



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: QUD6034/1999  
NNTT number: QC1999/035

**Application Name:** Gubbi Gubbi People #2

**Application Type:** Claimant

**Application filed with:** Federal Court of Australia

**Date application filed:** 24/12/1999

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**Current status:** Discontinued - 22/02/2005

**Registration information:** Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 07/09/2001 to 10/03/2005

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**Applicants:** Eve Fesl

**Address(es) for Service:** Eve Fesl  
29 Fountain Rd  
BURPENGARY QLD 4505  
**Phone:** (07)38885219

## Additional Information

Not applicable

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## Persons claiming to hold native title:

Dr. Eve Fesl

The Gubbi Gubbi biological descendants who are matrilineally descended from Maggie Crowe (nee Palmer) born circa 1840, died circa 1882, and James born circa 1830, died circa 1893. Their female

children were Lucy born 1871, died 1919, and Anne born 1874, died circa 1922. (Their son was Barlow born circa 1869 died circa 1910).

The surviving matrilineal descendants on whose behalf the claim is made are: Evelyn Serico, Clifford Monkland, Lois Gulash, Eve Fesl, Nurdon Serico, Helena Gulash, Drew Gulash, and future descendants.

### **Native title rights and interests claimed:**

The claimants are asserting only Legal rights under the Act.

The Gubbi Gubbi people are seeking a declaration that they are entitled to possession, occupation, management, use and enjoyment of the land, waters and resources which are the subject of the application. Specifically -:

1. The right to have access to and use the natural resources in, on and above the area including the right to -
  - . Maintain and use the area;
  - . Conserve the natural resources in, on and above the area;
  - . Safeguard the natural resources of the area in conformity with Gubbi Gubbi tradition, which ensures biographical diversity and sustainability;
  - . Manage the area for the benefit of current and future generations;
  - . Use the natural resources in, on and above the area for social, cultural, economic, spiritual, ceremonial, and traditional purposes;
2. To determine access rights in relation to entry to specific areas by others, including the right to grant, deny, or impose conditions in relation to entry on the area.
3. The right to determine use rights in relation to activities that might be carried out by others on the area, including the right to grant, deny or impose conditions in relation to activities that may be carried out in the area.
4. The right to exercise and carry out economic life (including by way of barter), on the area, including hunting, fishing, creating, growing, producing or harvesting of natural resources.
5. The right to discharge cultural, spiritual, traditional and customary rights, duties, obligations and responsibilities on, in relation to, and concerning the area, including to:-
  - . Preserve sites of sacred or significance to the Gubbi Gubbi people and other Indigenous people in the area;
  - . Determine, give effect to, pass on or expand the knowledge and appreciation of the culture and tradition;
  - . Regard the area as the inalienable affiliation of the Gubbi Gubbi people and ensure that the use of the area is consistent with that affiliation;
  - . Maintain beliefs, practices, and institutions through ceremony and proper and appropriate custodianship of the area and special sacred sites;
  - . As a matter of customary law, own and control information comprising and concerning the traditional lore, law and customs of the Gubbi Gubbi people in relation to the area;
6. The right to inherit, dispose of, or confer rights and interests in relation to the area on others in accordance with custom and tradition.
7. The right to decide who is entitled to rights and interests in relation to the area.
8. The right to resolve disputes in relation to the area.
9. The right to prohibit any unauthorised use, or use inconsistent with Gubbi Gubbi lore, law or custom of the area or the resources in, on or above it.

National Parks within the claim area are claimed with a view to establishing ILUA's with a view to joint-management with the Queensland Government. Gubbi Gubbi do not intend to claim hunting rights in National Parks within their

country -- they believe that the flora, fauna and water creatures in those areas must be protected from hunting by anyone.

The Gubbi Gubbi seek to establish ILUA's in regard to other areas of Crown land, e.g. State Forests and reserves.

**Application Area:**  
**State/Territory:** Queensland  
**Brief Location:** Central & South Queensland  
**Primary RATSIB Area:** Southern and Western Queensland Region  
**Approximate size:** 13939.3646 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):**

The external boundary of the application area commences at the mouth of the Pine River on the high water mark at the intersection of the northern bank of the Pine River with the coastline of the South Pacific Ocean see point 310 at attachment B2).

From this point, the boundary follows the high water mark in a westerly direction along the northern bank of the Pine River, the North Pine River, and the North Pine River Reservoir to Point number 906. In doing so the boundary passes through Points 311 to 905.

From this point, the boundary traverses in a north-westerly direction across country to Point 964 on the Brisbane-Woodford Road, where the road intersects with Terrors Creek. This traverse passes through points 907 and 963 and runs east of Dayboro.

From this point, the boundary heads north along the centreline of the Brisbane-Woodford Road to Point 1055 at the intersection of roads. Along the way the boundary traverses through Points 965 to 1054.

From this point, the boundary heads north along the centreline of the existing unnamed road to Point 1104, passing through Points 1056 to 1103.

From this point, the boundary traverses north-west across country, passing through Points 1105 to 1155, and arriving at Point 1156 on the Brisbane-Woodford Road. In doing so, the boundary passes close to Mount Mee (Bonnie Knob) and east of the village of Mt Mee.

From this point, the boundary follows the centreline of the Brisbane-Woodford Road northwards to Point 1208 at the intersection of this road with the D'Aguilar Highway, passing through Points 1157 to 1207.

From this point, the boundary heads north-west along the centreline of the D'Aguilar Highway to the intersection with the Kilcoy-Beerwah Road at Point 1236. It passes through Points 1209 to 1235 as well as the town of Woodford.

From this point, the boundary follows the centreline of the Kilcoy-Beerwah Road in a north-east direction to the intersection of roads at point 1265, passing through Points 1237 to 1264.

From this point, the boundary heads north along the centreline of Belthorpe Road to the intersection of roads near Point 1272. It passes through Points 1266 to 1271.

From this point the boundary heads north-west then south-west along the top of Connondale Range passing through points 1273 to 1579. Arriving at point 1580.

From this point, the boundary traverses south-west across the eastern branch of Sheep Station Creek to Point 1592 on the top of the Jimna Range. Along the way it passes through Points 1581 to 1591

From this point, the boundary heads north along the top of the Jimna Range to the intersection of roads at Point 1676, passing through Points 1593 to 1675.

From this point the boundary follows the centreline of the Kilcoy-Murgon Road to the intersection of roads at Point 1798. Along the way it passes through Points 1677 to 1797 and passes just to the west of the town of Jimna.

From this point the boundary heads west then north along the top of the Jimna Range till it intersects with the Kilcoy-Murgon Road at Point 1855, passing through Points 1799 to 1854.

From this point, the boundary follows the centreline of the Kilcoy-Murgon Road northwards to the intersection with Kandanga Creek Road at Point 1925. It passes through Points 1856 to 1924 along the way.

At this point the boundary follows the centreline of Kandanga Creek Road in a north-easterly direction to the intersection of roads at Point 2027. Along the way it passes through Points 1926 and 2026.

From this point, the boundary heads north and north-west along the top of the Coast Range to the township of Kilkivan at Point 2435. It passes through Points 2028 to 2434.

From this point, the boundary traverses north-east across country to intersect with the centreline of Wide Bay Creek at Point 2453. The boundary passes through Points 2436 to 2452.

From this point, the boundary heads east along the centreline of Wide Bay Creek to the intersection with the Kingaroy Branch Railway at Point 2562 near Woolooga township. It passes through points 2454 to 2561.

From this point, the boundary heads north-east along the centreline of the Kingaroy Branch Railway to Point 2622, and passing through Points 2563 to 2621.

From this point, the boundary traverses north across country to Point 2649 at the centreline of the existing road (which ultimately runs past the village of Miva to Munna Creek School), passing through points 2326 to 2648.

From this point, the boundary follows the centreline of the road north to the intersection of roads at Point 2662, passing through Points 2650 to 2661.

From this point, the boundary traverses north-west along the centreline of the side road to Point 2668. It passes through Points 2663 to 2667.

From this point, the boundary traverses westward to intersect with the centreline of Munna Creek at Point 2681. The traverse passes through Points 2669 to 2680.

From this point, the boundary follows the centreline of Munna Creek in a north-west direction to the junction with Teebar Creek (at Point 3006) thence, north-west along the centreline of Teebar Creek to the head of that creek and thence across country to intersect with the centreline of the existing road at Point 3092. The boundary passes through Points 2682 to 3091.

From this point, the boundary traverses the centreline of the existing road to Point 3106. It passes through Points 3093 to 3105.

From this point the boundary crosses to the centreline of Spring Creek then heads north along the centreline of that creek past Hayesmere Bridge to the head of the creek at Point 3178. Along the way it passes through Points 3107 to 3177.

From this point, the boundary heads north-west along the top of Woowoonga Range to intersect with the upper reaches of the Gregory River at Point 3450 (on the northern bank of the river). This section of boundary passes through Points 3179 to 3449 and intersects with the Isis and Bruce Highways.

From this point, the boundary heads north-east and east along the northern water mark of the Gregory River to intersect with the coastline at the mouth of the river at Point 3933. It passes through Points 3451 to 3932.

From this point, the boundary heads south on the high water mark along the coastline to the point of commencement at Point 310.

The boundary passes through Points 3934 to 5592 and 1 to 309, and includes New Island, Turkey Island, Bray Rock, Munjimba Island and Bribie Island, as well as island contained within river estuaries.

Australian Map Grid Co-ordinates are referenced to Australian Geodetic Datum 1966 (AGD 66) and are based on 1:1000,000 Series Topographic Maps produced by the Division of National Mapping.

Maps used for the preparation of Claim Mapping are:

"Brisbane" 9543

"Caboolture" 9443

"Nambour" 9444

"Nanango" 9344

"Goomeri" 9345

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"Biggenden" 9346  
"Childers" 9347  
"Pialba" 9447  
"Maryborough" 9446  
"Wide Bay" 9546  
"Laguna Bay" 9545  
"Caloundra" 9544

Regardless of the external boundary described above this application excludes those areas claimed in QC99/33 and QC01/29.

Within the external boundary described above, native title rights are claimed only in relation the lands and waters within:

1. Unallocated State Land
2. State Forest
3. Reserves, including Timber Reserves
4. National Parks

Excluded from the claim are freehold and all scheduled interests under Schedule 1 part 3 Qld., except where Section 47 applies. Where a cultural heritage or sacred site was concerned we would seek the benefit of Section 47.

Other areas excluded from the external boundaries are Glasshouse mountains - QG6083/98; QG6145/98 Tairbelang Bunda; QG6032/99 Wakka Wakka No 2, as they are at 30 August 2001.

Section 23B defines previous exclusive possession act as follows -

1. grant of freehold estate or certain leases etc. on or before 23.12.1996
2. an act is a previous exclusive act if:
  - (a) it is valid (including because of Division 2 or 2A of Part 2); and
  - (b) it took place on or before 23 December 1996; and
  - (c) it consists of the grant or vesting of any of the following:
    - i. a schedule interest;
    - ii. a freehold estate;
    - iii. a commercial lease that is neither an agricultural lease nor a pastoral lease;
    - iv. an exclusive agricultural lease or an exclusive pastoral;
    - v. a residential lease;
    - vi. a community purpose lease, except for those leased to, or for the benefit of, Aboriginal peoples and Torres Strait Islanders.
    - vii. What is taken by subsection 245(3) (which deals with the dissection of mining leases into certain other leases) to be a separate lease in respect of land or waters mentioned in paragraph (a) of that subsection, assuming that the reference in subsection 245(2) to "1 January 1994" were instead a reference to "24 December 1996"
    - viii. Any lease (other than mining leases) that confers a right of exclusive possession over particular lands or waters.
3. If:
  - (a) By or under legislation of a State or a Territory, particular land or waters are vested in any persons; and

(b) A right to exclusive possession of the land or waters is expressly or impliedly conferred on the person by or under the legislation;

The vesting is taken for the purposes of paragraph (2) (c) to be the vesting of a freehold estate over the land or waters.

(7) An act is a previous exclusive possession act if:

(a) it is valid (including because of Division 2 or 2A); and

(b) it consists of the construction or establishment of any public works that commenced to be constructed or established on or before 23 December 1996.

The area of this application does not include an area where native title has been validly extinguished except to the extent that extinguishment is required to be disregarded under section 47, 47A or 47B.

This application does not include any areas subject to a previous exclusive possession act defined under section 23B of the Native Title Act save where the Act and/or the common law allows those lands to be part of a Native Title Determination Application.

This application does not include a claim for exclusive possession over previous non-exclusive possession act areas as defined in section 23F of the Act save where the Act and/or the common law allows such a claim to be part of a Native Title Determination Application.

We claim only legal rights under the legislation, within this definition this means, that within our boundaries, only Unallocated State land; State Forest, Reserves, including timber reserves, and National Parks are claimable by us.

**Attachments:**

1. Map of claim area (A3 Reduced), 1 page - A4, 25/01/2002
2. Co-ordinates of External Boundary, 32 pages - A4, 11/10/2000
3. Map depicting Part A&B split as per Federal Court Order of 03/05/2001 - A3 reduced, 1 page - A4, 03/05/2001

**NNTT Contact Details**

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