



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: SAD215/2021
NNTT number: SC1996/005

Application Name: Lindsay John Thomas and Ors on behalf of the Nukunu (Area 2) Native Title Claim and the State of South Australia and Ors

Application Type: Claimant

Application filed with: National Native Title Tribunal

Date application filed: 10/04/1996

Current status: Full Approved Determination - 09/09/2022

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: 20/03/2020

Registration decision status: Accepted for registration

Registration history: Registered from 10/04/1996 to 20/03/2020, Registered from 20/03/2020 to 15/09/2022,

Date claim / part of claim determined: 09/09/2022 , 12/03/2020

Applicants: Lindsay John Thomas, Douglas Edward Arthur Turner, Helen Renee Webb, Ian Clarence Webb

Address(es) for Service: Sykes Bidstrup
77 Angas Street
ADELAIDE SA 5000
Phone: 08 8100 4700
Fax: 08 8224 0050

Additional Information

On 17 June 2019, the Federal Court made a determination that native title exists in parts of the determination area - see Turner on behalf of the Nukunu People v State of South Australia [2019] FCA 863. That determination is attached to this Extract. Order 2 and Note E of the determination provide that the Determination will take effect upon the Nukunu (Area 1) Settlement ILUA being registered on the Register of Indigenous Land Use Agreements. The Agreement referred to in Order 2 was registered on 12 March 2020, and therefore the determination is in effect from 12 March 2020. On 3 December 2021, the Federal Court ordered the remaining portion of the application to continue as a related electronic court file proceeding from 7 December 2021, with the name Nukunu (Area 2) Native Title Claim and the State of South Australia. On 3 February 2022, the Federal Court made a determination over the remaining portion of the application, that native title exists in parts of the determination area - see Thomas on behalf of the Nukunu People (Area 2) Native Title Claim v State of South Australia [2022] FCA 48. That determination is attached to this Extract. Order 2 and Court Note E of the determination provide that the Determination will take effect upon the Nukunu (Area 2) Settlement ILUA being registered on the Register of Indigenous Land Use Agreements. The Agreement referred to in Order 2 was registered on 9 September 2022, and therefore the determination is in effect from 9 September 2022.

Persons claiming to hold native title:

The Nukunu Native Title Claim Group comprises those people who hold in common the body of traditional law and culture governing the area the subject of the claim and who, subject to (6) below:

1. Are related by means of the principle of descent to the Nukunu man known as "King Billy" (also known as "King of the Port Augusta Tribe" and "King of the Mambray and Telowie Tribes" and "Telowie Billy") and his Nukunu wife, both of whom are known to be apical ancestors associated with the claim area.

2. Related by a traditional principle of descent to the apical ancestors are a set of siblings, children of King Billy and his Nukunu wife (see 1 above):

Florence Bramfield (also known as Florence James), Jessie James, Sam James, John James, Frank James and one other sister (who had a son Roland Murray). All biological descendants of these named siblings are members of the Nukunu Native Title Claim Group.

3. Nukunu principles of incorporation into the group according to traditional law and custom include:

3.1 being of Aboriginal descent; and

3.2 having a connection with the claim area in accordance with the traditional law and custom of the Nukunu Native Title Claim Group which includes a principle of descent from their ancestors.

NB Nukunu traditional law and custom includes, but is not limited to, biological descent.

NB Those incorporated into the group by a custom of descent other than biological are listed in 5 below.

4. The applicants Margaret Elizabeth Smith and James Alexander Bramfield have the authority acknowledged by the Nukunu Native Title Claim Group according to the traditional law and custom of the Native Title Claim Group to determine whether a person of Aboriginal descent has a connection to the Nukunu land and waters in accordance with 3.2 above.

[5.]• The applicants Margaret Elizabeth Smith and James Alexander Bramfield have determined that the following, and their descendants, are the members of the Nukunu Native Title Claim Group whose membership, if not derived from biological descent, is derived in accordance with other principles of Nukunu traditional law and custom:

- Alex or Alexander Thomas deceased (also known as Alex or Alexander Bramfield). He was the father of Alan Thomas deceased 1998. Additionally he is accepted by the applicants, James Alexander Bramfield and Margaret Elizabeth Smith as their uncle, i.e., as "mother's brother".

- Michael Turner, who is of Aboriginal descent, and is the son of Margaret Elizabeth Smith's deceased husband's sister. He was raised from about 2 years old by the applicant Margaret Elizabeth Smith as her son.

- Matthew Smith, who is of Aboriginal descent, and was raised from soon after birth by the applicant Margaret Elizabeth Smith as her son.
- Jeffrey James, who is adult and of Aboriginal descent, has lived on a long term basis within the Nukunu Native Title claim area, he and the applicant James Alexander Bramfield have the same mother (who was of Aboriginal descent but was not Nukunu). He identifies as a Nukunu.

[6.]• The Nukunu Native Title Claim Group specifically excludes from membership the following persons who would otherwise be members of the group according to the principle of biological descent but who may be members of an overlapping claim:

- Members of the Sansbury and Newchurch families for as long as SG6001/98 (Adnyamathanha) is an overlapping claim.
- Curtley M J Newchurch and Dakota Marie Newchurch for as long as SG6004/98 (Kuyani) is an overlapping claim.

Native title rights and interests claimed:

Under the traditional laws and customs of the of the [sic] Nukunu Native Title Claim Group and observed by the applicants they possess the following rights and interests in the Nukunu claim area ("the Nukunu land and waters") and the applicants seek a determination that:

1. The native title rights and interests claimed are the common law rights to possession, occupation, use and enjoyment of the Nukunu Claim area to the exclusion of all others, in particular the right to:
 - Access and reside on Nukunu land and waters;
 - Enjoy the resources of the Nukunu land and waters;
 - Make decisions about the use and enjoyment of the Nukunu land and waters;
 - Control the access of others to and conduct on the Nukunu land and waters;
 - Control the use and enjoyment of others of the resources of the Nukunu land and waters;
 - Maintain and protect sites and areas of importance within Nukunu land and waters according to traditional laws and customs;
 - Control, maintain, protect and prevent the dissemination and misuse of cultural knowledge of members of the Nukunu Native Title Claim Group;
 - Transmit knowledge and information concerning Nukunu land and waters to those in younger generations according to Nukunu traditional laws and customs;
 - Carry out and maintain mortuary practices according to Nukunu traditional law and custom.
2. The native title rights and interests claimed above are subject to the effect of the rights validly granted by the Crown to others pursuant to statute to possess, occupy, use or enjoy all or any part of the Nukunu land and waters.

Explanatory note:

The resources of the Nukunu land and waters includes, but is not limited to, birds, animals, plants, fish, marine animals, shellfish, timber, ochre, stone, minerals and Subsurface minerals.

Application Area: **State/Territory:** South Australia
Brief Location: Spencer Gulf Region, South Australia
Primary RATSIB Area: Greater South Australia
Approximate size: 983.9361 sq km
 (Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: Yes

Area covered by the claim (as detailed in the application):

See 'Schedule B' attached

Attachments:

1. SAD215/2021 (SC1996/005) Nukunu People (Area 2) Determination, 11 pages - A4, 03/02/2022
2. Description of undetermined area, 4 pages - A4, 23/03/2020
3. Map of indetermined area, 1 page - A4, 23/03/2020
4. External Boundary Description, Schedule B of the application, 8 pages - A4, 30/08/2019
5. Areas within the External Boundary not covered by the application - Attachment B of the application, 1 page - A4, 30/08/2019
6. Map, Attachment Map C3 of the application, 1 page - A4, 30/08/2019
7. SAD6012/1998 (SC1996/005) Nukunu People (Part A) determination, 22 pages - A4, 23/07/2019

End of Extract