



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD6006/2003
NNTT number: QC2003/006

Application Name: Djiru People #3

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 07/07/2003

Current status: Full Approved Determination - 01/09/2011

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 20/08/2003 to 16/09/2011

Date claim / part of claim determined: 01/09/2011

Applicants: Dawn Hart, John Clumpoint, Charity Ryan, Beryl Buller, Rae Kelly, Margaret Murray, John Andy

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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 Djiru. The claim group is often referred to as the Mission Beach/Clumpoint mob, after the English names of

significant cultural areas in their traditional country. The claim group is continuous both in terms of descent, and in terms of continuous transmission of the Djiru identity from the groups of the same name recorded in and around the claim area late last century, and in various written sources since.

Membership of the Native Title Claim Group

The current membership of the claim group is 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 Djiru/Mission Beach/Clumpoint identity, including the claim area, at the time of European occupation. By these descent principles, the current membership of the claim group consists of descent groups listed by their surnames, together with the apical ancestors from whom they trace their descent.

The CLUMPOINT, GEIA, SPENCER, NONA AND SARABO family groups being the descendants of Polly Illich and her descendants Bidy Illich, Paddy Illich and Major Clumpoint.

The MASINA, ANDY, MOW, MOONER, ASSAN AND RYAN family groups being the descendants of siblings Minnie (Buynoo), Rosie (Koojilun), Maggie and Kitty Nguyam.

The BARNEY, DICKMAN, AND THAIDAY family groups being the descendants of Toby King and Nellie and their son Barney King.

The PALMER, OBAH family groups being the descendants of Lucy Palmer and her children, Alf Palmer, Daisy Obah and Daphne Palmer.

The NULLAJAR family group being the descendants of Bobby Nullajar and his son, Mick Nullajar.

The PARKER family group being the descendants of Charlie Mungoola (also known as Charlie Mungalla).

, The BANFIELD, BONNER, THIMBLE, PICKLES family group being the descendants of Jimmy Banfield and his mother.

And includes persons adopted by any of those descendants according to the traditional laws and customs of the claim group.

Native title rights and interests claimed:

1) In relation to Unallocated State Land where there has been no prior extinguishment of Native Title or where section 238 (the non-extinguishment principle) applies:

The native title rights and interests claimed are the right to possession, occupation, use and enjoyment of the claim area as against the whole world, pursuant to the traditional laws and customs of the claim group but subject to the valid laws of the Commonwealth of Australia and the State of Queensland.

2) With respect to all remaining tenure within the claim area the Native Title rights and interests claimed are not to the exclusion of all others and are the rights to have access to and use the claim area and its cultural resources including to:

- (i) maintain and use the claim area;
- (ii) conserve the cultural resources of the claim area;
- (iii) protect the claim area and the cultural resources of the claim area for the benefit of the Native Title holders;
- (iv) care for the claim area for the benefit of the Native Title holders;
- (v) use the claim area and the cultural resources of the claim area for social, cultural, economic, religious, spiritual, customary and traditional purposes;

and more particularly to:

- A. reside on, camp on and travel across the land;
- B. exercise rights of use and disposal over the cultural resources;

C. exercise and carry out economic life on the claim area including the creation, growing, production, husbanding, harvesting and exchange of cultural resources and that which is produced by the exercise of the Native Title rights and interests;

D. discharge cultural, spiritual, traditional and customary rights, duties, obligations and responsibilities on, in relation to, and concerning the claim area and its welfare including to:

preserve sights of significance to the Native Title holders and other Aboriginal people on the claim area;

conduct secular, ritual and cultural activities on the claim area;

conduct burials on the claim area;

maintain the cosmological relationship beliefs, practices and institutions through proper and appropriate custodianship of the claim area to ensure the continued vitality of culture, and the well being of the Native Title holders;

transmit Native Title rights and interests in relation to the claim area in accordance with custom and tradition;

resolve disputes between the Native Title holders and other Aboriginal persons in relation to the claim area;

determine who are the Native Title holders in relation to the claim area.

E. construct and maintain structures for the purpose of exercising the Native Title.

3) The Native Title rights are subject to:

a) the valid laws of the State of Queensland and the Commonwealth of Australia

b) the rights (past or present) conferred upon person pursuant to the laws of the Commonwealth of Australia and the laws of the State of Queensland.

4) In relation to the Native Title rights and interests asserted:

They do not operate exclusive of the Crown's valid ownership of minerals, petroleum or gas;

They are not exclusive rights or interests if they relate to waters in an offshore place; and

They will not apply if they have been extinguished in accordance with valid State and Commonwealth laws.

Application Area:

State/Territory: Queensland

Brief Location: North Queensland

Primary RATSIB Area: Northern Queensland Region

Approximate size: 4.5409 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 area covered by the application comprises:-

1. The following parcels of Unallocated State Land:

646CAR124226, 341CWL3153, 26USL42247, 1SP125434, 2SP125434, 3USL42219, 38USL42219, 634CWL3519, 199NR3587, 499NR5291, 459NR4627, 1E72910, 2E72910, 3E72910, 4E72910, 5E72910, 9E72910, 10E72910, 11E72910, 12E72910, 13E72910, 15USL37217, 272NR3382, 2SP125433

Part of 55USL42304 Part of 163USL42248

Within the external boundary of the claim area as set out on the map attached as Schedule C and described as follows:- commencing at a point on the high water mark of the Pacific Ocean south of the town of Kurrimine, being the mouth of North Maria Creek, and being the southernmost point of the Native Title Determination Application Q6014/01 Mamu People (as at 1 February 2003); then extending generally southerly along the high water mark to

the westernmost corner of Lot 550 on Plan NR7351; then north-easterly, south-easterly and south-westerly along the boundary of that lot until again meeting the high water mark of the Pacific Ocean; then generally southerly along the high water mark to the mouth of the Hull River at Longitude 146.073276° East.

Then along the centreline of the Hull River, north-westerly to the southernmost point of Lot 163USL42248, and onwards to the northernmost point of that lot. Then generally north-westerly along the centreline of the Hull River, to its intersection with the centreline of Carmoo Creek, and onwards to the southwest corner of Lot 646 on Plan CAR124226.

Then north-westerly to the easternmost corner of Lot 1 on Plan RL5274; north-easterly to the southernmost corner of Lot 2099 on Plan AP6367; and north-westerly to Longitude 145.978049° East on the south-eastern boundary of State Forest Lot 758 on Plan AP6343.

Then northerly to the source of the North Maria Creek, being the southern boundary of Native Title Determination Application Q6014/01 Mamu People (as at 1 February 2003); then generally easterly, along the centreline of North Maria Creek, being the southern boundary of that application, back to the commencement point.

But excludes:-

2. Any area covered by:-

- (a) a scheduled interest;
- (b) a freehold estate;
- (c) a commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) an exclusive agricultural lease or an exclusive pastoral lease;
- (e) a community purpose lease;
- (f) a residential lease;
- (g) a lease dissected from a mining lease and referred to in section 23B(2)(c)(vii); or
- (h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters; which was validly granted or vested on or before 23 December 1996;

3. Any area covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commenced on or before 23 December 1996;

4. Any area where the native title rights and interest claimed have otherwise been extinguished;

Provided that:-

5. Where the acts specified in clauses 2, 3 or 4 fall within the provisions of:-

- (a) S.23B(9), S.23B(9A), S.23B(9B), S.23B(9C) or S.23B(10); or
- (b) S.47, S.47A or S47B,

then the area covered by the act is not excluded from this application.

Attachments: 1. Map of Claim area, 1 page - A3, 07/07/2003

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