



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD101/2009
NNTT number: QC2009/002

Application Name: Russell Doctor and Ors on behalf of the Bigambul People v State of Queensland & Ors (Bigambul People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 14/04/2009

Current status: Full Approved Determination - 23/06/2017

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: 04/06/2009

Registration decision status: Accepted for registration

Registration history: Registered from 4/06/2009 to 29/06/2017,

Date claim / part of claim determined: 23/06/2017 , 05/06/2017

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Additional Information

On 1 December 2016, the Federal Court of Australia made a determination that native title exists in all of the determination area - see Doctor on behalf of the Bigambul People v State of Queensland [2016] FCA 1447. Order 2 of the determination provides that the determination will take effect upon the agreements referred to in paragraph 1 of Schedule 4 being registered on the Register of Indigenous Land Use Agreements. Once the determination takes effect, those areas where native title has been determined to exist, as described in Order 6 of the determination, are removed from this entry on the Register of Native Title Claims as and from the date the determination takes effect.

Persons claiming to hold native title:

The native title claim group (“hereafter the claim group”) on whose behalf the claim is made is the Bigambul People.

The Bigambul People are recognised as the descendants of Nellie Yumbeina, Queen Susan of Welltown, Jack Noble, Sally Murray, Susan mother of Duncan Daniels and Jack and James Armstrong.

Native title rights and interests claimed:

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

1. In areas where exclusive rights can be recognised:

- (i) Other than in relation to Water, the rights to possession, occupation, use and enjoyment of the area to the exclusion of all others; and
- (ii) In relation to Water, the non-exclusive rights to:

- a. hunt, fish and gather from the Water of the area;
- b. take and use the Natural Resources of the Water in the area;
- c. take and use the Water of the area,

for personal, domestic and non-commercial communal purposes.

2. In areas where exclusive rights cannot be recognised-non-exclusive rights to:

- (i) access, be present on, move about on and travel over the area;
- (ii) camp, and live temporarily on the area as part of camping, and for that purpose build temporary shelters;
- (iii) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (iv) take, use, share and exchange Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (v) take and use the Water of the area for personal, domestic and non-commercial communal purposes;
- (vi) conduct ceremonies on the area;
- (vii) be buried and bury native title holders within the area;
- (viii) teach on the area about the physical and spiritual attributes of the area;
- (ix) 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;
- (x) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation;
- (xi) be accompanied onto the area by certain non-Bigambul people, being people required for the performance of ceremonies and cultural activities.

3. The native title rights and interest are subject to and exercisable in accordance with:

- (a) The Laws of the State and the Commonwealth;
- (b) The traditional laws acknowledged and the traditional customs observed by the native title holders.

4. For the purposes of 1, 2 and 3 above:

- (a) “land” and “waters”, respectively, have the same meanings as in the Native Title Act 1993 (Cth);
- (b) “Laws of the State and the Commonwealth” means the common law and the laws of the State of Queensland and the Commonwealth of Australia, and includes legislation, regulations, statutory instruments, local planning instruments and local laws;
- (c) “Natural Resources” means:

- (i) any animal, plant, fish and bird life found on or in the lands and waters of the claim area; and
- (ii) any clays, soil or rock found on or below the surface of the claim area that have traditionally been taken and used by the native title holders, but does not include:

- a. animals that are the private personal property of another;
- b. crops that are the private personal property of another; and

c. minerals as defined in the Mineral Resources Act 1989 (Qld) or petroleum as defined in the Petroleum and Gas (Production and Safety) Act 2004 (Qld);

(d) "Water" means:

- (i) water which flows, whether permanently or intermittently, within a river, creek or stream;
- (ii) any natural collection of water, whether permanent or intermittent; and
- (iii) water from an underground water source.

Application Area: **State/Territory:** Queensland
Brief Location: South West Queensland along NSW border
Primary RATSIB Area: Southern and Western Queensland Region
Approximate size: 17134.3809 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.

The area covered by the amended application is the area described in Attachment B and depicted in the map contained in attachment C.

Areas within the boundary identified in ATTACHMENT B that are not covered by the application are set out below:

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

- (a) Scheduled Interest;
- (b) freehold estate;
- (c) commercial lease that is neither an agricultural lease nor a pastoral lease;
- (d) exclusive agricultural lease or an exclusive pastoral lease;
- (e) residential lease;
- (f) community purpose lease;
- (g) lease dissected from a mining lease and referred to in s.23B(2)(c)(vii) of the Native Title Act 1993 (Cth);
- (h) 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:

- . 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.

Attachments:

1. Attachment C - Map of Claim Area, 1 page - A4, 19/06/2015
2. Attachment B - External Boundary Description, 4 pages - A4, 19/06/2015
3. External boundary description of remaining application area yet to be determined, 4 pages - A4, 28/02/2017
4. Map of remaining application area yet to be determined, 1 page - A4, 28/02/2017

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