



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NTD6027/1998
NNTT number: DC1997/007

Application Name: Yvonne Margarula obo the Mirarr Gundjeihmi, Mirarr Urningangk & Mirarr Mengerrdji People (Jabiru Township) v Northern Territory of Australia & Ors

Application Type: Claimant

Application filed with: National Native Title Tribunal

Date application filed: 01/09/1997

Current status: Full Approved Determination - 28/06/2019

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: 11/11/2010

Registration decision status: Accepted for registration

Registration history: Registered from 1/09/1997 to 20/08/2010 Registered from 11/11/2010 to 28/06/2019

Date claim / part of claim determined: 09/11/2018 , 24/08/2016

Applicants: Nida Mangambarr, Yvonne Margarula

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Additional Information

A determination of native title in respect of part of the application area was made by Justice Mansfield on 24 August 2016 – see *Margarula v Northern Territory of Australia* [2016] FCA 1018. That determination was registered on the National Native Title Register on 20 April 2017. The Court made orders that native title in the application area had been extinguished or suppressed, and that the parties have certain liberty to apply, in the terms set out in the orders, and the time for liberty to apply was extended by orders made on 31 August 2017. A determination of native title in respect of the entire application area was made by Justice Griffiths on 9 November 2018 – see *Margarula* on behalf of the Mirarr People v Northern Territory of Australia [2018] FCA 1670. That determination was registered on the National Native Title Register on 22 November 2018. Order 1 of the determination provides that “[t]he orders made on 24 August 2016, as varied on 31 August 2017, are vacated”. Order 4 of the determination provides that ‘An Aboriginal corporation whose name is to be provided within 12 months, or such further time as the Court may allow’. Pursuant to s 190(4)(e), details of the claim made in relation to the determination area are removed from the application area as and from 9 November 2018.

Persons claiming to hold native title:

The native title claim group are the persons who hold the rights comprising the native title claimed, being Aboriginal people:

(a) who are members of the following groups:

- (i) Mirarr Gundjeihmi
- (ii) Mirarr Urningangk
- (iii) Mirarr Mengerrdji

By virtue of descent through his or her father or father's father or by virtue of adoption into one of the groups;

(b) whose mother or mother's mother is or was a member of the groups referred to in paragraph (a);

(c) who are spouses of the persons referred to in paragraph (a);

(d) who have connections to the claim area by virtue of:

- (i) being a member of a group (other than the groups referred to in paragraph (a)(ii) and (iii), which group has an estate neighbouring the traditional estate of the Mirarr Gundjeihmi;
- (ii) being spouses of the person referred to in paragraph (d)(i);
- (iii) related spiritual affiliations or ritual authority in relation to the claim area.

Native title rights and interests claimed:

5. By the traditional laws and customs that govern the exercise of the native title:

(a) the claim area is within the traditional estate of the Mirarr Gundjeihmi;

(b) members of the Mirarr Gundjeihmi have:

- (i) rights of access to and use of the claim area;
- (ii) rights to control access to and use of the claim area by others;

(c) the members of the Mirarr Mengerrdji and Mirarr Urningank, and the persons referred to in paragraphs 4(b), (c) and (d) above, have rights of access to and use of the claim area, subject to the right specified in paragraph (b)(ii).

6. Where the native title has not been wholly or partially extinguished, or where prior extinguishment is required by ss 47A or 47B of the Act to be disregarded, the native title comprises, subject to the traditional laws and customs that govern its exercise, rights to possess, occupy, use and enjoy the claim area to the exclusion of all others.

7. Where the native title has not been wholly extinguished, but has been partially extinguished, and prior

extinguishment is not required by ss 47A or 47B of the Act to be disregarded, the native title comprises, subject to the traditional laws and customs that govern its exercise:

- (a) the right to travel over, to move about and to have access to the claim area;
- (b) the right to hunt and to fish on the land and waters of the claim area for personal, domestic or non-commercial exchange or communal consumption for the purposes allowed by and under the traditional laws and customs of the native title holders;
- (c) the right to gather and to use the natural resources of the claim area such as food, medicinal plants, wild tobacco, timber, stone and resin for personal, domestic or non-commercial exchange or communal consumption for the purposes allowed by and under the traditional laws and customs of the native title holders;
- (d) the right to take and to use the natural water on the claim area;
- (e) the right to live, to camp and for that purpose to erect shelters and other structures on the claim area;
- (f) the right to light fires on the claim area for domestic purposes, but not for the clearance of vegetation;
- (g) the right to conduct and to participate in the following activities on the claim area:
 - (i) cultural activities;
 - (ii) cultural practices relating to birth and death, including burial rites;
 - (iii) ceremonies;
 - (iv) meetings;
 - (v) teaching the physical and spiritual attributes of sites and places on the claim area that are of significance under the traditional laws and customs of the native title holders;
- (h) the right to maintain and to protect sites and places on the claim area that are of significance under the traditional laws and customs of the native title holders;
- (i) the right to share or exchange subsistence and other traditional resources obtained on or from the claim area for personal, domestic or non-commercial exchange or communal consumption for the purposes allowed by and under the traditional laws and customs of the native title holders;
- (j) the right to be accompanied on to the claim area by persons who, although not native title holders, are:
 - (i) people required by traditional law and custom for the performance of ceremonies or cultural activities on the claim area;
 - (ii) people who have rights in relation to the claim area according to the traditional laws and customs acknowledged by the native title holders;
 - (iii) people required by the native title holders to assist in, observe or record traditional activities on the claim area.

The rights referred to at (a) to (j) do not confer on the native title holders possession, occupation, use and enjoyment to the exclusion of others.

8. The native title rights and interests are subject to and exercisable in accordance with the valid laws of the Northern Territory of Australia and the Commonwealth of Australia.

23. The claimants do not claim ownership of minerals, petroleum or gas wholly owned by the Crown.

Application Area: **State/Territory:** Northern Territory
Brief Location: Kakadu Region
Primary RATSIB Area: Northern Northern Territory
Approximate size: 12.9853 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 within Kakadu National Park in the Northern Territory of Australia, being an area also within the Mirrar Estate as defined in Schedule A. It includes all that land and waters within the boundaries of former NT Portion 2272 known as the Jabiru town land, being the area referred to in s 3AC of the Aboriginal Lands Rights (Northern Territory) Act 1976(Cth) (inserted by the Aboriginal Land Rights and Other Legislation Amendment Act 2013 (Cth) Schedule 1 item 10) .

To avoid any doubt, the area covered in this amended application includes all lots of land within the Jabiru town land regardless of whether they hold a different section or lot number.

Subject to Schedule L, any area in relation to which a previous exclusive possession act under s23B of the Act has been done, is excluded from this application.

Schedule L states - "For the area covered by the application:

- (a) there is no area for which a pastoral lease is held by or on behalf of the members of the native title claim group.
- (b) there is no area leased, held , or reserved for the benefit of Aboriginal peoples or Torres Strait Islanders that is occupied by or on behalf of the members of the native title claim group;
- (c) for the reasons set out in paragraph [24] of the applicants' points of contention filed on 14 April 2009:
 - (i) the area is vacant Crown land occupied by the members of the native title claim group;
 - (ii) any extinguishment of native title by the creation of any prior interest in relation to the claim area is required by s47B of the Act to be disregarded."

Attachments: 1. Map of claim area, 3 pages - A4, 14/05/2014

End of Extract