



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD168/2011
NNTT number: NC2011/001

Application Name: Yaegl People #2 v Attorney General of New South Wales (Yaegl People #2)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 23/02/2011

Current status: Full Approved Determination - 31/08/2017

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: 01/07/2011

Registration decision status: Accepted for registration

Registration history: Registered from 1/07/2011 to 5/09/2017,

Date claim / part of claim determined: 31/08/2017

Applicants: Lillian Williams, Ron Heron, Vivienne King, Eileen McLeay, Judy Breckenridge, Deidre Randall, William Walker, Noeline Kapeen, Ferlin Laurie, Clarence Randall, Ken Laurie

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Additional Information

A consent determination of native title in respect of part of the application area was made by Justice Jagot on 25 June 2015, see *Yaegl People #1 v Attorney General of New South Wales* [2015] FCA 647 (25 June 2015). That determination was registered on the National Native Title register on 30 June 2015. The details of the claim made in relation to the determination area are removed from the application area as and from 25 June 2015. Attached to this Schedule extract is 'Determination - Schedule Two - Determination Plan' and 'Determination - Schedule Six - Excluded Area' from the determination, identifying the areas excluded from the determination and being the remaining areas the subject of this application.

Persons claiming to hold native title:

The names (including Aboriginal names) of the persons (the native title claim group) on whose behalf the application is made or a sufficiently clear description of the persons so that it can be ascertained whether any particular person is 1 of those persons.

The Yaegl People are the native title claim group on whose behalf the Applicant makes this application.

The Native Title Claim Group comprises all the descendants of the following apical ancestors:

Dugald Cameron (who was born in Chatsworth Island around 1870);

Jack Freeburn (who was born in Yamba around 1868)

Sailor Morris (who was born in Chatsworth Island around 1831)

Nodo Combo (who was born in Yamba around 1859) and

Rose Combo nee Yamba and also known as Rosie Yamba

(who was born in Yamba around 1856)

and persons adopted or incorporated into the families of those persons and who identify as and are accepted as Yaegl People in accordance with Yaegl traditional laws and customs (and the biological descendents of any such adopted or incorporated persons).

Native title rights and interests claimed:

The Yaegl People as defined in Schedule A of this application, claim the following non-exclusive rights and interests:

(a) the right to access, to remain on, traverse and to use those areas;

(b) the right to access resources in those areas and to take, use, share, offer and exchange those resources for any purpose;

(c) the right to maintain and to protect places, objects and areas of importance or significance under traditional laws and customs on those areas;

(d) the right to be accompanied on those areas by persons who, though not native title holders, are:

(i) spouses, partners or parents of native title holders, together with their children and grandchildren

(ii) people required under traditional laws and customs for the performance of cultural activities, practices or ceremonies; and

(iii) people requested by the native title holders to assist in, observe or record cultural activities, practices or ceremonies.

2. The native title rights and interests referred to in paragraph 1 do not confer possession, occupation, use and enjoyment to the exclusion of all others.

3. The native title rights and interests are subject to and exercisable in accordance with:

(a) the laws of the State of New South Wales and the Commonwealth of Australia including the common law;

(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; and

(c) the traditional laws acknowledged and traditional customs observed by the Yaegl People.

Application Area:

State/Territory: New South Wales

Brief Location: North Coast NSW, Yamba to Wooli River.

Primary RATSIB Area: New South Wales

Approximate size: 17.6302 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) Area covered by the application

The area covered by the application ("The Application Area") comprises all of the land and waters within the external boundaries described in Attachment B and depicted in blue hatching on the map at Attachment C.

The Application Area description and map have been prepared with the assistance of the Geo-Spatial Unit of the National Native Title Tribunal. The area covered by this application does not include the areas described at point B below.

(B) Areas within the external boundaries not covered by application

1. The area covered by the application excludes any 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 (Cwth).

2. The area covered by the application excludes any land and waters which are;

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) a lease dissected from a mining lease and referred to in s.23B(2)(c)(vii) of the Native Title Act 1993 (Cwth);
- h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land and waters.

3. Subject to paragraphs 5 and 6, 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.

4. Subject to paragraphs 5 and 6, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth, State or territory.

5. Subject to paragraph 7 below, where the act specified in paragraphs 2, 3 and 4 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 regulation

the area covered by the act is not excluded from the application.

6. Where an act specified in paragraphs 2, 3, and 4 affects or affected 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 application

the area covered by the act is not excluded from the application.

7. The area covered by the application excludes land or waters where the native title rights and interests claimed have been otherwise extinguished.

Attachments:

1. Attachment B Description of Claim Area , 4 pages - A4, 04/08/2017
2. Attachment C Map of Claim Area, 3 pages - A4, 04/08/2017
3. NNTT Map, 2 pages - A4, 04/08/2017

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