



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NTD43/2019
NNTT number: DP2019/001

Application Name: Galarrwuy Yunupingu (on behalf of the Gumatj Clan or Estate Group) v Commonwealth of Australia & Anor (Gove Compensation Claim)

Application Type: Compensation

Application filed with: Federal Court of Australia

Date application filed: 28/11/2019

Current stage(s): Notification Complete

Applicants: Galarrwuy Yunupingu

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Additional Information

Not applicable

Persons claiming compensation:

1. The compensation claim group on whose behalf the Applicant makes this application are Gumatj persons who, according to traditional laws acknowledged and customs observed, are traditionally connected with the area described in schedule B, and who are members of the Gumatj clan or estate group by reason of:

- (a) descent through his or her father;
- (b) having been adopted or incorporated into the descent relationships referred to in (a).

2. The Gumatj clan is of the Yirritja moiety and is comprised by all persons patrilineally descended from the following apical ancestors:

(a) Nikunu (also known as Yunupingu) is an Aboriginal person:

(i) whose children include Mungurrawuy Yunupingu, Djunga Djunga Yunupingu, Dhatju, Bunungu, Baliny and Djalalingba Yunupingu;

(ii) whose grandchildren include Galarrwuy Yunupingu (the Applicant); Mandawuy Yunupingu, Djarrku Djarrku Yunupingu, Garrmali Yunupingu, Bambang Yunupingu, Bowathay Yunupingu, Gulumbu Yunupingu, Djuwandayngu Mununggur, Nyapa Nyapa Yunupingu, Djawa Yunupingu, Balupalu Yunupingu, Nungki Yunupingu, Nalkuma Yunupingu, Rrawun Yunupingu, Djakapurra Yunupingu, Mangalay Yunupingu, Yalpi Yunupingu, Yumunu Yunupingu, Wurrumila Yunupingu, Djerrkngu Marika, Dhapiya Yunupingu, Dela Yunupingu and Djakanngu Mununggur;

(iii) whose great-grandchildren include Djunga Djunga #2 Yunupingu, Dhundhana Yunupingu, Lalambarri Yunupingu, Dharriya Yunupingu, Malati Yunupingu, Dharring Yunupingu, Lathulu Bukuwanngu Yunupingu, Ngarrayarri Yunupingu, Nyomiya Yunupingu, Dhapan Yunupingu, Binmila Yunupingu, Dhatju #2 Yunupingu, Bonhula Yunupingu, Gulumbu Yunupingu #2, Makuma Yunupingu, Botharra Yunupingu, Dhangayil Yunupingu and Galimara Yunupingu.

(b) Djipu (also known as Burarrwanga) is an Aboriginal person:

(i) whose children include Barratjuna, Djawa, Dharramala, Rrikin, and Dhambutjawa;

(ii) whose grandchildren include Matjuwi Burarrwanga, Batjang Burarrwanga and Gurrum Gurrum Burarrwanga;

(iii) whose great-grandchildren include Dhatjing Burrarwanga, Laylay Burarrwanga and Djawa Burarrwanga.

(c) Daymali Mununggiritj (also known as Mununggiritj) is an Aboriginal person:

(i) whose children include Warrayanga (Winimbu);

(ii) whose grandchildren include Wätjung and Yäma;

(iii) whose great-grandchildren include Mamutjangi Mununggiritj, Djurambil Mununggiritj, Multhara Mununggurr-Mununggiritj, Larrakan Mununggiritj, Donga Warrayanga Mununggiritj, Djapri Mununggiritj, Wulangu Mununggiritj, and Nanikiya Mununggiritj.

Native title rights and interests for which compensation is claimed:

8. The native title rights and interests in relation to the claim area for which compensation is claimed are:

(a) Rights in accordance with traditional laws and customs to the possession, occupation, use and enjoyment of the claim area to the exclusion of all others, including the subsoil and subsurface elements, and including rights of ownership of bauxite and other minerals, and of petroleum and gas.

(b) Where the rights and interests referred to at (a) were extinguished by an earlier act, the following non-exclusive rights in accordance with traditional laws and customs:

(i) the right to travel over, move about and to have access to the claim area;

(ii) the right to hunt, fish and forage on the claim area;

(iii) the right to gather and to use the natural resources of the claim area such as food, medicinal plants, wild tobacco, timber, minerals, petroleum and gas, stone and resin;

(iv) the right to mine, quarry and use minerals, stone, granite, rock, ochre and sand;

- (v) the right to have access to and use the natural water of the claim area, including subsurface water and aquifers;
- (vi) the right to have access to and use the airspace above the claim area;
- (vii) the right to live on the land, to camp, to erect shelters and other structures;
- (viii) the right to speak for and to make decisions about the use and enjoyment of the claim area;
- (ix) the right to engage in cultural and social activities on the claim area, including transmission of cultural knowledge to younger generations; and to:
 - practise Gumatj law;
 - conduct, participate and control ceremonies;
 - conduct, participate in, and control cultural practices relating to birth and death, including burial rights;
 - hold and conduct meetings, events and conferences;
 - teach the physical and spiritual attributes of places and areas of importance on or in the land and waters; and
 - participate in cultural practices relating to birth and death, including burial rights;
- (x) the right to have access to, maintain and protect sites of significance, and areas or objects of cultural importance, on the claim area, and to enforce exclusion areas based on sacred aspects of Yolngu law;
- (xi) the right to share or exchange resources obtained on or from the land or waters.

Details of acts claimed to have extinguished or affected native title:

13. The acts that extinguished or affected native title rights and interests for which compensation is claimed were invalid including because they were made by, under, or pursuant to Commonwealth legislation which purported to acquire property without providing just terms as required by s 51(xxxi) of the *Commonwealth Constitution of Australia Act* (the Constitution), and were retrospectively validated as "past acts" by the NTA and/or the *Validation (Native Title) Act 1994* (NT) - but with native title holders entitled to compensation under s 17 of the NTA, thus ensuring the Constitutional validity of that statute under s 51 (xxxi).

14. The acts that extinguished or affected native title rights and interests for which compensation is claimed are the:

(a) past acts attributable to the Commonwealth validated by the NTA including:

- (i) *Mining Ordinance 1939* (NT) (s 107), which vested all minerals including bauxite on the Gove Peninsula as property of the Commonwealth;
- (ii) *Minerals (Acquisition) Ordinance 1953* (NT) (s 3), which - to the extent that the *Mining Ordinance 1939* (NT) may not have been effective - vested all minerals including bauxite on the Gove Peninsula as property of the Commonwealth;
- (iii) special mineral lease no 1 which was granted to Commonwealth Aluminium Corporation Pty Ltd on 17 November 1958;
- (iv) special mineral leases nos 2, 3 and 4 which were granted to Gove Bauxite Corporation Ltd on 11 March 1963;
- (v) the special mineral lease and special purposes leases granted or renewed pursuant to the Gove Agreement and under the 1968 Gove Ordinance (ie the Nabalco leases);

(b) past acts attributable to the Northern Territory validated by Pt 2 of the *Validation (Native Title) Act 1994* (NT);

(c) intermediate period acts attributable to the Northern Territory validated under Pt 2 of the *Validation (Native Title) Act 1994* (NT);

(d) previous:

- (i) exclusive possession acts;
 - (ii) non-exclusive possession acts;
- attributable to the Commonwealth in respect of which extinguishment is confirmed by the NTA.

(e) previous:

- (i) exclusive possession acts;
 - (ii) non-exclusive possession acts;
- attributable to the Northern Territory in respect of which extinguishment is confirmed by Pts 3B and 3C of the *Validation (Native Title) Act 1994* (NT).

(f) As far as the Applicant is aware, the acts that extinguished or affected native title rights and interests for which compensation is claimed include the acts itemised in Annexure B.

Application Area: **State/Territory:** Northern Territory
Brief Location: Gove Peninsula, Arnhem Land
Primary RATSIB Area: Northern Northern Territory
Approximate size: 235.5363 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):

3. The area covered by the application (the claim area) comprises all land and waters in the region of the Gove Peninsula, Arnhem Land, in the Northern Territory of Australia which is marked on (by yellow hatching), and within the boundaries identified on, the set of maps at Annexure A.

4. The claim area comprises land and waters which are part of the Gumatj estate, being land and waters which are owned by the Gumatj under Aboriginal tradition.

Attachments: 1. Maps of claim area, Annexure A of the application, 7 pages - A4, 28/11/2019

End of Extract