

Background

Thalanyji consent determination background information

Name: Leslie Hayes & Ors on behalf of the Thalanyji People (Thalanyji)

Claim number(s):

- NNTT numbers: WC99/45
- Federal Court number: WAD6113/98

Claim location:

11,120 sq km in the Shire of Ashburton in the West Pilbara region. The determination area includes land in and around the Onslow townsite and port area.
(Please note the determination will not cover the entire claim area.)

Hearing date/time/judge/location:

10:30am, Thursday, 18 September, 2008
Presiding judge: Justice North
Onslow Town Hall, WA

Expected hearing outcome:

Consent determination over approximately 11,120 sq km, the majority of the application area. The remaining areas will be dismissed.

Other expected outcomes:

Five body corporate pastoral ILUAs to be registered post determination.

Parties to the determination:

- Applicants: Mr Albert Hayes, Mr Douglas Fazeldean, Mr John Ard, Ms Glenys Hayes, Ms Judy Hughes, Ms Laura Hicks, Ms Leslie Hayes, Ms Valerie Ashburton
- WA State Government
- Commonwealth of Australia
- Shire of Ashburton
- Onslow Salt Pty Ltd
- CEMEX Australia Pty Limited
- Pastoralists: Deborah Alice Avery & Martin Lawrence Avery (Mt Stuart Station), John Digby Corker & Leanne Margaret Corker (Red Hill Station), Nathan Daniel Webb-Smith & Ruth Catherine Webb-Smith (Wyloo Station), Kimberley Thomas de Pledge (Yanrey Station), Elizabeth Anne MacLeay & Matthew John Thomson (Nyang (Emu Creek) Station), Murion

Cattle Company Pty Ltd (Minderoo Station), Peter Robert Grey & Susan Jean Grey (Glenflorrie Station) and Rory Joseph de Pledge (Koordarrie Station)

- Western Australian Fishing Industry Council (Inc)
- MG Kailis Gulf Fisheries Pty Ltd
- Exmouth Pearls Pty Ltd
- Apache Northwest
- Apache Oil Australia Pty Ltd
- BHP Billiton Petroleum (Australia) Pty Ltd
- Carnarvon Petroleum Limited
- Chevron Australia Pty Ltd
- Santos (BOL) Pty Ltd
- Santos Offshore Pty Ltd
- Strike Oil Limited
- Telstra Corporation Limited
- Angelina Cox, Angie Cox, Annabel Stewart & Ors on behalf of the Puutu Kunti Kurrama and Pinikura People
- C Laphorne, B Roberts, B Randall, S Peck, W Laphorne, P Windie, WS Ryan, M Dodd and A Moncrieff of behalf of the Thudgari People

Attendees at the determination:

- **Thalanyji**
 - Applicants; members of the claim group
 - Legal Representative Mr Ron Bower (Corser & Corser)
- **Federal Court**
 - Justice North
 - Mr Bob Sheppard - Trial Logistics Manager (Native Title)
- **NNTT**
 - Member Dan O'Dea
 - Case Manager Asha Sackville
 - Public Affairs Officer Deborah Spittle
- **State**
 - Ms Rae Markham - Office of Native Title
 - Mr Griff Ranson - State Solicitors Office
 - Ms Alicia Warren - State Solicitors Office
- **Shire of Ashburton**
 - Legal representatives Mr Andrew Read; Ms Kisha Stevens (may attend) (Civic Legal)
- **Pastoral Interests**
 - Legal Representative Mr John Steenhof (Cornerstone Legal)
- **Pearling / Fishing / Petroleum Interests**
 - Legal Representative Mr Michael Voros (Freehills)
- **WAFIC / Fishing / Petroleum Interests**
 - Legal Representative Mr Marshall McKenna (Hunt and Humphry)
- **Commonwealth**
 - Mr Gordon Kennedy (may attend) – Australian Government Solicitor

Representative body:

Not represented by Pilbara Native Title Service the NTRB for the region, represented by law firm Corser & Corser.

Tribunal's role: Mediated consent determination and ILUAs.

Tribunal Case Manager: Marion Towndrow

Tribunal Case Officer: Asha Sackville

Tribunal Member: Dan O'Dea

Tribunal public affairs officer (WA media): Deborah Spittle

Federal Court contact at the event: Bob Sheppard, Trial Logistics Manager (Native Title)

Other existing arrangements:**History:**

- Date Application lodged/filed: 09/11/1999
- Application Type: Claimant
- Notification End Date: 11/04/1997
- Date Mediation Commenced: 25/07/1997
- Accepted for registration: 07 February 2000
- Total area: approx. 18, 430 sq km
- Area to be determined: approx. 11,120 sq km
- Area to stand dismissed: approx. 7,310 sq km
- This application was formed through the combination of two previously lodged applications:
 1. WAG 6009/98, Thalanyji People, WC95/2, lodged 5/1/95.
 2. WAG 6113/98, Thalanyji People #2, WC 96/82, lodged 28/6/96.
- The amended application was heard on 10 November 1999.
- The two applications were combined, with WAG 6113/98 as the lead application and the combined name being called "Thalanyji People."
- On 7 February 2000, the application was re-registered on the Register of Native Title Claims because the Registrar of the Tribunal decided that the amended application met the requirements of the new registration test.
- The State considered the anthropological material provided by the applicants and in late 2006 made an offer to enter into negotiations toward a consent determination. The applicants formally agreed to this in April 2007.
- The Tribunal convened mediation conferences in May and June 2007 at which the parties agreed to a program to achieve a consent determination by the end of November 2007.
- Since then the Tribunal has been actively mediating with all the parties.

- On 15 August 2008 the Buurabalayji Thalanyji Aboriginal Corporation was registered with the Office of the Registrar of Indigenous Corporations. This will be the Prescribed Body Corporate for the Thalanyji People.
- Post determination issues include the registration of five body corporate pastoral ILUA's.

Significance of this determination:

- Southern most coastal consent determination in the State.

Judgment and orders:

- To be available in hard copy at the hearing.
- The documents will also be available on the Court's website (and AUSTLII) after delivery of the judgment.