



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD6084/1998
NNTT number: NC1997/032

Application Name: Barkandji Traditional Owners #8 v Attorney General of New South Wales
(Barkandji Traditional Owners #8)

Application Type: Claimant

Application filed with: National Native Title Tribunal

Date application filed: 08/10/1997

Current status: Full Approved Determination - 13/07/2018

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: 03/11/2006

Registration decision status: Accepted for registration

Registration history: Registered from 8/10/1997 to 23/12/2004, Registered from 3/11/2006 to 16/11/2018,

Date claim / part of claim determined: 13/07/2018 , 16/06/2015

Applicants: Murray Butcher, Derek Hardman, Jennifer Jones (previously Whyman), William Charles Bates, Maureen O'Donnell, Mary-Ann Marton, Cyril James Hunter

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Additional Information

A consent determination of native title in respect of part A of the application area was made by Justice Jagot on 16 June 2015, see *Barkandji Traditional Owners #8 v Attorney-General of New South Wales* [2015] FCA 604 (16 June 2015). That determination was registered on the National Native Title Register on 30 June 2015. The determination is dependent on registration of the ILUA with the Local Aboriginal Land Councils being registered by 15 May 2018.

Persons claiming to hold native title:

The Barkandji Traditional Owners are the native title claim group on whose behalf the applicants make this application. It is made up of all the descendants of the following apical ancestors:

Manfred Mary also know as Mary Johnson and Mary Brodie

Manfred Tommy

Louisa Brown

Cuthero Jack Brown

Susan Webster also know as Annie Webster

Billy Webster

Harry Whyman

Kate Whyman

Louisa McLean

Alec McLean

Sarah Cabbage

Nganya

Harry Mitchell

Daniel McGregor

Lucy Benson

Jack "Doctor" Benson

Crancey

Jack Tyler

Taylor Matjulum Gibson

Tottie Gibson

Kutyi

Cate Newton also known as Maggie Tyler

Albert Bates

Fanny Bates

Yancannia Kitty

Judy Quayle

Nancy Watts

Topsie Crowe

Alec Bridge

Olive Barton

Margaret Payne

Kitty Knight

Jacky Knight

Matilda Murray

Paddy Black

Hero Black

Tall Boy Keegan

Kitty Keegan

Fanny Buugali Williams

and persons adopted into the families of those persons who identify as, and are accepted as, members of the Barkandji and Malyangapa People in accordance with Barkandji and Malyangapa traditional laws and customs (and the biological descendents of any such adopted persons).

Native title rights and interests claimed:

A description of the native title rights and interests claimed in relation to particular land or waters (including any activities in exercise of those rights and interests).

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 and/or ss.47, 47A and 47B apply), the Barkandji Traditional Owners as defined in Schedule A of this application, claim the right to possess, occupy, use and enjoy the lands and waters of the application area as against the whole world, pursuant to the traditional laws and customs of the claim group.

2. Over areas where a claim to exclusive possession cannot be recognised, the Barkandji Traditional Owners as defined in Schedule A of this application, claim the following non-exclusive rights and interests:

- (a) the right to access 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 move about the application area
- (e) the right to hold meetings on the application area
- (f) the right to hunt on the application area
- (g) the right to fish on the application area
- (h) the right to have access to and use the natural water resources of the application area
- (i) the right to gather and use the natural products of the application area (including, food, medicinal plants, timber, ochre and resin as well as materials for fabricating tools and hunting implements) according to traditional laws and customs
- (j) the right to participate in cultural activities on the application area
- (k) the right to maintain and protect places of importance under traditional laws, customs and practices in the application area
- (l) the right to conduct burials on the application area
- (m) the right to speak authoritatively about the application area among other Aboriginal People who seek access to or use of the lands and waters in accordance with traditional law and custom
- (n) the right to regulate access to and use of the application area by other Aboriginal People in accordance with traditional law and custom
- (o) the right to share and exchange traditional resources obtained on or from the land and waters
- (p) the right to teach the physical and spiritual attributes of places and areas of importance on or in the land and waters to members of the native title claim group who fall within the description contained in Schedule A.

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

- (a) the valid laws of the State of New South Wales and the Commonwealth of Australia
- (b) the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State of New South Wales.

Application Area: **State/Territory:** New South Wales
Brief Location: Waanaring to Wentworth
Primary RATSIB Area: New South Wales
Approximate size: 687.5960 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):

Information identifying the boundaries of:

- a) the area covered by the application; and
- b) any areas within those boundaries that are not covered by the application.

Within the external boundaries of the Application, excluded from the determination area are the following lands and waters:-

1. Any areas of land and waters within, either current or former Applications for Determination of Native Title numbered NC 97/13 (NG6065/98); NC 97/14 (NG6066/98); NC 97/18 (NG6070/98); NC 97/22 (NG6074/98); NC 97/23 (NG 6075/98) and NC 97/30 (NG6082/98);
2. All land and waters within the Application for Determination of Native Title numbered NC95/10 (NG6018/98)
3. Any areas of land and waters covered by past or present freehold title or by previous valid exclusive possession acts as defined by section 23B of the Native Title Act 1993. That is, the area covered by the application excludes:
 - a) a Scheduled interest;
 - b) a freehold estate;
 - c) a commercial lease that is neither an agricultural lease nor a pastoral lease;
 - d) An exclusive agricultural lease or an exclusive pastoral lease;
 - e) A residential lease;
 - f) A community purpose lease;
 - g) Any lease that confers a right of exclusive possession over particular land and waters
4. Subject to paragraphs 6 and 7, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commenced on or before 23 December 1996.
5. Subject to paragraphs 6 and 7, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth or State.
6. Subject to paragraph 9 below, where the act specified in paragraphs 3, 4 and 5 falls within the provisions of:
 - a) s 23B (9) – Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
 - b) s 23B (9A) – Establishment of national park or state park;
 - c) s 23B (9B) – Acts where legislation provides for non-extinguishment;
 - d) s 23B (9C) – Exclusion of Crown to Crown grants, and;
 - e) s 23B (10) – Exclusion by regulationthe area covered by the act is not excluded from the application.
7. Where an act specified in paragraphs 3, 4 and 5 affects land or waters referred to in:
 - a) s 47 – Pastoral Leases etc. covered by claimant application
 - b) s 47A – Reserves covered by claimant application
 - c) s 47B – Vacant Crown Land covered by claimant applicationthe area covered by the act is not excluded from the application
8. The area covered by the application excludes land or waters subject to a lease in perpetuity validly granted under the Western Lands Act 1901 (NSW);
9. The area covered by the application excludes land or waters where the native title rights and interests claimed have otherwise been validly extinguished; and
10. The area covered by the application excludes the following lots:
Old Pooncarie Mission
 - a) Lot 60 DP 755396Old Menindee Sailing Club

b) Lot 100 DP 1190723
Mutawintji Lands
c) Lot 6921 DP 1027237
d) Lot 4609 DP 767714
e) Lot 1 DP 754620
f) Lot 2 DP 754620
g) Lot 4872 DP 720111
h) Lot 4831 DP 1196098
i) Lot 4830 DP 769396
j) Lot 1 DP 915632
Mungo National Park
k) Lot 1146 DP 762483
l) Lot 1029 DP 762244
m) Lot 6118 DP 48784
n) Lot 4 DP 755357
o) Lot 6123 DP 48783
p) Lot 2 DP 755367
q) Lot 1 DP 755367
r) Lot 6926 DP 1029750
s) Lot 1 DP 1158414
Tar-Ru Lands
t) Lot 775 DP 1184283
u) Lot 17 DP 756188
v) Lot 32 DP 756181
w) Lot 27 DP 756181
x) Lot 30 DP 756181
y) Lot 34 DP 756181
z) Lot 1 DP 756181
aa) Lot 28 DP 756181
bb) Lot 31 DP 756181
cc) Lot 35 DP 756181
dd) Lot 26 DP 756181
ee) Lot 3 DP 756181
ff) Lot 33 DP 756181
gg) Lot 5 DP 756181
hh) Lot 4 DP 756181
ii) Lot 2 DP 756181
jj) Lot 29 DP 756181
kk) Lot 7731 DP 1183857
ll) Lot 7732 DP 1183857
mm) Lot 774 DP 1184233
nn) Lot 776 DP 1184283
Culpra Station
oo) Lot 6397 DP 760805
pp) Lot 6401 DP 762679
qq) Lot 6403 DP 760806
rr) Lot 8 DP 756094
ss) Lot 1 DP 756076
tt) Lot 2 DP 756076
uu) Lot 3 DP 756076
Poolamacca Station
vv) Lot 4882 DP 43255
ww) Lot 1255 DP 762934
xx) Lot 1207 DP 762689
yy) Lot 3022 DP 765221

Attachments:

1. Attachment B Written description of the external boundary of the determination area, 5 pages - A4, 16/03/2017
2. Attachment C Map indicating the external boundary of the determination area, 5 pages - A4, 16/03/2017

End of Extract

