



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD6064/1998
NNTT number: WC1999/010

Application Name: Raymond William Ashwin & Others on behalf of the Wutha People v The State of Western Australia & Others (Wutha)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 19/01/1999

Current status: Dismissed - 09/04/2019

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: 15/06/1999

Registration decision status: Accepted for registration

Registration history: Registered from 15/06/1999 to 12/04/2019,

Applicants: June Rose Ashwin, Geoffrey Alfred Ashwin, Raymond William Ashwin, Ralph Edward Ashwin

Address(es) for Service: The Applicant - Wutha People
137 Varden Street
Piccadilly WA 6430
Phone: (08) 9091 1317
Fax: (08) 9022 8572

Additional Information

Not applicable

Persons claiming to hold native title:

The claim is brought on behalf of:

The Wutha people, being those persons (including the applicants) who identify themselves as Wutha and are:

- 1) the biological descendants of:
 - (a) Darugadi (aka Thurraguddy), his affine Murni and her mother Matjika
 - (b) Julia Sandstone ("Old Julia")
 - (c) Billy
 - (d) Inyarndi

and

2) Those persons adopted by those biological descendants in accordance with Wutha tradition and customs. (Adoption refers to the situation where a child is 'grown up' by a relative or someone without a biological relationship, either because they have been gifted to them, or left in their care, as the biological parents are not in a position to care for them. This applies regardless of whether or not the child has been formally adopted under the non-Aboriginal legal system).

Identification of the above-named apical ancestors and the descendent claim group is contained in the Expert Connection Report Volume 1 and Genealogy Volume 2 prepared by Associate Professor Neale Draper dated 30 November 2015 and filed in the Court pursuant to orders made by His Honour Justice Barker on 21 December 2015.

Native title rights and interests claimed:

1. Over areas where a claim to exclusive possession can be recognised (such as areas where there has been no prior extinguishment of native title or where s.238 of the *Native Title Act 1993* (Cth) applies), the native title claim group claim the right to possess, occupy, use and enjoy the lands and waters covered by the native title application determination area (**application area**) as against the whole world ("**exclusive possession area**").

2. Over areas where a claim to exclusive possession cannot be recognised ("non-exclusive possession area"), the native title claim group claim the following rights and interests exercisable in accordance with the traditional laws and customs of the native title claim group:

- (a) The right of access to the application area;
- (b) The right to camp on the application area;
- (c) The right to erect shelters on the application area;
- (d) The right to live on, use and enjoy the resources of the application area;
- (e) The right to move about the application area;
- (f) The right to hold meetings on the application area;
- (g) The right to hunt on the application area;
- (h) The right to conduct ceremonies on the application area;
- (i) The right to participate in cultural activities on the application area;
- (j) The right to maintain and protect places of significance under traditional laws and customs in the application area;
- (k) The right to control access to, and use of, the application area by other Aboriginal People who seek access to or use the lands and waters in accordance with traditional laws and customs.

The native title rights are subject to:

1. The valid laws of the State of Western Australia and the Commonwealth of Australia, including the common law; and
2. The rights (past or present) validly conferred upon persons pursuant to the laws of the State of Western Australia and the Commonwealth of Australia.

The above native title rights and interests have been held by and activities in exercise of those rights and interests have been undertaken by the native title claim group and their predecessors in accordance with traditional law and custom of the group at and from the time of first contact in the 1890s and before then back to the time of assertion of colonial sovereignty in 1829. Reference is made to Schedule F Parts (b) and (c); Draper 2015 referred to therein;

the SFIC Part 6 and the witness statements at "Attachment E".

Application Area: **State/Territory:** Western Australia
Brief Location: Northwest Goldfields
Primary RATSIB Area: Geraldton
Approximate size: 32579.0927 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):

1. The external boundaries of the area of land and waters covered by the native title application are shown on the map attached and marked "**Attachment B1**" and are as described in the document entitled 'Description of Boundaries' which is annexed as "**Attachment B2**" prepared by the National Native Title Tribunal for the purposes of this application.

2. Subject to (3) and (4) below, the areas of land and water within the boundaries referred to in (1) above that are not covered by this native title determination application are:

(a) Any area that is, or was, subject to any of the following acts as defined in the *Native Title Act 1993* (Cth) or the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA);

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;

iv. Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;

v. all areas to which a 'relevant act', as defined in s.121 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA), has been done or a 'previous exclusive possession act' under s.12J of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) and the act is attributable to the State of Western Australia or an act as defined in s.23B (including s.23B(7)) of the *Native Title Act 1993* (Cth) has been done and was attributable to the Commonwealth.

(b) Any other area in relation to which native title rights and interests have otherwise been wholly extinguished; and specifically, any areas where there has been any unqualified grant of an estate in fee simple.

(c) Any area for which there is an approved determination of native title, as defined in the *Native Title Act 1993* (Cth).

3. Notwithstanding anything contained elsewhere in this native title determination application, any area of land and water within the boundaries referred to in (1) includes any area in relation to which the non-extinguishment principle (as defined in s.238 of the *Native Title Act 1993* (Cth)) applies, including any area to which s.47, 47A or 47B of the *Native Title Act 1993* (Cth) applies. Particulars of these areas will be provided prior to the hearing or determination of this application but any area as may be referred to in Schedule L is included in the area covered by this native title determination application.

4. Where there is any discrepancy between the map provided at "**Attachment B1**" and the written description contained in "**Attachment B2**", the latter prevails.

Schedule L

(a) Pastoral leases - see particulars in "Schedule D".

(b) Leased or reserved areas - particulars will be supplied prior to trial.

(c) Vacant Crown Land - pursuant to traditions, laws and customs the claim group occupies all vacant claim land with the area of the claim.

(d) Disregarding of s. 47, 47A or 47B areas - particulars will be provided prior to trial.

Combination Details

Date of order to combine: 22/01/1999

This application is a combination of the following applications:

Application number(s)	Application name	Date application lodged/filed	Date claim entered on Register*	Registration History
WAD6071/1998, WC1996/022		13/03/1996	N/A	Registered from 13/03/1996 to 15/06/1999
WAD6064/1998, WC1996/008	Raymond William Ashwin & Ors v State of Western Australia & Ors (Wutha)	19/01/1996	N/A	Registered from 19/01/1996 to 15/06/1999

*For further information on pre-combined applications, see the Schedule extract for each pre-combined application.

Attachments:

1. Attachment B1 Map of the Claim Area, 1 page - A4, 22/08/2016
2. Attachment B2 Description of boundaries, 6 pages - A4, 22/08/2016

NNTT Contact Details

Address: National Native Title Tribunal
Perth Office
Level 5, Commonwealth Law Courts
1 Victoria Avenue
PERTH WA 6000

GPO Box 9973
PERTH WA 6848

Telephone: +61 8 9425 1000
Freecall: 1800 640 501
Fax: +61 8 9425 1193
Web Page: www.nntt.gov.au

End of Extract