



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD6020/2001
NNTT number: QC2001/022

Application Name: Tagalaka People #2

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 29/06/2001

Current status: Discontinued - 03/07/2013

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: 30/07/2001

Registration decision status: Accepted for registration

Registration history: Registered from 30/07/2001 to 5/07/2013,

Date claim / part of claim determined: 10/12/2012

Applicants: Janet Busch, Bill Fortune, Janette Owens, Maureen Douglas, Beverly Bowyang, Gladys Callope

Address(es) for Service: North Queensland Land Council
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Additional Information

Not applicable

Persons claiming to hold native title:

Identity of the Native Title claim group

The Native Title claim group is known to itself and all neighbouring Aboriginal groups as the Tagalaka. The group is continuous both in terms of descent and in terms of continuous transmission

of the Tagalaka identity from the group of the same name recorded in and around the claim areas late last century, and in various written sources since.

Membership of the group

The current membership of the group is primarily identified by the principle of cognatic descent (descent traced through either one's father or one's mother). Descent is traced from a limited set of persons recognised in the regional Aboriginal community as associated with the Tagalaka identity, including the claim areas, soon after European occupation. By these descent principles, the current membership of the Tagalaka consists of those persons who are descendants of the following Tagalaka antecedents:

- a) Nelly Robertson (nee Grogan)
- b) Edith Echo
- c) Edith Sargent
- d) Charlie Hayes (aka Short Charlie)
- e) Herbie East
- f) Topsy Cane (aka Topsy Owens)
- g) Jack Fortune
- h) Left Hand Charlie

Adoption

The membership of some of these descent groups includes adopted persons. Adoption is in accordance with Tagalaka traditional laws and customs.

In the first place, the actual incidence of it among the claimants is very low. That is, it is not an open ended or casual affair, and concerns very few of the claimants. Secondly, adoption arises by similar means and has much the same meaning and status as it does in the general Australian community. If an objective test for adoption is required, it can be tested for the following features based upon practice under the laws and customs of the claimants and the wider North Queensland region,

1. Has the person been taken at the time of being a child into one of the Tagalaka descent groups by an adult, who raised the child as one of their own? This is commonly referred to by the claimants as "growing up" that person. The child is often a step child of the adoption adult, and often the child's biological parentage is within the claimant group in any case, but not necessarily so.

2. During the time the child was growing up, did s/he come to identify as a member of the family, and were they commonly identified as such by the other members?

3. Were they given the same rights within the family as other members? If so, this would be expected to flow on to rights in land as well, since kin relations and relations in connection to country share a common structure to a great degree. For example, when one refers to "my mother(s) land" the relationship to that land is seen as of a similar order to, and derived from, one's relationship to one's mother.

4. As the child matured, did they become recognised as a member of the adopting adult's descent group and as Tagalaka by the significant number of the other descent groups (especially those most closely related to the family involved), and eventually by a majority of the senior people of the wider Tagalaka community?

5. Has the adopted person closely associated with the claimant community throughout their life, and held an active association with, knowledge of, etc the traditional country of the claimant community, comparable to that of the rest of the claimant community, and prior to the Native Title application?,

In addition "adoption" as used here is not what is meant in cases where a child has been "grown up" by her/his grandparents or other close biological kin. Importantly, cases of adoption do not alter the fact that descent is the primary basis of the claimant group's constitution and that of its component descent groups, nor complicate significantly the identification of either the descent group into which a

child is adopted, nor the larger Tagalaka identity.

More information is provided in the Registration Test Report by anthropologist Dr. Sandra Pannell and labelled as "Attachment F1".

Native title rights and interests claimed:

The native title rights and interests claimed are the right to exclusive possession, occupation, use and enjoyment of the claimed area as against the whole world, pursuant to the traditional laws and customs of the claim group.

Where the area is covered by a valid, previous non-exclusive possession act (s.23F) the native title claim group does not claim possession, occupation, use and enjoyment of the area to the exclusion of all others.

Further information is provided in consultant Dr Sandra Pannells's Tagalaka Registration Report attached and labelled as "Attachment F1".

Application Area: **State/Territory:** Queensland
Brief Location: North Queensland area
Primary RATSIB Area: Northern Queensland Region
Approximate size: 816.0295 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):

Attachments: 1. Map of Agreement Area, 1 page - A3, 25/02/2013
 2. External Boundary Description, 1 page - A4, 25/02/2013

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