



# Extract from Schedule of Native Title Applications

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**Application Reference:** Federal Court number: QUD80/2009  
NNTT number: QC2009/001

**Application Name:** Paola Smith & Ors on behalf of the Kullilli People v State of Queensland & Ors (Kullilli People )

**Application Type:** Claimant

**Application filed with:** Federal Court of Australia

**Date application filed:** 23/03/2009

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**Current status:** Full Approved Determination - 05/12/2014

**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:** 17/04/2009

**Registration decision status:** Accepted for registration

**Registration history:** Registered from 17/04/2009 to 8/12/2014,

**Date claim / part of claim determined:** 02/07/2014

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**Applicants:** Paola Smith, Peter White, Ronny Watson, Stephen Hagan, Judith Conlon, Brenda Fisher, Kayleen Hopkins, Elizabeth McAvoy

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## Additional Information

On 2 July 2014 a determination of native title was made by the Federal Court: Smith on behalf of the Kullilli People v State of Queensland [2014] FCA 691. The determination is conditional on the registration of 23 agreements on the Register of Indigenous Land Use Agreements and will only come into effect when the agreements are registered. The determination will then be entered on the National Native Title Register and this application will be removed from the Register of Native Title Claims.

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**Persons claiming to hold native title:**

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

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

1. Joe Barney;
2. Neba Brighton;
3. Daisy (spouse Harry Pilot);
4. 'Gnadollie' Hekel;
5. Ida (spouses Peter Williams, Buckley);
6. 'Mary Ann' Jinnie (spouse William Conlan);
7. Mary (spouse Harry Barney);
8. Mary (spouses Chinese, Dick Richards and Alexander Brierty);
9. 'Ippi' Mary (Bob Gray);
10. Mary-Ann (Billy Phillips)
11. Miria' Maryann (Alick, Charlie Turner, Jack Williams);
12. 'Munga' Maryann;
13. Jeannie 'Jinnie' Mossman and Charlie Fitzroy;
14. Dick 'Gunta' Richards;
15. 'Kullilli' Rosie and her husband;
16. 'Curra' Jack Thompson;
17. 'Bunda' Tiger;
18. Tilby and 'Djogo' Hugo;
19. Tinda and Lollipop;
20. Toby and Topsy;
21. Jack 'Norley' Wallace;
22. Monitor Wallace;
23. Willico;
24. Harry Willis;
25. Harry Willy-Boy; and
26. Monday Willoughby;
27. Harry Barney;
28. Annie Bulloo;
29. Jack Bulloo;
30. Charlie Copra;
31. Maggie;
32. Trella/Tarella (and her son Albert Hagan).

**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 Kullilli 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 Kullilli People claim the following rights and interests:

- (a) the right to access the application area;
- (b) the right to camp on the application area;
- (c) the right to erect shelters on the application area;
- (d) the right to exist on the application area;
- (e) the right to move about the application area;
- (f) the right to hold meetings on the application area;
- (g) the right to hunt on the application area;
- (h) the right to fish on the application area;
- (i) the right to use the natural water resources of the application area including the beds and banks of watercourses;
- (j) the right to gather the natural products of the application area (including food, medicinal plants, timber, stone, ochre and resin) according to traditional laws and customs;

- (k) the right to conduct ceremony on the application area;
- (l) the right to participate in cultural activities on the application area;
- (m) the right to maintain places of importance under traditional laws, customs and practices in the application area;
- (n) the right to protect places of importance under traditional laws, customs and practices in the application area;
- (o) the right to conduct burials on the application area;
- (p) the right to speak for and make non-exclusive decisions about the application area;
- (q) the right to cultivate and harvest native flora according to traditional laws and customs.

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:** South Western Queensland  
**Primary RATSIB Area:** Southern and Western Queensland Region  
**Approximate size:** 29549.6100 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, which describes the metes and bounds of the external boundary that comprises the extent of the traditional lands and waters of the Kullilli People ("the external boundary"). This description is then followed by a listing of the areas within the external boundary that are specifically claimed and covered by the application.

In relation to (b) above, the application does not cover:

1. Any land or waters that is or has been 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 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 commenced 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:

- . S.23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;
- . S.23B(9A) - Establishment of a national park or state park;
- . S.23B(9B) - Acts where legislation provides for non-extinguishment;
- . S.23B(9C) - Exclusion of Crown to Crown grants; and
- . S.23B(10) - Exclusion by regulation

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

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

- . 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.

7. Any areas that are not specifically identified in Attachment B are excluded and are not covered by the application.

**Attachments:**

1. Map of Claim Area, Attachment C of the Application, 1 page - A4, 16/05/2014
2. External Boundary Description of Claim Area, Attachment B of the Application, 16 pages - A4, 16/05/2014
3. Determination - Smith on behalf of the Kullilli People v State of Queensland, 51 pages - A4, 02/07/2014

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End of Extract