



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD85/2005
NNTT number: QC2005/007

Application Name: Gugu Badhun People #2

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 22/03/2005

Current status: Full Approved Determination - 01/08/2012

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 22/04/2005 to 23/08/2012

Date claim / part of claim determined: 01/08/2012

Applicants: Ernie Hoolihan , Harry Gertz, Narda Kennedy, Hazel Illin , Elsie Thompson

Address(es) for Service: Principal Legal Officer
North Queensland Land Council
PO Box 679N
CAIRNS QLD 4870
Phone: 07 40427 000

Additional Information

Not applicable

Persons claiming to hold native title:

The criteria for membership of the Gugu Badhun native title claim group is in accordance with traditional laws acknowledged and customs observed by the Gugu Badhun people who are traditionally connected to the area described in Schedule B ("application area") through:

National Native Title Tribunal

Extract from Schedule of Native Title Applications

QUD85/2005

Page 1 of 4

1. physical, spiritual and religious association; and
2. genealogical descent; and
3. processes of succession; and

who have communal native title in the application area, from which rights and interests derive.

The Gugu Badhun native title group is comprised of all persons descended from the following ancestors:

- King Lava, father of Mariah Saddler
- Bella, mother of Harry Gertz and Cissie McDowell
- Charlie Burdekin, father of Frank Burdekin, William Burdekin, Ernest Burdekin and Gertrude Seaton
- Lucy Shaw, mother of Richard Hoolihan, Mosely Dickman and Jimmy Dickman
- Tommy Cobbler also known as Tommy Gobbler, father of Nellie Rankin.

Native title rights and interests claimed:

The rights and interest claimed in relation to:

1) Land and waters where there has been no prior extinguishment of Native Title of where section 238 (the non-extinguishment principle) applies:

The native title rights and interests claimed are the rights 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) All remaining land and waters within the claim area the Native Title rights and interests claimed are not to the exclusion of all other and are the rights to use and enjoy the claim area in accordance with the traditional laws acknowledged and customs observed by the Gugu Badhun for the purposes of:

- accessing land and waters;
 - entering and remaining on the land being claimed;
 - hunting;
 - fishing;
 - gathering and using the products of the claim area such food, medicinal plants, timber, bark, ochres and earths, stone and resin, minerals, and using natural water resources of the area;
 - camping and erecting shelters;
 - engaging in cultural activities;
 - conducting ceremonies and holding meetings;
 - teaching the physical and spiritual attributes of locations and sites;
 - participating in cultural practices relating to birth, marriages and deaths on the claim area;
- and
- making decisions, pursuant to Aboriginal law and custom about the use and enjoyment of the land by Aboriginal people; and
 - Transmitting of tradition knowledge.

The application does not include a claim for exclusive possession over previous non-exclusive possession act areas as defined under section 23F of the Native Title Act 1993 save where the Native Title Act 1993 and/or the common

law allows such a claim to be part of the Native Title Determination application.

Application Area:
State/Territory: Queensland
Brief Location: Central Queensland
Primary RATSIB Area: Northern Queensland Region
Approximate size: 9440.5184 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):

1. The area covered by this application ("the application area") includes all the land and waters inside the external boundary of the application area.

The external boundary of the application area is shown on the map and marked "Attachment C", and is also identified by reference to the external boundary description set out in "Attachment B".

2. Areas that are excluded from the application area:-

i) Subject to (iv), valid acts that occurred on or before 23 December 1996 comprising such of the following that are considered extinguishing acts within the meaning of the Native Title Act 1993 (Cth) as amended, namely:

(a) Category A past acts as defined in s.228 and s.229 of the Native Title Act 1993 (Cth)

and

(b) Category A intermediate acts as defined in s.232A and s.232B of the Native Title Act 1993 (Cth);

ii) Subject to (iv), any valid previous exclusive possession act(s), as set out in Division 2B of Part 2 of the Native Title Act 1993 (Cth) done in relation to the claim area; and the act(s) were attributed to the Commonwealth or State;

iii) Subject to (iv), any areas which native title has otherwise been extinguished;

iv) The paragraphs above and below are subject to the provisions of s.47, s.47A and s.47B of the Native Title Act 1993 (Cth) as may apply to any part of the application area. Areas subject to acts referred to in (2)(i), (ii) & (iii), and (3), to which the provisions of s.47, s.47A and s.47B of the Native Title Act 1993 (Cth) apply, are not excluded from the application area.

3. Save that exclusive possession is not claimed over areas that have been subject to valid previous non-exclusive possession act(s), done by the Commonwealth or the State, as set out in Division 2B or Part 2 of the Act.

See Attachment B.

Attachments:
1. Description of external boundary, 6 pages - A4, 22/03/2005
2. Map of Claim Area , 1 page - A3, 22/03/2005

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