



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: WAD33/2019
NNTT number: WC2014/004

Application Name: Timothy Carter & Ors v State of Western Australia & Ors (Warrwa Combined)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 04/07/2014

Current stage(s): Notification Complete, Part Determination

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: 26/11/2014

Registration decision status: Accepted for registration

Registration history: Registered from 26/11/2014

Date claim / part of claim determined: 01/12/2020

Applicants: Timothy Carter, Stephen Hunter, Patricia Juboy, Elaine Laraia, Patrick Lawson, Nathan Lennard, Debra Ann Maher, Gail Williams, Thomas Williams, Barry Lennard, Herbert Marshall, Lawrence Tataya

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Additional Information

On 1 December 2020, Justice Banks-Smith delivered a joint judgment in relation to two adjacent determinations of native title: WAD16/2019 Warrwa Mawadjala Gadjudgar and WAD33/2019 Warrwa Combined – see Carter on behalf of the Warrwa Mawadjala Gadjudgar and Warrwa People Native Title Claim Groups v State of Western Australia [2020] FCA 1702. The determination of WAD33/2019 Warrwa Combined was limited to part of the application area described as the Part A Determination Area. In 2023, the application was separated into Parts B, C and D. In 2024, Part D was dismissed. Pursuant to s 190(4)(e), the application remains on the Register of Native Title Claims to the extent that it relates to the undetermined areas. A map and technical description showing the area of the application that remains to be determined, as interpreted by the National Native Title Tribunal, are attached for information only. These attachments do not form part of the application.

Persons claiming to hold native title:

The native title claim group consists of people known as the Warrwa people, being those Aboriginal people whose traditional land and waters are situated generally in the district of Derby in the State of Western Australia.

The individuals who comprise the Warrwa people's native title claim group are the descendants of the following Apical Ancestors:

- a. Gudayi
- b. Bobby Ahchoo
- c. Milngangurru
- d. Djabilangurul
- e. Cararangudu
- f. Rimarrangudu
- g. Binjangudu
- h. Lanjangudu
- i. Walgananudu
- j. Warlayakudang
- k. Galera
- l. Topsy Mouwudjala

Descendants of the above listed Apical Ancestors includes people adopted in accordance with Warrwa traditional law and custom, that is, a person is adopted if they are 'grown up' by a person who is or was a descendant of one of the Apical Ancestors and was under 2 years of age when they started being 'grown up' by that person.

Native title rights and interests claimed:

The native title rights and interests claimed are as follows:

1. Over areas where a claim to exclusive possession can be recognised, the Warrwa People claim the right to possess, occupy, use and enjoy the lands and waters of the application area as against the whole world.

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

- a. the right to access the application area;
- b. the right to travel across the application area;
- c. the right to camp on the application area;
- d. the right to erect shelters on the application area;
- e. the right to live on the application area;
- f. the right to move about on the application area;
- g. the right to hold meetings on the application area;
- h. the right to hunt on the application area;
- i. the right to fish on the application area;
- j. the right to take fauna from the application area;
- k. the right to use and maintain the natural water resources of the application area including the beds and banks of watercourses;
- l. the right to gather the natural products of the application area (including food, medicinal plants, timber, stone, ochre and resin) according to traditional laws and customs;
- m. the right to use the application area for social, religious, cultural, and spiritual customary and/or traditional purposes;
- n. the right to conduct ceremony on the application area;
- o. the right to participate in cultural activities on the application area;
- p. the right to maintain places of importance under traditional laws, customs and practices in the application area;
- q. the right to protect places of importance under traditional laws, customs and practices in the application area;
- r. the right to conduct burials on the application area;
- s. the right to speak for and make non-exclusive decisions about the application area;
- t. the right to cultivate and harvest native flora according to traditional laws and customs;
- u. the right to cook and light fires for that purpose, on the application area;
- v. the right to light fires for domestic purposes but not for the clearance of vegetation;
- w. the right to uphold, regulate, monitor and enforce customary law;
- x. the right to maintain and transmit cultural knowledge of the application area; and
- y. the right to regulate amount and resolve disputes among the native title holders of the application area.

3. The native title rights and interests listed above are subject to:

- a. the valid laws of the State of Western Australia and the Commonwealth of Australia;
- b. the rights (past and present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State; and
- c. the traditional laws and customs of the native title claim group.

Application Area: **State/Territory:** Western Australia
Brief Location: Kimberley region, Western Australia
Primary RATSIB Area: Kimberley
Approximate size: 410.4731 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 boundaries of the area covered by this application are shown on the map annexed as Attachment C and are described in the document annexed as Attachment B.

2. Subject to paragraph 3 of this Schedule B, the area of land and waters within the boundaries described in Attachment B that are not covered by this application include:

a. any area that is or was subject to any of the following acts as they are defined in either the *Native Title Act 1993* (Cth), as amended (where the act is attributable to the Commonwealth), or the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA), as amended (where the act is attributable to the State of Western Australia);

- 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 and 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;

b. any area in relation to which a previous exclusive possession act, as defined in section 23B of the *Native Title Act 1993* (Cth) was done and the act was an act attributable to the Commonwealth;

c. any area in relation to which a "relevant act" as that term is defined in s121 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;

d. any area in relation to which a previous exclusive possession act under s23B(7) of the *Native Title Act 1993* (Cth), as amended, was done in relation to the area and the act was attributable to the State of Western Australia;

e. any area in relation to which native title rights and interests have otherwise been wholly extinguished.

3. Notwithstanding paragraph 2 of this Schedule B, the area of land and waters covered by this application include any area within the boundaries (as described in Attachment B) in relation to which the non-extinguishment principle as defined in section 238 of the *Native Title Act 1993* (Cth) applies, including any area to which sections 47, 47A and 47B of the *Native Title Act 1993* (Cth) applies, particulars of which will be provided prior to the hearing of this application.

Combination Details

Date of order to combine: 12/05/2014

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
WAD262/2010, WC2010/012	Stephen Comeagain & Ors v State of Western Australia & Ors	16/09/2010	N/A	Registered from 13/10/2010 to 26/11/2014
WAD258/2012, WC2012/009	Harry Lennard & Ors (Warrwa #2) v State of Western Australia	03/10/2012	N/A	Registered from 9/11/2012 to 26/11/2014

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

Attachments:

1. WC2014/004 External Boundary Description, attachment B of the application, 4 pages - A4, 04/07/2014
2. WC2014/004 Map of the claim area, attachment C of the application, 1 page - A4, 04/07/2014
3. WC2014/004 Description of Remaining Area, 2 pages - A4, 03/04/2024
4. WC2014/004 Map of Remaining Area, 1 page - A3, 03/04/2024

End of Extract