



## Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: WAD345/2019  
NNTT number: WC2019/008

**Application Name:** Frederick Taylor & Ors on behalf of Yamatji Nation Claim and State of Western Australia (Yamatji Nation Claim)

**Application Type:** Claimant

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

**Date application filed:** 28/06/2019

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**Current status:** Full Approved Determination - 26/10/2020

**Registration information:** Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

**Registration decision status:** Not Accepted for registration

**Registration history:** -

**Date claim / part of claim determined:** 26/10/2020

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## Additional Information

On 7 February 2020, the Federal Court of Australia made a determination that native title exists in parts of the application area – see Taylor on behalf of the Yamatji Nation Claim v State of Western Australia [2020] FCA 42. Order 3 of the determination provides that the determination is to take effect immediately after the Separate Orders take effect. A copy of the determination is attached to this Extract. The Federal Court also made the Separate Orders on 7 February 2020. Order 1 consolidated the four following native title determination applications with WAD345/2019 Yamatji Nation Claim: 1. WAD21/2019 Mullewa Wadjari Part A; 2. WAD19/2019 Southern Yamatji; 3. WAD27/2019 Hutt River; and 4. WAD31/2019 Widi Mob. Order 4 provides that the consolidation is to take effect on the date the State of Western Australia files a notice that the Yamatji Nation Indigenous Land Use Agreement has been Conclusively Registered on the Register of Indigenous Land Use Agreements. A copy of the Separate Orders is attached to this Extract. The Separate Orders provide that “Conclusively Registered” has a corresponding meaning to the term “Conclusive Registration”. That term is defined to mean the Yamatji Nation Indigenous Land Use Agreement being registered and remaining registered: (a) at a date that is 60 Business Days after the date on which a decision is made to register the Yamatji Nation Indigenous Land Use Agreement, provided that no Legal Proceedings have been commenced in respect of such registration; or (b) otherwise, at a date that is 40 Business Days following the exhaustion and determination of the final available Legal Proceedings in respect of such registration. On 26 October 2020, the State of Western Australia filed a Notice of Conclusive Registration in each of the four applications listed above. The Notice states that the Yamatji Nation Indigenous Land Use Agreement was Conclusively Registered on the Register of Indigenous Land Use Agreements on 26 October 2020. Accordingly, the Separate Orders came into effect and the four applications listed above were consolidated into WAD345/2019 Yamatji Nation Claim on 26 October 2020. The determination of WAD345/2019 Yamatji Nation Claim then immediately came into effect and was registered on the National Native Title Register from 26 October 2020.

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### Persons claiming to hold native title:

This claim is brought on behalf are those Aboriginal persons who satisfy (a) and (b) below (the "SPA People"). The Separate Proceeding Area (SPA) is the area of land and waters as identified in the External Boundaries Description in Schedule B and the map as shown in Schedule C.

(a) People who are descendants of the following apical ancestors:

- Ap-barra (Upparawa) and Dharringa
- Annie Tira
- Biddie (mother of Fred Carnamah)
- Billy and Judy Thompson
- Brindy
- Cissie Broad
- Galena
- Jane Hunt
- Jibija (Rosie Jones)
- Lizzy Flynn
- Mary Gingina
- Nellie
- Rosie (mother of Walter Ninghan)
- Rosie Coleman
- Sarah Broad
- Sarah Jane Campbell
- Sarah Mabel Bell
- Sarah Feast (Jooldarnoo)
- Shilling
- Timothy Benjamin
- Uanda
- Wyoo and Myonada

The term "descendants" includes Aboriginal persons who have been adopted as children or raised (grown up) as part of the family of descendants referred to in (a) above

AND

(b) In addition to (a), those descendants must also identify as Yamatji People who are connected under the traditional Yamatji laws and customs with the land and waters in the SPA and be accepted

as such by other SPA People.

**Native title rights and interests claimed:**

The native title rights and interests claimed are the following non-exclusive rights in the SPA:

- (a) To access land for living and camping;
- (b) To visit, maintain and protect places of importance;
- (c) To teach on land and waters;
- (d) To conduct ceremony;
- (e) To be accompanied onto the land by non-Yamatji spouses or persons required for ceremonial or cultural activities;
- (f) To hunt on, fish from and take and use resources of the area.

The Native Title Rights and Interests are 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, 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 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 and a law of that State has made provision as mentioned in section 231 in relation to the act;

(iv) Paragraph (iii) above is subject to such of the provisions of sections 47, 47A and 47B of the Act as apply to any part of the area contained within this application, particulars of which will be provided prior to the hearing.

(v) The said native title rights and interests are not claimed to the exclusion of any other rights or interests validly created by or pursuant to the common law, the law of the State or a law of the Commonwealth.

**Application Area:**                   **State/Territory:** Western Australia  
**Brief Location:** Geraldton region  
**Primary RATSIB Area:** Geraldton  
**Approximate size:** 47971.9725 sq km  
(Note: There may be areas within the external boundary of the application that are not claimed.)  
**Does Area Include Sea:** Yes

**Area covered by the claim (as detailed in the application):**

**a) The area covered by the Application**

The external boundaries of the area of land and waters covered by the Application are as set out in the document entitled "**External Boundary Description**", which is annexed and labelled as "**Attachment B**".

**b) Any areas within those boundaries that are not covered by the Application are as follows:**

1. Subject to Schedule B paragraph 5, the Applicant excludes from the Application area any areas that are covered by any of the following acts, as defined in either the Act, as amended (where the act is attributable to the

Commonwealth), or the *Titles (Validation) and Native Title (Effect of Past Acts) 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:

- (a) Category A past acts;
- (b) Category A intermediate period acts;
- (c) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests; and
- (d) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests.

2. Subject to Schedule B paragraph 5 below, the Applicant excludes from the Application area any areas in relation to which:

- (a) A "previous exclusive possession act", as defined in s 23B of the Act, was done and the act was an act attributable to the Commonwealth; or
- (b) A "previous exclusive possession act", as defined by s 23B(7) of the Act, was done and the act was an act attributable to the State of Western Australia; or
- (c) A "relevant act", as defined in s 12I of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995*, was done and the act was an act attributable to the State of Western Australia.

3. Subject to Schedule B paragraph 5, the Applicant does not claim any native title rights and interests which confer possession, occupation, use and enjoyment to the exclusion of all others over areas in relation to which:

- (a) A "previous non-exclusive possession act", as defined in s 23F of the Act, was done and the act was an act attributable to the Commonwealth; or
- (b) A "previous non-exclusive possession act", as defined in s 23M of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995*, was done and the act was an act attributable to the State of Western Australia.

4. Subject to Schedule B paragraph 5, the Applicant excludes from the Application area any areas in relation to which native title rights and interests have otherwise been wholly extinguished.

Notwithstanding anything contained elsewhere in this Application area covered by this Application includes any area in relation to which the non-extinguishment principle (as defined in s 238 of the Act) applies, including any areas to which ss. 47, 47A and 47B of the Act apply. Particulars of these areas will be provided prior to the hearing, but any area as may be listed in Schedule L is included in the area covered by the Application.

#### Schedule L

For the area covered by the application, the Applicant does not yet have details of:

- a) any area for which a pastoral lease is held by or on behalf of the members of the native title claim group; and
  - b) any area leased, held or reserved for the benefit of Aboriginal peoples or Torres Strait Islanders that is occupied by or on behalf of the members of the native title claim group; and
  - c) any vacant Crown land occupied by the members of the native title claim group;
- and
- d) any area mentioned in paragraph (a), (b) or (c) over which the extinguishment of native title is required by section 47, 47A or 47B of the Act to be disregarded.

#### Combination Details

Date of order to combine: 07/02/2020

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
WAD27/2019,W C2000/001	Sandy Davies & Ors on behalf of the Hutt River People and State of Western Australia & Ors	07/02/2000	N/A	Registered from 7/07/2000 to 27/10/2020
WAD21/2019,W C1996/093	Leedham Papertalk & Ors on behalf of the Mullewa Wadjari People and State of Western Australia & Ors	19/08/1996	N/A	Registered from 19/08/1996
WAD31/2019,W C1997/072	Gregory Denis Martin & Ors on behalf of the Widi People and State of Western Australia & Ors	26/08/1997	N/A	Registered from 26/08/1997 to 4/05/1999 Registered from 12/12/2011 to 27/10/2020
WAD19/2019,W C2017/002	Mervyn Councillor & Ors on behalf of the Southern Yamatji and State of Western Australia & Ors	03/04/2017	N/A	Registered from 27/10/2017 to 27/10/2020

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

**Attachments:**

1. External Boundary Description, attachment B of the application, 7 pages - A4, 28/06/2019
2. Map of the claim area, attachment C of the application, 1 page - A4, 28/06/2019
3. Yamatji Nation Determination, 70 pages - A4, 07/02/2020
4. Yamatji Nation, Separate Orders, 2 pages - A4, 07/02/2020

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