



# Extract from the Register of Native Title Claims

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## Application Information

**Application Reference:** Federal Court number: WAD56/2022  
NNTT number: WC2022/002

**Application name:** Kado Muir & Ors on behalf of the Payarri People and State of Western Australia (Payarri)

**Registration History:** Registered from 23/09/2022

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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:** 23/03/2022

**Date claim entered on Register:** 23/09/2022

### Additional Information:

#### APPLICANT:

**Person/s authorised as applicant:** Kado Muir, Samantha Banks, Talbot Muir, Eric Thomas (Junior)

#### Condition/s on authority:

The claim group's authorisation of the Applicant is not unlimited and has conditions. The Applicant cannot do any of the following without first obtaining a resolution of the claim group specifically authorising the Applicant to:

1. make any decisions that extinguish or surrender native title rights and interests (like entering into certain types of agreements);
2. change the solicitor for the Applicant (and the claim group) in the native title proceedings;
3. approve any consent determination in the native title proceedings;
4. change the membership of the Applicant; or
5. change the boundaries of the claim area or the membership of the claim group.

Except for those things listed above, the Applicant is authorised to deal with all matters arising in relation to the claim.

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## DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Information identifying the boundaries of:

### (a) The area covered by the application – external boundaries and description

1. The area of land and waters covered by the application (Claim Area) is described in the document titled "Identification of Boundaries" which is attached as "**ATTACHMENT B**".
2. The external geographical boundaries of the area of land and waters covered by the application are delineated and marked 'Application Area' on the attached map at "**ATTACHMENT C**".

### (b) Any areas within those boundaries that are not covered by the application.

#### Applicability of sections 61A(4), 47, 47A and 47B NTA

3. For the purposes of the application of sections 61A(4), 47, 47A and 47B NTA, this application covers the following areas:

- (a) Any pastoral lease held over the area by any of the persons listed in s 47(1)(b) NTA;
- (b) Any area of land to which s 47A(1)(b) NTA may apply;
- (c) Any area of vacant Crown land which may be subject to s 47B of the NTA; and
- (d) Any other areas to which the non-extinguishment principle as defined in s 238 NTA applies.

#### Areas within the external boundaries that are not covered by the application

4. Subject to paragraph [3] above, areas of land and waters within the external boundary that are not covered by the application are:

(a) any area that is or was subject to any of the following acts as they are defined in either the NTA, as amended (where the act in question is attributable to the Commonwealth), or Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA), as amended, (where the act in question is attributable to the State of Western Australia) at the time of the Registrar's consideration:

- i) Category A past acts;
  - ii) Category A intermediate period acts;
  - iii) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests; and
  - iv) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;
- (b) any area in relation to which a 'relevant act' as that term is defined in section 121 of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) was done and the act is attributable to the State of Western Australia;
- (c) any area in relation to which a 'previous exclusive possession act' under section 12J of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) was done and that act is attributable to the State of Western Australia;
- (d) any area in relation to which a previous exclusive possession act as defined by section 23B (including section 23B (7)) NTA was done in relation to the area and the act was attributable to the Commonwealth;
- (e) any areas where native title rights and interests have otherwise been wholly extinguished; and
- (f) specifically, any areas where there has been:
- i) any unqualified grant of an estate in fee simple;
  - ii) a lease which is currently in force, in respect of an area not exceeding 5,000 square metres, upon which a dwelling, house, residence, building or work is constructed, and which comprises:
    - (A) a lease of a worker's dwelling under the Worker's Homes Act 1911 – 1928;
    - (B) a 99-year lease under the Land Act 1898 (WA);

- (C) a lease of a town lot or suburban lot pursuant to section 117 of the Land Act 1933 (WA);
- (D) a Special Lease under section 1 17 of the Land Act 1933 (WA); or
- (E) any Reserves vested pursuant to section 33 of the Land Act 1933 (WA) that are not for the benefit of Aboriginal people.
- iii) a conditional purchase lease currently in force in the Agricultural areas of the South West Division under regulations 46 and 47 of the Land Regulations 1887 (WA), which includes a condition that the lessee reside on the area of the lease and upon which a residence has been constructed;
- iv) a conditional purchase lease of cultivatable land currently in force under Part V Division 1 of the Land Act 1933 (WA), in respect of which habitual residence by the lessee is a statutory condition in accordance with the Division and upon which a residence has been constructed;
- v) a perpetual lease currently in force under the War Service Land Settlement Scheme Act 1954 (WA);
- vi) a public work as defined in section 253 of the NTA; or
- vii) an existing dedicated public road.

### **PERSONS CLAIMING TO HOLD NATIVE TITLE:**

The Payarri claim is brought on behalf of the Payarri people. The Payarri people are:

1. Those Aboriginal persons from time to time:
  - a) who in accordance with Western Desert traditional laws and customs, have a connection to all or part of the application area through:
    - i) their own birth or conception;
    - ii) holding religious, sacred or ritual authority;
    - iii) acquisition of knowledge through a traditional long association via occupation or custodianship; or
    - iv) through descent from a person who has had such a connection in part or all of the area; and
  - b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.
2. As at the date of the application, the persons referred to in paragraph 1 include, but are not limited to, the following persons:
  - a) the descendants of the siblings Mindi Chapman, Lumi Chapman, Tommy Chapman, Roy Chapman, Coral Chapman, Mary Chapman and Elsie Chapman
  - b) the descendants of the siblings Kujikari/Mary Walker/MacArthur, Claudie Walker, Paddy Walker and Pukungka/Dolly Walker/Muir;
  - c) the descendants of the siblings Rangka Rangka, Nellie Yalanga and Kitty Yiningka;
  - d) the descendants of Tatitjarra Banks, Paddy Longfella Banks and Sandy Banks;
  - e) the descendants of Topsy Anderson; and
  - f) the descendants of Nukuwarra Paddy Bond and Nyultan Polly Mitchell.

### **REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:**

**The following Native Title Rights & Interests were entered on the Register on 23/09/2022**

- 2) Where native title rights and interests have been partially extinguished, the applicant claims the following non-exclusive native title rights and interests:
- b) the right to access and use the area;
  - c) live on, camp, erect shelters and other structures and to travel over and visit;
  - d) the right to maintain and look after physical aspects of the area, including burning;
  - e) the right to look after spiritual and sacred aspects of the area, including cleaning and protecting sites of significance and the management of water resources in the area;
  - f) the right to hunt, gather, and take resources; and
  - g) the right to pass on traditional knowledge of and stories about the area.

### **Subject to**

The native title rights and interests claimed in this application are subject to and exercisable in accordance with:

- a) the common law, the laws of the State of Western Australia and the Commonwealth of Australia;
- b) valid interests conferred under those laws; and
- c) the body of traditional laws and customs of the Payarri people.

**REGISTER ATTACHMENTS:**

1. WC2022\_002 Attachment B Identification of Boundaries, 2 pages - A4, 29/06/2022
2. WC2022\_002 Attachment C Map, 1 page - A4, 29/06/2022

*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.*