



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD6023/2002
NNTT number: QC2002/026

Application Name: Phillip Wallis & Ors on behalf of the Wuthathi, Kuuku Y'au & Northern Kaanju People v State of Queensland & Ors (Wuthathi, Kuuku Y'au & Northern Kaanju People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 24/05/2002

Current status: Full Approved Determination - 30/06/2016

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: 26/05/2003

Registration decision status: Accepted for registration

Registration history: Registered from 26/05/2003 to 30/01/2017,

Date claim / part of claim determined: 28/04/2015

Applicants: Phillip Wallis, Jean Mosby, Douglas Wilson, Lloyd Hollingsworth, Bessie Hobson, Geoffrey Pascoe, Vincent Temple, Frank Hollingsworth

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Additional Information

A determination of native title in respect to this application was made by Justice Greenwood on 28 April 2015. While the determination has been entered on the National Native Title Register, pursuant to s 190(4)(da) of the Native Title Act 1993 (Cth), this application will also remain on the Register of Native Title Claims until a Prescribed Body Corporate has been determined. The native title holders have 12 months from the determination date, or such further time as the Court may allow to nominate a Prescribed Body Corporate. The Bromley Aboriginal Corporation was determined as the Prescribed Body Corporate for this determination on 30/06/2016.

Persons claiming to hold native title:

The claim is lodged on behalf of the Wuthathi people, the Northern Kaanju people, and the Kuuku Ya'u people, including the applicants and other claimants who together form the native title claimant group.

The Wuthathi claimants identify themselves, and are identified by other Aboriginal people of the north-eastern and north-central Cape York Peninsula region, as the group of people whose native title rights and interests under Aboriginal law and custom, are to that area of land associated with the Wuthathi language which lies on the east coast north from Bolt Head in Temple Bay. Their coastal land extends northward to approximately Captain Billy Landing, and eastward to include offshore seas, reefs and islands as far east as the main Barrier Reef. Their inland territory encompasses the streams and tributaries which compose the Olive River system, and the lands which these streams and tributaries drain.

The Northern Kaanju claimants identify themselves, and are identified by other Aboriginal people of the north-eastern and north-central Cape York Peninsula region, as the group of people whose native title rights and interests under Aboriginal law and custom, are to that area of land associated with the Kaanju language which lies north of the Archer River in central eastern Cape York Peninsula and extends north to the area of Moreton Telegraph Station. Their land extends from west of the Cape York Peninsula development road to include the drainage system of the upper Wenlock River, and the Pascoe River system as far east (approximately) as the current location of Wattle Hills on the Pascoe bank and Hamilton Creek, a tributary of the Pascoe which flows from the south.

The Kuuku Ya'u claimants identify themselves, and are identified by other Aboriginal people of the northeastern and north-central Cape York Peninsula region, as the group of people whose native title rights and interests under Aboriginal law and custom, are to that area of land associated with the Kuuku Ya'u language which lies on the east coast from the Lockhart River mouth northward to Bolt Head in Shelburne Bay where they share a boundary area with the Wuthathi people. Their coastal lands extend inland across the coastal lowlands to a boundary area with the Kaanju, and eastwards to include the seas, reefs and islands as far as the main Barrier Reef.

Wuthathi, Northern Kaanju and Kuuku Ya'u people have maintained continuous links of biological descent from and identity with the "classical" land-holding groups and identities recorded in and around the claim area from the last century and in various written sources since e.g. Parry-Okeden 1897; McConnel 1939, Thomson 1972, Hale 1964; Chase 1980; Chase 1996 (Wuthathi Land Claim to Ten Islands off Cape Grenville); Thompson and Chase 1997 (Kuuku Ya'u Land Claim to Iron Range National Park) [sic]. The Wuthathi claimants are an applicant claimant group for the registered Wuthathi claim QG150/98 (QC97/043). The Kuuku Ya'u claimants are recognised as holding native title rights and interests in respect of the Kuuku Ya'u claim QG6016/98 (QC95/001).

2. Membership of the Group:

The current membership of the group is determined primarily through the principle of cognatic descent (i.e. descent traced through both male and female Wuthathi, Northern Kaanju and Kuuku Ya'u ancestors); it is sometimes also called "ambilineal descent".

Members trace descent from a limited set of persons recognised in the regional Aboriginal community as having been identified as either Wuthathi, and/or Northern Kaanju and/or Kuuku Ya'u occupants of the claim area at the time of or soon after the first European occupation of the region. These in turn are descended from Wuthathi, and/or Northern Kaanju and /or Kuuku Ya'u forbears whose occupation of the claim area extends back beyond the arrival of the first Europeans.

The current membership of the Wuthathi, Northern Kaanju and Kuuku Ya'u peoples consists of the cognatic descent groups (commonly referred to by both the region's Aboriginal population and anthropologists as "Families") descended from the following apical ancestors from whom they trace their descent cognatically:

(i) Northern Kaanju Families

- a) The descendants of Billy Moreton and his son George Moreton Snr.
- b) The descendants of Big Johnny Nguulpam Horseboy as a result of union with his two wives Nellie and Mary Anne.
- c) The descendants of Tom 'Flathead' Platt.
- d) The descendants of Old Lady Rose (wife of Ambrose Butt and Old Paddy).
- e) The descendants of Annie Small as a result of union with her husband Ambrose Butt.
- f) The descendants of Billy Boyd as a result of union with his wife Kathy Robertson.
- g) The descendants of 'King' Bob Robertson.
- h) The descendants of George Mamoose (also known as George Mamus).
- i) The descendants of Victoria John.
- j) The descendants Charlie Boko.
- k) The descendants of Billy Chungo.
- l) The descendants of Annie Mullet and her parents Mickey and Nellie.
- m) The descendants of Jim Copo [Cooper] as a result of union with his wife Elsie
- n) The descendants of Charlie James, brother of Tom 'Flathead' Platt.
- o) The descendants of Nancy Boyd as a result of union with her husband Mickey (Monkey) Boyd (also known as Monkey Gordon).
- p) The descendants of Toby Horseboy.

- q) Any descendants of Annie King, also known as Long Annie (wife of Paddy King), and her brother Roy Stevens.
- r) The descendants of Old Lady Mapoon, (wife of English Barkley), and of her daughter Alice Mark.
- s) The descendants of Dick York and his brothers Larry York and Old Man Balrat.
- t) The descendants of Annie Densley, also known as Short Annie, and of her brother Joe Sullivan.
- u) Descendants of Paddy King.
- v) The descendants of Nellie Fox (also known as Nellie Greedy) and her sister Mary Ann Johnson.
- w) The descendants of siblings Annie Night Island (wife of Frederick Charles Mortenson), of Mary Ann, and of Rosie Percy.
- x) The descendants of Wally David.
- (ii) Wuthathi Families
- a) The descendants of Pintharra.
- b) The descendants of Johnson Moreton.
- c) The descendants of Frank Wilson.
- d) The descendants of Ida Temple (Waterbag).
- e) The descendants of Moe Rie Warren.
- f) The descendants of Innis Pascoe.
- g) The descendants of Dinah.
- h) The descendants of Ada Lancaster.
- i) The descendants of Annie Punda (Athanamu).
- j) The descendants of Nara Jira Para.

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k) The descendants of Ela (Illa).

l) The descendants of Eliza (wife of Tom Ware).

(iii) Kuuku Ya'u Families

a) The descendants of Johnny (Yarakupi) Doctor and Nancy (Tawamulu) as a result of their union.

b) The descendants of Charlie Kanora, as a result of union with his two wives Nellie and Jean.

c) The descendants of Tom 'Flathead' Platt (father of Johnny Pascoe).

d) The descendants of Charlie James (brother of Tom 'Flathead' Platt).

e) The descendants of Peter (Piramu) Pascoe (including adopted son Lawrence Fruit).

f) The descendants of Agnes (Puruwa) (wife of Jimmy Hobo).

g) The descendants of Bob Pascoe (brother of Annie Anderson).

h) The descendants Annie Anderson (wife of Fred Charles Lancaster).

i) The descendants of Topsy (wife of John George Hollingsworth).

j) The descendants of Toby (Tupamaynaku) Accoom and Kitty (Tunpu) as a result of their union.

k) The descendants of Charlie Claudie (father of Charlie) (Kutini) Giblet renamed after Hugh Giblet).

l) The descendants of Barney Claudie and Minnie (Chinka) Doctor as a result of their union.

m) The descendants of Hughie (Tantuki) Temple.

n) The descendants of Annie Butcher.

A Note on Adoption

Adoption, under the traditional law and custom of the region (and similar to its meaning and status in the general Australian community) incorporates the adoptee as a member of the family (or corporate descent) group of the adopting parents and subject to the same rights, interests, identity and responsibilities as the biological descendants of group members. In this way, adoption marks the continuation of cognatic descent through a non-biological tie that is nonetheless regarded as one of full "social" parenthood. Thus the adoptee's identity and interests are gained, similar to a biological child's, through their recruitment into parent's cognatic descent group, and will be confirmed by other members of that group and by the Aboriginal people of the region in general.

Beyond such "full" adoption, others have gained their Northern Kaanju and/or Wuthathi and/or Kuuku Ya'u identity through being "grown up" or "raised" by Northern Kaanju/Wuthathi/Kuuku Ya'u people (a process comparable, though not identical, to 'fostering' in the general Australian community). The process of being "grown up" by such a person may, from time to time, confer interests and identity associated with the person "growing up" the child in a child so raised. The ties to those "growing up" a person will be stressed as "descent-like". A person who "grew up" another is commonly described as "like father/mother to me".

Native Title rights and interests inherited through being adopted or "grown up" will be further confirmed by the other Aboriginal people of the region as proper under tradition law and custom.

Adoption and "growing up" typically, though not necessarily, occur within extended family groups, and tend to reinforce existing ties of kinship and identity between close relatives rather than recruiting previously unrelated members. They therefore tend to reinforce the stress on descent as the primary principle for recruitment to the Northern Kaanju, Wuthathi and Kuuku Ya'u people and their several cognatic descent groups, and do not complicate significantly the identification of either the descent group into which a child is adopted, or the larger Northern Kaanju, Wuthathi and Northern Kuuku Ya'u identities.

Native title rights and interests claimed:

The nature and extent of the native title rights and interests claimed, in relation to land covered by the application ('the claim area'), is the possession, occupation, use and enjoyment of the claim area to the exclusion of all others, subject to and exercisable in accordance with, the valid laws of the State of Queensland and the Commonwealth of Australia and the traditional laws acknowledged and traditional customs observed by the native title claimants.

In relation to the waters covered by the application, the native title rights and interests claimed are non-exclusive rights to:-

- a) access and be present on and in the water of the claim area;
- b) hunt, fish and gather from the water of the claim area; and
- c) take and use the water of the claim area,

for cultural, personal, domestic and communal purposes.

There are no native title rights and interests claimed in relation to minerals as defined by the Mineral Resources Act 1989 (Qld) and petroleum as defined by the Petroleum Act 1923 (Qld) and the Petroleum and Gas (Production and Safety) Act 2004 (Qld).

Application Area: **State/Territory:** Queensland
Brief Location: Far North Queensland
Primary RATSIB Area: Cape York Region
Approximate size: 1640.0143 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):

All those lands and waters described as follows:

Lot 152 on Plan SP171834

A. The claim area does not include any land or waters subject to validly granted Previous Exclusive Possession Acts (PEPAs), as defined by s23B of the Native Title Act 1993 (Cth), except to the extent that sections 47, 47A or 47B of the Native Title Act 1993 (Cth) may apply.

B. To the extent that any area of the claimed area is or has been the subject of a Previous Non-Exclusive Possession Act (PNEPA), as defined by s23F of the Native Title Act 1993 (Cth), the native title claim group do not claim possession, occupation, use and enjoyment of the area to the exclusion of all others, except to the extent that sections 47, 47A or 47B (of the Native Title Act 1993 (Cth) may apply).

C. For any land or waters in the claim area subject to a validly granted PNEPA, as defined by s23G of the Native Title Act 1993 (Cth), then the native title rights and interests claimed in relation to such land and or waters do not include any native title rights or interests which were extinguished by that validly granted PNEPA, except to the extent that sections 47, 47A or 47B Native Title Act 1993 (Cth) may apply.

D. To the extent that any part of the claimed area is or has been subject to extinguishment by the application of the common law, then the native title rights and interests claimed in relation to such area/s do not include any native title rights or interests to the extent that they have been extinguished, except to the extent that sections 47, 47A or 47B of the Native Title Act 1993 (Cth) may apply.

E. In respect of the areas listed in this schedule, the validity of any grants that, if valid, would constitute Previous Exclusive Possession Acts as defined by s23B of the Native Title Act is contested. If those grants were valid, then the claimed area does not include those areas subject to those validly granted Previous Exclusive Possession Acts, in accordance with A above.

Attachments: 1. QC2002_026 Attachment C of the application - map of claim area, 2 pages - A4, 11/12/2014

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