



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD66/2005
NNTT number: QC2005/003

Application Name: Terrence Taylor & Anor on behalf of the Gangalidda and Garawa People #2 v State of Queensland & Ors (Gangalidda & Garawa People #2)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 08/03/2005

Current status: Full Approved Determination - 21/01/2016

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: 07/04/2005

Registration decision status: Accepted for registration

Registration history: Registered from 7/04/2005 to 21/01/2016,

Date claim / part of claim determined: 21/01/2016 , 23/06/2010

Applicants: Terrance Taylor, Jacky Green

Address(es) for Service: Philip Hunter
HWL Ebsworth Solicitors
Level 23, Riverside Centre
123 Eagle Street
BRISBANE QLD 4000
Phone: 07 3002 6700
Fax: 1300 368 717

Additional Information

Please note that a determination in relation to part of the application area (as filed on 25 May 2004) was made on 23 June 2010 pursuant to s. 87A of the NTA: Gangalidda and Garawa People v State of Queensland [2010] FCA 646. The area covered by the determination was removed from the Register of Native Title Claims on 25 June 2010. An amended application was filed on 20 May 2011 and the entirety of the amended application area remains on the Register of Native Title Claims.

Persons claiming to hold native title:

The native title claim group (hereafter the 'claim group') on whose behalf the claim is made is the Gangalidda People and the Garawa People. The Gangalidda people are described in Attachment A1. The Garawa People are described in Attachment A2.

Native title rights and interests claimed:

Attachment E - Rights and Interests claimed

A description of the native title rights and interests claimed in relation to particular land or waters (including any activities in exercise of those rights and interests).

1. In relation to the land and waters mentioned in:

- (a) the first and second schedules of the deed of grant reference number 50184313 and Lot 1 on Plan PK3 formerly known as Doomadgee Reserve; and
- (b) Attachment L,

the Applicant asserts that the Gangalidda people have the right to possess, occupy, use and enjoy that land, to the exclusion of all others.

In addition, and in the alternative, the Applicant asserts that the Gangalidda people have the rights and interests set out in paragraph 2 (below) in relation to that area.

2. In relation to the remainder of the land and waters in the application area the Applicant asserts that the Gangalidda People and Garawa People have the following non-exclusive native title rights and interests in accordance with their traditional laws and customs other than the area identified in 3 and 3A below:

- (a) The right to occupy and/or use the application area;
- (b) The right to access and traverse the application area in accordance with and for the purposes allowed under their traditional laws and customs;
- (c) The right to hunt and/or gather living and plant resources on the application area;
- (d) The right to fish in the application area;
- (e) The right to camp on the application area;
- (f) The right to live on the land, to erect shelters and other structures on the application area;
- (g) The right to light fires on the application area;
- (h) The right to conduct burials on the application area;
- (i) The right to use natural resources in their entirety, other than minerals and petroleum. (Footnote 1)
- (j) The right to:

- i. take water;
- ii. take fish;
- iii. take plants in their entirety and animals;
- iv. take ochre, clay and salt;
- v. take sand, gravel and rock;
- vi. take shells; and
- vii. take grass, resin and wood.

- (k) The right to manufacture or produce traditional items from natural resources found on or in the application area;
- (l) The right to carry out economic pursuits on the application area including the barter and/or exchange of natural resources, all parts of natural resources and the products of those resources;
- (m) A right to receive a part of any living, mineral or other natural resources taken by others on or from the application area;
- (n) The right to enjoy the amenity of the application area;
- (o) The right to protect the land and waters and the resources, including natural resources, of the land and waters by taking steps to prevent acts which are not carried out in the exercise of statutory rights or any common law rights and which acts may cause damage, spoliation or destruction of the land and waters or the animals, plants or fish on or in the land and waters;
- (p) An interest in the management and/or use of the application area and the natural resources in the application area;
- (q) The right to make decisions about the use and enjoyment of the land and waters and its natural resources and the subsistence and other traditional resources thereof, by people other than those exercising a right conferred by or arising under a law of the State of Queensland or the Commonwealth in relation to the use of the land and waters;

- (r) The right to protect the application area from physical damage;
- (s) The right to maintain, protect and preserve the physical state of sites and areas within the application area that are of significance to the native title holders;
- (t) The right to maintain, protect and preserve sites and areas within the application area that are of significance to the native title holders from inappropriate behaviour;
- (u) The right to maintain, protect and conserve the natural values and resources of the application area; in the alternative an interest in the maintenance, protection and preservation of the natural values and resources of the application area;
- (v) The right to protect and look after cultural artefacts from on and within the application area, including rock art;
- (w) The right to conduct and take part in ceremonial activities on the application area;
- (x) The right to maintain proper and appropriate custodianship of the application area and the special and sacred sites within and on it, including through ceremonies, to ensure the continued vitality of traditional law and culture;
- (y) The right to use minerals not wholly owned by the Crown.

3. In relation to the land and waters seaward of the high-water mark to the west of Massacre Inlet, the Applicant asserts that the Garawa People have the following non-exclusive native title rights and interest in accordance with their traditional laws and customs.

- (a) The right to access the land and waters in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (b) The right to fish, hunt and gather living and plant resources, including the right to hunt and take turtle and dugong for personal, domestic or non-commercial communal consumption in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (c) The right to take and consume fresh drinking water from fresh water springs in the inter-tidal zone in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (d) The right to access the land and waters in accordance with and for the purposes allowed under their traditional laws and customs for religious or spiritual purposes and to access sites of spiritual or religious significance in the land and waters within their respective traditional territory for the purposes of ritual or ceremony.
- (e) The right to visit and/or protect sites of significance.

3A. In relation to the land and waters seaward of the high-water mark between Massacre Inlet and the eastern bank of the Leichhardt River, the Applicant asserts that the Gangalidda people have the following non-exclusive native title rights and interests:

- (1) The right to access the land and waters in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (2) The right to fish, hunt and gather living and plant resources, including the right to hunt and take turtle and dugong for personal, domestic or non-commercial communal consumption in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (3) The right to take and consume fresh drinking water from fresh water springs in the inter-tidal zone in accordance with and for the purposes allowed by and under their traditional laws and customs.
- (4) The right to access the land and waters in accordance with and for the purposes allowed under their traditional laws and customs for religious or spiritual purposes and to access sites of spiritual or religious significance in the land and waters within their respective traditional territory for the purposes of ritual or ceremony.
- (5) The right to visit and/or protect sites of significance.

4. The rights and interests in 1, 2, 3 and 3A (above) are claimed to the extent that the exercise of them is consistent with the rights and interests below:

- (a) With respect to those parts of the application area, other than land or waters to which sections 47A and 47B of the Native Title Act 1993 apply, which are, or have been, the subject of a previous non-exclusive possession act within the meaning of s23F of the Native Title Act 1993, the Applicants claim the native title rights and interests set out above subject to the rights and interests created in the "non-exclusive possession act" which are not inconsistent with the rights and interests claimed and, in the case of rights granted which are inconsistent with the rights and interests claimed, subject to any suspension or regulation of the native title rights and interests which those inconsistent rights and interests cause.
- (b) With respect to those parts of the application area, other than land or waters to which sections 47A and 47B of the Native Title Act 1993 apply, which are, or have been, the subject of:

- i. a Category B intermediate period act within the meaning of s232C, NTA;
- ii. a Category C intermediate period act within the meaning of s232D, NTA; or
- iii. a Category D intermediate period act within the meaning of s232E, NTA;

the Applicants claim the native title rights and interests set out above subject to the rights and interests created in the "non-exclusive possession act" which are not inconsistent with the rights and interests claimed and, in the case of rights granted which are inconsistent with the rights and interests claimed, subject to any suspension or regulation of the native title rights and interests which those inconsistent rights and interests cause.

(c) With respect to those parts of the application area, other than land or waters to which sections 47A and 47B of the Native title Act 1993 apply, which are, or have been, the subject of:

- i. a Category B past act within the meaning of s230, NTA;
- ii. a Category C past act within the meaning of s231, NTA: or
- iii. a Category D past act within the meaning of s232, NTA;

the Applicants claim the native title rights and interests set out above subject to the rights and interests created in the "non-exclusive possession act" which are not inconsistent with the rights and interests claimed and, in the case of rights granted which are inconsistent with the rights and interests claimed, subject to any extinguishment or suspension of the native title rights and interests which those inconsistent rights and interests cause.

5. The holding of native title rights and interests in accordance with traditional laws and customs referred to in 2, 3 and 3A above, includes laws and customs which provide that:

- (a) only some or all of Gangalidda people may exercise those rights in a particular area;
- (b) only some or all of Garawa people may exercise those rights in a particular area; or
- (c) the rights are shared between Gangalidda and Garawa people in a particular area.

6. The Applicant also claims such other native title rights and interests that the Court considers exists on the evidence.

"Natural resources" means:

- (a) "animals" as defined in the Nature Conservation Act 1992 (Qld) as at the date of this determination, but not including animals that are the private personal property of another;
- (b) "plants" as defined in the Nature Conservation Act 1992 (Qld) and "natural resource product" as defined in the Forestry Act 1959 (Qld) as at the date of this determination, but not including crops grown on a Crown lease by a lessee;
- (c) honey; and
- (d) any clay, soil, sand, gravel, or rock on or below the surface of the Determination Area but does not include minerals as defined in the Minerals Resources Act 1989 (Qld) as at the date of this determination or petroleum as defined in the Petroleum Act 1923 (Qld) and the Petroleum and Gas (Production and Safety) Act 2004 (Qld) as at the date of this determination.

Footnote 1.

"Minerals" has the meaning attributed to it in the Mineral Resources Act 1989 (Qld) as in force at the date of this application.

"Petroleum" has the meaning attributed to it in the Petroleum Act 1923 (Qld) as in force at the date of this application.

Application Area: **State/Territory:** Queensland
Brief Location: Far north-west Queensland
Primary RATSIB Area: Carpentaria Gulf Region
Approximate size: 8615.6171 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: Yes

Area covered by the claim (as detailed in the application):

Information identifying the boundaries of:

- a) the area covered by the application; and
- b) any areas within those boundaries that are not covered by the application.

a) The area covered by the application:

1. The area covered by the application is all the lands and waters within the boundaries described in Attachment B, which includes, to the extent permitted by section 64(1) of the Native Title Act, 1993, any land and waters between the high-water mark of the tidal water adjoining:

- a. Lot 4601 on Plan PH16776 (Troutbeck Pastoral Holding);
- b. Lot 4712 on Plan PH1678 (Bundella Pastoral Holding);
- c. Lot 2523 on Plan PH1675 (Brokera Pastoral Holding);
- d. Lot 4711 on Plan PH1677 (Tarrant Pastoral Holding);
- e. Lot 1 on Plan PK3 (Gurridi Traditional Land Trust);
- f. Lot 118 on PC41 (Escott Pastoral Holding);
- g. Lot 4536 on Plan PH2261 (Konka Pastoral Holding);
- h. Lot 1 on SP143489; and
- i. Lot 442 on NPW871 (Finucane Island National Park),

and the southern-most boundary of the native title determination of QG207/1997 Wellesley Islands Sea Claim (QC96/2) as determined on 23/3/2004.

2. Where the acts specified in clauses 8 and 9 fall within the provisions of:

- a. s23B(9), s23B(9A), s23B(9B), s23B(10); or
- b. s47, s47A or s47B,

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

b) The following areas are excluded from the application:

3. The land and waters the subject of native title determination area QG207/97 Wellesley Islands Sea Claim (QC96/2) as determined on 23/03/2004.

4. The land and waters the subject of Native Title Applications QUD84/2004 and QUD602/1999 [sic] (QC99/23).

5. Those areas of QUD84/2004 the subject of the Federal Court's native title determination on 23 June 2010.

6. Those areas of QUD6022/1999 the subject of the Federal Court's native title determination on 19 December 2010.

7. Those areas of QUD66/2005 the subject of the Federal Court's native title determination on 23 June 2010.

8. Lot 450 on SP270333 (Preliminary).

9. Any land and waters which are the subject of:

- a. A scheduled interest;
- b. A freehold estate;
- c. A commercial lease that is neither an agricultural or 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 and waters,

which was validly granted or vested on or before 23 December 1996.

10. Any land and waters which are the subject of a validly constructed or established public work that commenced to be established or constructed on or before 23 December 1996.

11. Any land and waters where the native title rights and interests claimed have otherwise been extinguished.

[Attachment B describes the boundaries of the area covered by the application. Attachment C is a map of the area covered by the application. Attachment B and Attachment C are attached to this Schedule extract]

Attachments:

1. Description of Gangalidda People , Attachment A1 of the Application, 1 page - A4, 19/12/2014
2. Description of Garawa People , Attachment A2 of the Application, 1 page - A4, 19/12/2014
3. External Boundary Description, Attachment B of the Application, 3 pages - A4, 19/12/2014
4. Map of Claim Area, Attachment C of the Application, 1 page - A4, 19/12/2014

NNTT Contact Details

Address: National Native Title Tribunal

Brisbane Office
Level 5, Harry Gibbs Commonwealth Law Courts
119 North Quay
BRISBANE QLD 4000
GPO Box 9973
BRISBANE QLD 4001

Telephone: +61 7 3307 5000
Freecall: 1800 640 501
Fax: +61 7 4046 9050
Web Page: www.nntt.gov.au

End of Extract