



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD1312/2018
NNTT number: NC2018/001

Application Name: Gumbaynggirr People #5

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 23/07/2018

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: 24/01/2019

Registration decision status: Accepted for registration

Registration history: Registered from 24/01/2019 to 28/11/2019,

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

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Additional Information

Not applicable

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 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 Purrapine, 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 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. The Gumbaynggirr People claim the following non-exclusive rights and interests, including the right to conduct activities necessary to give effect to them, in relation to the Application Area:

- a. access, to remain on and traverse the land and waters;
- b. access natural resources and to take, use, share and exchange those natural resources for any purpose;
- c. hunt and gather traditional natural resources;
- d. fish;
- e. take and use water for personal, domestic, communal purposes (including cultural purposes) but not extending to a right to control the use and flow of the water in any creeks or intermittently closing and opening lakes and lagoons;
- f. live, being to camp on and erect temporary shelters and other temporary structures for that purpose, but not to

permanently reside on, possess or occupy the land or waters;

g. light fires for domestic purposes;

h. conduct and to participate in cultural and religious activities, practices and ceremonies, including the conduct of burials;

i. conduct and to participate in meetings;

j. teach on the area the physical, cultural and spiritual attributes of places and areas of importance under traditional laws and customs;

k. maintain and to protect from physical harm, places and areas of importance or significance under traditional laws and customs;

l. to be accompanied by persons who, though not Native Title Holders, are:

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

ii. people required under traditional laws and customs for the performance of, and to assist in, observe or record, cultural activities, practices or ceremonies.

3. The native title rights and interests referred to in paragraph 1 do not confer possession, occupation, use or enjoyment of the lands and waters covered by the Application 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 acknowledged and traditional customs observed by the Gumbaynggirr People.

Application Area:

State/Territory: New South Wales

Brief Location: Mid-North Coast NSW

Primary RATSIB Area: New South Wales

Approximate size: 0.2278 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

1. The area covered by the application ('the Application Area') comprises all the land and waters within the external boundary described as:

- Lot 1 on Deposited Plan 620967 (less that area subject to Saltwater Inlet); and
- Lot 4 on Deposited Plan 219743. The Application Area is 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 8 below.

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

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:

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 description contained in this schedule, the latter prevail.

Attachments: 1. Map of claim area, Attachment A of the application, 1 page - A4, 23/07/2018

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