



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD53/2007
NNTT number: QC2007/002

Application Name: Dinny McKellar & Ors on behalf of the Budjiti People v State of Queensland & Ors (Budjiti People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 20/02/2007

Current status: Full Approved Determination - 05/01/2016

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: 10/07/2007

Registration decision status: Accepted for registration

Registration history: Registered from 10/07/2007 to 5/01/2016,

Date claim / part of claim determined: 05/01/2016

Applicants: Dinny McKellar, Phillip Eulo, Elizabeth McNiven, Margaret Hearn, Melissa Bryan, Carolyn Hooper

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Additional Information

Please note there is a determination in relation to the area covered by the claim made in QUD53/2007 – see McKellar on behalf of the Budjiti People v State of Queensland [2015] FCA 601. This determination will become effective immediately upon the registration of 17 agreements on the Register of Indigenous Land Use Agreements.

Persons claiming to hold native title:

The native title claim group (hereafter the 'claim group') on whose behalf the claim is made is the Budjiti People.

The Budjiti People are the biological descendants of the following people:

- * Jessie Brooks
- * Gypsy Brooks
- * Lizzie Brooks

Native title rights and interests claimed:

1. Over areas where a claim to exclusive possession can be recognised (such as areas where there has been no prior extinguishment of native title or where s238, ss47, 47A or 47B apply), the Budjiti People claim the right to possess, occupy, use and enjoy the lands and waters of the application area as against the whole world, pursuant to the traditional laws and customs of the claim group.

2. Over areas where a claim to exclusive possession cannot be recognised, the Budjiti People claim the following rights and interests:

- a) access, be present on, move about on and travel over the application area;
- b) camp, and live temporarily on the application area as part of camping, and for that purpose build temporary shelters;
- c) hunt, fish and gather on the land and waters of the application area for personal, domestic and non-commercial communal purposes;
- d) take, use, share and exchange natural resources from the land and waters of the application area for personal, domestic and non-commercial communal purposes;
- e) take and use the water of the application area for personal, domestic and non-commercial communal purposes;
- f) light fires on the application area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation;
- g) conduct ceremonies and hold meetings on the application area;
- h) teach on the area the physical and spiritual aspects of the application area;
- i) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs, and protect those places and areas from physical harm;
- j) be buried and bury native title holders within the application area; and
- k) be accompanied onto the application area by certain non-native title holders, being:

i. spouses and other immediate family members of native title holders, pursuant to the exercise of traditional laws and customs; and

ii. people required under the traditional laws acknowledged and traditional customs observed by the native title holders for the performance of, or participation in, ceremonies.

3. The native title rights and interests are subject to:

- a) The valid laws of the State of Queensland and the Commonwealth of Australia; and
- b) The rights conferred under those laws.

Application Area:

State/Territory: Queensland

Brief Location: Queensland South

Primary RATSIB Area: Southern and Western Queensland Region

Approximate size: 10983.5975 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):

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.

In relation to (a) above a description of the area of land and waters covered by the application is provided at Attachment B.

Areas within the boundary identified in Attachment B that are not covered by the application.

1. The area covered by the application excludes any land or waters that is or has been covered by the application:

- 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 residential lease;
- f) a community purpose lease;
- g) a lease dissected from a mining lease and referred to in s.23B(2)(c)(vii) of the Native Title Act 1993 (Cth);
- h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters.

2. Subject to paragraphs 4 and 5, the area covered by the application excludes any land or waters covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commences on or before 23 December 1996.

3. Subject to paragraphs 4 and 5, exclusive possession is not claimed over areas which are subject to valid previous non-exclusive possession acts done by the Commonwealth or State of Queensland.

4. Subject to paragraph 6, where the act specified in paragraphs 1, 2 and 3 falls within the provisions of:

- * S23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
- * S23B(9A) - Establishment of a national park or state park;
- * S23B(9B) - Acts where legislation provides of non-extinguishment;
- * S23B(9C) - Exclusion of Crown to Crown grants; and
- * S23B(10) - Exclusion by regulation.

5. Where an act specified in paragraphs 1, 2 and 3 affects or affected land or waters referred to i:

- * S47 - Pastoral leases etc covered by claimant application
- * S47A - Reserves etc covered by claimant application
- * S47B - Vacant Crown land covered by claimant application

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

6. The area covered by the application excludes land or waters where the native title rights and interests claimed have been otherwise extinguished.

- Attachments:**
- 1. Attachment B External Boundary, 20 pages - A4, 18/06/2015
 - 2. Attachment C Map of Application Area, 1 page - A4, 18/06/2015

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