 September 1964, expired 17 September 1966; and

(d) a right of occupancy of temporary reserve 7003159 (TR 7003159) granted on 9 June 1965 under the provisions of the *Mining Act 1904 (WA)* and the *Mining Regulations 1925*, expired 13 December 1965.

10. Compensation is not claimed in this application in respect of the acts set out in [9] above.

**Application Area:**

**State/Territory:** Western Australia  
**Brief Location:** Central Desert  
**Primary RATSIB Area:** Central Desert  
**Approximate size:** 18404.7445 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):**

See attachment 'Schedule B Identification of Boundaries'.

**Attachments:**

1. Identification of Boundaries, Schedule B of the application, 11 pages - A4, 18/09/2020
2. Map, Attachment C of the application, 1 page - A3, 18/09/2020
3. Tenure Documents for the Compensable Acts - Attachment I of the application, 9 pages - A4, 18/09/2020

**NNTT Contact Details**

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