



# Extract from the Register of Native Title Claims

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## Application Information

**Application Reference:** Federal Court number: NSD543/2013  
NNTT number: NC2013/001

**Application name:** Warrabinga-Wiradjuri #2 v Attorney General of New South Wales (Wendy Lewis, Mavis Agnew & Martin de Launey on behalf of Warrabinga-Wiradjuri #2)

**Registration History:** Registered from 19/07/2013

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## Register Extract (pursuant to section 186 of the *Native Title Act 1993* (Cth))

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

**Date application filed:** 27/03/2013

**Date claim entered on Register:** 19/07/2013

**Additional Information:** Not Applicable

**APPLICANT:**

**Person/s authorised as applicant:** Wendy Lewis, Mavis Agnew, Martin de Launey

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### DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

(a) The external boundaries of the areas covered by the application ('the application area') are the external boundaries of the following Mining Lease Applications ('MLA') and Exploration Licence Application ('ELA') made under the Mining Act 1992 (NSW):

- (i) MLA 424, which covers an area of 30.6 ha situated approximately 11.4 kms north north-east of Lithgow, NSW;
- (ii) MLA 445, which covers an area of 18.97 ha situated approximately 14 kms north north-east of Lithgow, NSW; and
- (iii) MLA 448, which covers an area of 1.5 ha situated approximately 1.4 kms north of the town of Cullen Bullen, NSW.

(b) The areas within the external boundaries of the application that are not covered by the application are:

1. Any land covered by past or present freehold title or by previous valid exclusive possession acts as defined by section 23B of the Native Title Act 1993 (Cth).

2. The area covered by the application does not include:

(a) a Scheduled interest;

(b) a freehold estate;

(c) a commercial lease that is neither an agricultural lease nor a pastoral lease;

(d) an exclusive agricultural lease or an exclusive pastoral lease;

(e) a residential lease;

(f) a community purpose lease;

(g) a lease dissected from a mining lease and referred to in section 23B(2)(c)(vii) of the Native Title Act 1993 (Cth); or

(h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

3. Subject to paragraphs 5 and 6, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commenced on or before 23 December 1996.

4. Subject to paragraphs 5 and 6, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth, State or territory.

5. Subject to paragraph 7 below, where the act specified in paragraphs 2, 3 and 4 falls within the provisions of:

(a) s. 23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;

(b) s. 23B(9A) - Establishment of a national park or state park;

(c) s. 23B(9B) - Acts where legislation provides for non-extinguishment;

(d) s. 23C(9C) - Exclusion of Crown to Crown grants; or

(e) s. 23B(10) - Exclusion by regulation

the area covered by the act is not excluded from the application.

6. Where an act specified in paragraphs 2, 3 or 4 affects or affected land or waters referred to in:

(a) s. 47 - Pastoral leases etc covered by claimant application;

(b) s. 47A - Reserves covered by claimant application;

(c) s. 47B - Vacant Crown land covered by claimant application

the area covered by the act is not excluded from the application.

7. The area covered by the application excludes land or waters where the native title rights and interests claimed have been otherwise extinguished.

8. Where there is any discrepancy between the map provided at Attachment C and the written description contained in this schedule the latter shall prevail.

**PERSONS CLAIMING TO HOLD NATIVE TITLE:**

The application is made on behalf of the descendants of the following persons:

Peggy Lambert

Jimmy Lambert

Dianna Mudgee

James "Tracker" Macdonald

Thullagumauli

Aaron

**REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:**

**The following Native Title Rights & Interests were entered on the Register on 19/07/2013**

The applicants claim in relation to the claim area, including land and waters, the native title rights and interests set out below ('the Rights and Interests') subject to the following qualifications.

(i) To the extent that any minerals, petroleum or gas within the area of the claim are wholly owned by the Crown in the right of the Commonwealth or the State of Western Australia [sic], they are not claimed by the applicants.

(ii) To the extent that the native title rights and interests claimed may relate to waters in an offshore place, those rights and interests are not to the exclusion of other rights and interests validly created by a law of the Commonwealth or the State of Western Australia [sic] or accorded under international law in relation to the whole or any part of the offshore place.

(iii) The applicants do not make a claim to native title rights and interests which confer possession, occupation, use and enjoyment to the exclusion of all others in respect of any areas in relation to which a previous non-exclusive possession act, as defined in section 23F of the NTA, was done in relation to an area, and, either the act was an act attributable to the Commonwealth, or the act was attributable to the State of Western Australia [sic], and a law of that State has made provision as mentioned in section 23I in relation to the act.

(iv) Paragraph (iii) above is subject to such of the provisions of sections 47, 47A and 47B of the NTA as apply to any part of the area contained within this application, particulars of which will be provided prior to the hearing but which include such areas as may be listed in Schedule L.

(v) The native title rights and interests claimed are subject to any valid rights created under the common law or a law of the State or the Commonwealth.

Subject to the above qualifications, the rights and interests claimed in relation to the claim area, including land and waters, are:

1. Not Established.

2. Over areas where a claim to exclusive possession cannot be recognised, the Claim Group claim the following rights and interests:

(f) the right to access and move about the land;

(g) the right to hunt and fish, to gather and use the resources of the land and waters such as food and medicinal plants and trees and ochre;

(h) the right to have access to and use of water on or in the land and waters;

(i) the right to live, being to enter and remain on the land, to camp and erect temporary shelters and other structures for that purpose, and to travel over and visit any part of the land and waters;

(j) Not Established;

(k) the right to engage in cultural activities on the land;

(l) the right to hold meetings on the land; and

(m) the right to teach the physical and spiritual attributes of places and areas of importance on the land and waters.

#### **REGISTER ATTACHMENTS:**

1. Attachment C Map, 3 pages - A4, 27/03/2013

*Note: The Register of Native Title Claims may, in accordance with section 188 of the Native Title Act 1993 (Cth), contain confidential information that will not appear on the Extract.*