



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD38/2019
NNTT number: NC2012/001

Application Name: Elaine Ohlsen & Ors on behalf of the Ngemba/Ngiyampaa People and Attorney General of New South Wales & Ors (Ngemba, Ngiyampaa, Wangaaypuwan and Wayilwan People native title determination application)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 14/03/2012

Current stage(s): Notification Complete

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: 12/04/2012

Registration decision status: Accepted for registration

Registration history: Registered from 12/04/2012

Applicants: Elaine Ohlsen, Grace Gordon, John Shipp, Raymond Thompson, Danielle Flakelar-Carney, Jaye Lee Snowden, Peter Harris, Pearl Harris, Josephine (Josie) Winsor, Phillip Sullivan, Daniella Chedzey, Dennis Rankmore, David Clarke

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Additional Information

Not applicable

Persons claiming to hold native title:

The Ngemba, Ngiyampaa, Wangaaypuwan and Wayilwan People native title claim group comprises those Aboriginal persons who are:

(a) the descendants of the following apical ancestors:

1. Caroline Hilt (who was born on the Barwon River around 1847);
2. Thomas Sullivan (who was born in Brewarrina around 1860);
3. Nellie Colless (who was born in Brewarrina around 1868);
4. Billy Coleman (who was born in Cobar in 1840);
5. Mary Ann Allen (who was born in 1844);
6. Moses Biggs (who was born in 1837);
7. Polly Parkes (who was born in 1846);
8. Anne Brandy (who was born in Colane in 1874);
9. Caroline Brandy (who was born on Duck Creek in 1869);
10. Wadna Boe (who was born in 1848);
11. Richard King (who was born in 1827);
12. Jimmy Keewong (who was born in 1849);
13. Kitty Narrangie;
14. Tom Dennis (who was born in Brewarrina in 1864);
15. Winnie Pierce (who was born in Brewarrina in 1878);
16. Jack Dennis (who was born on the Barwon River in around 1855);
17. Kate Baker (who was born in Boorooma in 1874);
18. Francis "Tracker" Williams (who was born in Gundabooka in 1883);
19. William Johnson (who was born in Big Willandra in 1876);
20. Henry Parkes (who was born in 1863);
21. Topsy Harris also known as Topsy Scotty (who was born in Marfield in 1866);
22. Jack Redtank;
23. Thomas Williams also known as Thomas Broughton (who was born in Roto);
24. Maggie Redtank (who was born in Keewong in 1868);
25. Ada Arnott (who was born in Nyngan in 1865);
26. Moses Divine;
27. Jack Smith (who was born in Mossgiel in 1869);
28. Ellen Sprowl also known as Ellen McHughes (who was born in Brewarrina in 1867);
29. Fanny Hippi also known as Fanny Williams;
30. Millie Wells also known as Millie Shearer (who was born in Brewarrina in 1874);
31. Pluto Williams (who was born in Trida/Mossgiel in 1873);
32. Steve Shaw (who was born in Coronga Peak in 1855);
33. Fanny Brown also known as Tiltagara Fanny (who was born in Hillston in 1862);
34. David Brown (who was born on the Macquarie River in 1850);
35. Janey Brown (who was born on the Macquarie River in 1853);
36. Betsy Gwen (who was born in Haddon Rigg near Warren in 1849);
37. Louise Hinton (who was born on the Macquarie River in 1843);
38. Cissy Lee (who was born in 1852);
39. Boorooma Murphy (who was born in Boorooma in 1832);
40. Harry Murphy (who was born in Brewarrina around 1871);
41. Thomas Nixon (who was born in Buttabone in 1843);
42. Colaine Lumpy (who was born in 1864);
43. Charlotte Wilson;
44. Tilly Riley (who was born in 1863);
45. Geordie Murray (who was born in 1851 in Ivanhoe);
46. George Murray, born at Gundabooka Station, died 1927 at Nyngan;
47. Amy Monica Murray nee Murphy, wife of George Murray, born in Brewarrina, died 1954 at Nyngan;
48. Edward Murphy, born in Cobar, died 1960 at Walgett;
49. Maggie Warraweena nee Murphy, born at Charlton Station on the Bogan River, died 1907 at Brewarrina;
50. Eliza Wilson nee Williams, also known as Eliza Governor, born near Cobar, died 1908 at Byrock;
51. Charlie Kelly, husband of Laura Kelly nee Murray, born 1858;
52. Laura Kelly nee Murray, also known as Norah Murray and Laura Boy, wife of Charlie Kelly, died 1918 at Corinya Station;
53. Jack Shepherd, also known as John Shepherd and Jack Sheppard, born 1855 in Cobar;
54. Harry Shepherd, also known as Harry Sheppard, died 1911 in Brewarrina;
55. Harry Brandy, brother of Caroline Brandy and Anne Brandy, born circa 1869;
56. Jack Simpson, also known as Jack 'Smart Gui' Simpson, died 1974 at Brewarrina; and
57. Billy Boney, also known as William Boney and George Boney, born 1852 in Ginghet; and

(b) identify as a Ngemba, Ngiyampaa, Wangaaypuwan or Wayilwan person; and

(c) are recognised as a Ngemba, Ngiyampaa, Wangaaypuwan or Wayilwan person by Ngemba, Ngiyampaa, Wangaaypuwan and Wayilwan People in accordance with their traditional law and custom.

Native title rights and interests claimed:

1. Where exclusive native title 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, 47B apply), the Ngemba/Ngiyampaa People as defined in Schedule A of this application, claim the right to possession, occupation, use and enjoyment of the lands and waters of the application area to the exclusion of all others subject to the valid laws of the Commonwealth and the State of New South Wales.

2. Where exclusive native title cannot be recognised, the Ngemba, Ngiyampaa, Wangaaypuwan and Wayilwan People as defined in Schedule A of this application, claim the following non-exclusive rights and interests including the right to conduct activities necessary to give effect to them:

- (a) the right to access the application area;
- (b) the right to use and enjoy the application area;
- (c) the right to move about the application area;
- (d) the right to camp on the application area;
- (e) the right to erect shelters and other structures on the application area;
- (f) the right to live being to enter and remain 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 in the application area;
- (j) the right to have access to and use the natural water resources of the application area;
- (k) the right to gather and use the natural resources of the application area (including food, medicinal plants, timber, tubers, charcoal, wax, stone, ochre and resin as well as materials for fabricating tools, hunting implements, making artwork and musical instruments);
- (l) the right to share and exchange resources derived from the land and waters within the application area;
- (m) the right to participate in cultural and spiritual activities on the application area;
- (n) the right to maintain and protect places of importance under traditional laws, customs and practices in the application area;
- (o) the right to conduct ceremonies on the application area;
- (p) the right to transmit traditional knowledge to members of the native title claim group including knowledge of particular sites on the application area;
- (q) the right to speak for and make non-exclusive decisions about the application area in accordance with traditional laws and customs;
- (r) the right to speak authoritatively about the application area among other Aboriginal People in accordance with traditional laws and customs; and
- (s) the right to control access to or use of the lands and waters within the application area by other Aboriginal People in accordance with traditional laws and customs.

3. The native title rights and interests referred to in paragraph 2 do not confer possession, occupation, use or enjoyment of the lands and waters of the application area to the exclusion of all others.

4. 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 and customs of the Ngemba, Ngiyampaa, Wangaaypuwan and Wayilwan People for personal, domestic and communal purposes (including social, cultural, religious, spiritual and ceremonial purposes).

Application Area: **State/Territory:** New South Wales
Brief Location: North-West NSW
Primary RATSIB Area: New South Wales
Approximate size: 95045.4822 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):

(A) Area covered by 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 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 the 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)* (Cth).
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 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* (Cth);
 - h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or 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 a 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.
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 applicationthe area covered by the act is not excluded from the application.
7. The area covered by the application excludes land or waters where native title rights and interests claimed have been otherwise extinguished.
8. The area covered by the application excludes the land and waters covered by the Barkandji People's native title determination application NSD6084/1998 (*Barkandji Traditional Owners #8 v Attorney General of NSW*) (NC97/32).

Attachments: 1. NC2012/001 Map of the area covered by the application, 1 page - A4, 14/03/2012

End of Extract