



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD1350/2016
NNTT number: NC2016/003

Application Name: Gumbaynggirr People v Attorney-General of New South Wales (Gumbaynggirr People #3)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 15/08/2016

Current status: Full Approved Determination - 26/11/2019

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: 02/12/2016

Registration decision status: Accepted for registration

Registration history: Registered from 2/12/2016 to 28/11/2019,

Date claim / part of claim determined: 26/11/2019

Applicants: Barry Phyllis, Peter Gary Williams, Clive Joseph Robin Bryant, Colin Jarrett, Bridget Jarrett, Michele Donovan, Belinda Donovan, Annika Rotumah

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Additional Information

Not applicable

Persons claiming to hold native title:

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

Gumbaynggirr People are described as Aboriginal persons who are:

- (a) the biological descendants of
 - (i) King Ben Bennelong;
 - (ii) Maggie Buchanan and Davy Cowling;
 - (iii) Biddy, the mother of Lavina Duncan (Bina Whaddy);
 - (iv) Fanny Purrupine, the mother of Lily Kelly and Hilda Kelly Robinson;
 - (v) Darby Kelly;
 - (vi) The father of Maggie Kelly's mother Biddy;
 - (vii) William 'Old Bill' Dotti;
 - (viii) John 'Jack' Dotti;
 - (ix) Lucy Flanders;
 - (x) Dave Ballangarry;
 - (xi) Robert Walker and Louise Linwood;
 - (xii) John 'Jack' Long;
 - (xiii) Bridget 'Biddy' Briggs Needam;
 - (xiv) Mary Briggs and Fred Briggs;
 - (xv) Susan, mother of Charles Jarrett Snr;
 - (xvi) Rose Taylor;
 - (xvii) Charles Layton;
 - (xviii) Mick McDougall;
 - (xix) Clara Skinner;
 - (xx) Sylvie Craig;
 - (xxi) Elizabeth 'Kitty' Campbell/Cameron (known as Elizabeth Blakeney);
 - (xxii) Emily Sutton;
 - (xxiii) Fred Hookey;
 - (xxiv) Nobby Neville;
 - (xxv) Mary Jane Ferguson;
 - (xxvi) Billy Lardner Jnr;
 - (xxvii) King Bobby of Oban;
 - (xxviii) The parent of Charlie Whitton and Lucy Larrigo (nee Whitton);
 - (xxix) Walter Smith and Stella Jane Davis;

(xxx) Jane Gard/Maskey; AND

(b) persons who have been adopted into the families of those persons (and the biological descendants of any such adopted persons); AND

(c) persons who have been otherwise incorporated, or who are direct descendants of a person who has been otherwise incorporated, as a member of the Gumbaynggirr People and who identify as and are accepted as a Gumbaynggirr person, in accordance with Gumbaynggirr laws and customs.

Native title rights and interests claimed:

1. Subject to paragraphs 2 and 3 the nature and extent of the native title rights and interests claimed by the Gumbaynggirr People in the claim Area are the non-exclusive rights to use and enjoy the land and waters of the claim Area in accordance with Gumbaynggirr traditional laws and customs being:

1. the right to have access to and camp;
- b. the right to take and use waters;
- c. the right to hunt and gather natural resources for personal, domestic and non-commercial communal use;
- d. the right to take fish in the temporary waters occurring above the mean high water mark;
- e. the right to do the following activities on the land:
 - i. conduct ceremonies;
 - ii. teach the physical, cultural and spiritual attributes of places and areas of importance on or in the land and waters; and
 - iii. to have access to, maintain and protect from physical harm, sites which are of significance to Gumbaynggirr People under their traditional laws and customs.

2. The native title rights and interests referred to in paragraph 1 are exercised for personal, domestic and non-commercial communal purposes and do not confer on the native title holders possession, occupation, use or enjoyment to the exclusion of all others. The native title rights and interests do not confer any right to control public access or public use of the land and waters of the Claim Area.

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

- a. the laws of the State of New South Wales and the Commonwealth including the common law; and
- b. the traditional laws acknowledged and traditional customs observed by the Gumbaynggirr People.

Application Area:
State/Territory: New South Wales
Brief Location: Warrell Creek, south of Nambucca Heads
Primary RATSIB Area: New South Wales
Approximate size: 1.4737 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):

1. Area covered by application

- (a) Lot 554 in DP 1072228
- (b) Lot 555 in DP 1072228
- (c) Lot 556 in DP 1072228
- (d) Lot 557 in DP 1072228
- (e) Lot 558 in DP 1072228
- (f) Lot 559 in DP 1072228

2. Subject to (3) and (4) below, the areas of land and waters within the boundaries referred to in (1) above that are not covered by the application are:

(a) Any area that is, or was, subject to any of the following acts as defined in the Native Title Act 1993 (Cwlth) or Native Title (New South Wales) Act 1994 (NSW):

i. Category A past act

ii. Category A intermediate period act

iii. Category B past act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests

iv. Category B intermediate period act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests

v. previous exclusive possession act

(b) Any other area in relation to which native title rights and interest have otherwise been wholly extinguished

(c) Any area for which there is an approved determination of native title, as defined in the Native Title Act.

3. Notwithstanding anything contained elsewhere in this application, the area covered by the application includes any area in relation to which the non-extinguishment principle (as defined in section 238 of the Native Title Act) applies, including any area to which section 47, 47A or 47B of the Native Title Act applies. 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.

4. Where there is any discrepancy between the map provided at Attachment C and the written description contained in this schedule and in Attachment B, the latter prevail.

- Attachments:**
- 1. Attachment A Description of process of adoption and incorporation, 1 page - A4, 15/08/2016
 - 2. Attachment B Schedule L of the application, 1 page - A4, 15/08/2016
 - 3. Attachment C Map of Application Area, 1 page - A4, 18/01/2017

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