



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD115/2017
NNTT number: QC2017/003

Application Name: Bernard Richard Charlie & Ors on behalf of the North Eastern Peninsula Sea Claim Group v State of Queensland (North Eastern Peninsula Sea Claim Group)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 27/02/2017

Current stage(s): Notification Complete, Part Determination

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: Not Accepted for registration

Registration history: -

Date claim / part of claim determined: 30/11/2022

Applicants: Bernard Richard Charlie, Trevor Henry Lifu, Paul Joseph Ah Mat, Michael Thomas Solomon, Jennifer Jill Thompson, Reginald Williams

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Additional Information

On 8 November 2022, the Federal Court ordered that the application area be administratively separated into Part A, being onshore areas and Part B, being offshore areas. On 30 November 2022, the Federal Court determined that native title exists in parts of the Part A and Part B areas of the application- see David on behalf of the Torres Strait Regional Seas Claim v State of Queensland [2022] FCA 1430. That determination was registered on the National Native Title Register on 5 December 2022. A map and technical description showing the area of the application that remains to be determined, as interpreted by the National Native Title Tribunal, are attached for information only. These attachments do not form part of the application. On 14 September 2023, the Federal Court ordered by consent that the determination made on 30 November 2022 be varied. Please refer to the NNTR extract - QCD2022/013 for further details.

Persons claiming to hold native title:

The native title group is made up of all persons descended by birth or adoption from the following apical ancestors:

- * Peter (Pahding) Pablo;
- * Wymarra (Wymara Outaiakindi);
- * Mathew (Charlie) Gelapa;
- * Annie Blanco;
- * Ela / Illa (father of Tommy Dodd, Polly and Tommy Somerset);
- * Woounduinagrun and Tariba (parents of Tom Redhead);
- * Charlotte Ware;
- * Queen Baki and Chief Tchiako / Tchiaku / Chiaku

Native title rights and interests claimed:

Native title where traditional rights are wholly recognisable

1. Paragraph 2 applies to every part of the Claim Area:

- (a) where there has been no extinguishment to any extent of native title rights and interests or where any such extinguishment is required to be disregarded pursuant to ss 47, 47A or 47B of the NTA; and
- (b) which is not subject to the public right to navigate or the public right to fish;

2. Where this paragraph applies, the native title rights and interests possessed under traditional laws and customs confer possession, occupation, use and enjoyment of the land and waters as against all others.

Native title where traditional rights are partially recognisable

3. Paragraph 4 applies to every part of the Claim Area to which paragraph 2 does not apply.

4. Where this paragraph applies, the customary rights and interests possessed under traditional laws and customs that are able to be and should be recognised by the common law of Australia include the (non-exclusive) rights to:

- (a) have access to, remain on and use the land and waters;
 - (b) access and take the resources of the land and waters; and
 - (c) protect places, areas and things of traditional significance on the land and waters.
5. Further non-exclusive rights and interests are particularised in Schedule F.

Area covered by the native title and who holds the rights

6. Each of the native title rights and interests referred to in each of paragraphs 2 and 4 exist in relation to the whole of each part of the Claim Area to which those paragraphs respectively apply and is held by the members of the native title claim group subject to and in accordance with traditional laws and customs.

Activities currently carried on

7. Activities in exercise of the native title rights and interests referred to in Schedule E are all such activities as are contemplated by those rights and interests, and include the activities identified in Schedule G.

Rights and interests subject to laws of Australia

8. The members of the native title claim group acknowledge that their native title rights and interests are subject to and exercisable in accordance with valid and current laws of the Commonwealth of Australia and the State of Queensland, including the common law.

9. In this Schedule, "resources" does not include such minerals, petroleum or gas, if any, as are, under the laws of the Commonwealth or the State of Queensland, including the common law, as at the date of this application, wholly owned by the Crown.

10. More information is provided for the purposes of Schedule E in Schedules F, G and M to meet the requirements of ss 62(2)(d) to (f) and 190B(5), (6) and (7) of the NTA.

Application Area: **State/Territory:** Queensland
Brief Location: The application is over waters off the coast of Cape York extending northerly from Captain Billy Landing, around the Cape to Gel Point (Injinoo), and extending north easterly and easterly to Pandora Entrance
Primary RATSIB Area: Cape York Region
Approximate size: 1455.8006 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.

a) the area covered by the application

The area covered by the application comprises all the parcels of land and waters as shown on the map at Attachment C as described in Attachment B (Claim Area) subject to (b) below.

b) areas within those boundaries that are not covered by the application

The following areas within the external boundaries of the Claim Area, if any, are not covered by the Application, save for any such areas where extinguishment by the acts referred to is required to be disregarded by ss 47, 47A or 47B of the NTA:

1. Any area that, when the application is made, is subject to any of the following kinds of acts, as defined in the NTA (where the act in question is attributable to the Commonwealth) or in the Native Title (Queensland) Act 1993 (Qld) (NTQA), as amended (where the act in question is attributable to the State of Queensland):

(a) Category A past acts;

(b) Category A intermediate period acts;

(c) Category B past acts that are wholly inconsistent with the continued existence of any native title rights or interests;

(d) Category B intermediate period acts that are wholly inconsistent with the continued existence of any native title rights or interests.

2. Any area in relation to which a previous exclusive possession act, as defined by s 23B (including s 23B(7)) of the NTA, was done in relation to the area and the act was attributable to the Commonwealth.

3. Any area in relation to which a previous exclusive possession act, as defined by the NTQA, was done in relation to the area and the act was attributable to the State of Queensland.

4. Any area where native title rights and interests have otherwise been wholly extinguished, more particularly, any area where there has been:

(a) an unqualified grant of an estate in fee simple;

(b) a public work, as defined in s 253 of the NTA; or

(c) an existing dedicated public road.

5. Any Area for which there is an approved determination of native title.

- Attachments:**
1. External boundary description of Claim Area, Attachment B of the Application, 3 pages - A4, 27/02/2017
 2. Map of Claim Area, Attachment C of the Application, 1 page - A4, 27/02/2017
 3. QC2017_003 Description of Undetermined Area, 4 pages - A4, 30/11/2022
 4. QC2017_003 Map of Undetermined Area, 1 page - A3, 30/11/2022

End of Extract