



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: SAD6026/1998
NNTT number: SC1998/003

Application Name: First Peoples of the River Murray & Mallee Region Native Title Claim and The State of South Australia & ors (River Murray & Mallee Region)

Application Type: Claimant

Application filed with: National Native Title Tribunal

Date application filed: 09/04/1998

Current status: Discontinued - 25/11/2011

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: Accepted for registration

Registration history: Registered from 09/04/1998 to 05/10/1999 Registered from 13/01/2000 to 04/01/2012

Date claim / part of claim determined: 18/11/2011

Applicants: Name withheld for cultural reasons, Mark Agius, Richard Hunter, Jean Agius, Denise Varcoe, Name withheld for cultural reasons, Jim Abdulla, Loretta Smith, George Tripp, Gladys E Sumner, Glenda Rigney, Dorothy Turner

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Additional Information

Not applicable

Persons claiming to hold native title:

The First Peoples of the River Murray and Mallee Region Native Title Claim Group (the claim group) comprises those people who hold in common the body of traditional law and custom governing the area that is the subject of the claim and who, subject to (4) below:

1. Are related by means of a traditional principle of descent to the following apical ancestors:

1.1 'King' John and 'Queen' Monarta;

1.2 Jerry Mason (also known as King Jerry Mason) and his wife Jinny Christmas (also known as Jenny Christmas);

1.3 Charles Nattoon (also written Netoon, Natoon) and his wife Lizzie;

1.4 The woman and man who are the parents of Sam and Richard Disher;

1.5 George Beck ;

1.6 Ellen Bookmark and Tommy Bookmark (also known as Bookmark Tommy);

1.7 The woman who is the mother of George Lindsay and Bella Lindsay;

1.8 John Perry and his wife Nelly Perry;

1.9 Willie Scrubber (also know as William Robinson) and his wife;

1.10 James Wanganeen (also known as James Moore);

1.11 John Mack;

1.12 The man and woman who are the parents of Fanny Pennyfather (also known as Halfpenny);

1.13 Frank Fletcher and his wife Esther;

1.14 Winnie Murray (nee Reed), and;

1.15 John McLean and his wife who are the parents of Annie McLean and Jack McLean;

2. Principles of incorporation into the claim group according to traditional law and custom also include:

2.1 being of Aboriginal descent, and;

2.2 having a connection with the claim area in accordance with the traditional law and custom of the claim group which includes a principle of descent from their ancestors.

Note: The traditional laws and customs include the adoption of persons of Aboriginal descent into the claim group.

, 3. Where, despite the application of the principles set out in paragraphs 1 and 2 above, there remains any uncertainty as to whether a person can be identified as a member of claim group :

3.1 The named Applicants have the authority acknowledged by the claim

group to determine, in accordance with the traditional laws and customs of the claim group, whether a person of Aboriginal descent

has a connection to the claim area in accordance with 2.2 above;

3.2 the principle of authority set out in paragraph 3.1, acknowledged by

the claim group according to traditional law and custom, incorporates

the potential transfer of this authority to appropriate persons.

4. The claim group specifically excludes from membership any person who is a member of an overlapping claim listed in Schedule H whilst that claim continues to overlap the current claim.

Exclusions from the claim group are included at Schedule H (available for viewing from NNTT Adelaide Registry 1800 640 501).



Native title rights and interests claimed:

The native title rights and interests claimed are also subject to the effect of:

all existing non-native title rights and interests (see, for example, those referred to in Schedule D), and;

all laws in South Australia made in accordance with sections 19, 22F, 23E or 231 of the Native Title Act;

to the extent that these are valid and applicable.

The applicants are not asserting exclusive rights and interests over the claimed area.

In this Application no claim is being made to any native title rights and interests consisting of or including ownership of minerals, petroleum or gas wholly owned by the Crown under valid laws of the Commonwealth or State.

1.1 Full beneficial ownership of the claim area, including possession, occupation, use and enjoyment of rights;

1.2 Carriage and responsibility for the care and maintenance of the claim area;

1.3 The right to hold the claim area as cultural property and the source of the native title group and its identity;

1.4 The capacity to transmit ownership of and identification with the claim area, for example, to descendants;

2.1 Right to access and occupy the claim area, including to live on and erect residences on the land;

2.2 Right to take, use, enjoy and develop the natural resources of the claim area;

2.3 Right to make a living and derive economic benefit from the claim area, including to dispose of resources or products of the claim area by commerce or exchange;

2.4 Right to a share of the benefit of resources taken on the claim area by others;

2.5 Right to make decisions over, manage and conserve the claim area and its natural resources;

2.6 Right to control access, occupation, use and enjoyment of the claim area and its resources by others;

2.7 Right to obtain, control, maintain, transmit to others, protect and prevent the dissemination and misuse of cultural knowledge associated with the claim area;

2.8 Right to conduct social, cultural and religious activities including burials on the claim area;

2.9 Right to speak and teach the languages associated with the claim area;

2.10 Right to inherit and bestow native title rights and interests;

2.11 The right to resolve ambiguities or disputes concerning the claim area or membership of the native title claim group, subject to any right or authority to participate held by the neighbouring groups under Aboriginal traditional law and custom.

Application Area:

State/Territory: South Australia

Brief Location: Riverland and Murray Mallee

Primary RATSIB Area: Greater South Australia

Approximate size: 17560.2034 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):

Please note: A determination in relation to part of the application area was made on 18 November 2011 pursuant to s. 87A of the Native Title Act: *Turner v State of South Australia* [2011] FCA 1312. Pursuant to s. 190(4)(e), those areas of the application that have been determined are removed from the Register of Native Title Claims (RNTC) as and from 22 November 2011. The undetermined portion of the application remains on foot and remains on the RNTC to the extent that it has not been determined.

The external boundaries of the area of land and waters covered by the application are described in attached documents:

A) a map showing the external boundaries of the area covered by the claim, marked as Attachment C

B) a technical description of the external boundary, marked as Attachment B

The First peoples of the River Murray and Mallee Region native title claim area is in relation to all land and waters within the Murray Basin region which covers an area of approximately 17,910 sq km located approximately 160 kilometres east of Adelaide and extending east to the South Australian / Victorian border, extending north approximately 200 kilometres to an area north of the township of Renmark.

Description:

The external boundary of the claim area is shown on the map attached as Attachment C.

The land and waters covered by this application is wholly within the state of South Australia. It includes all the Land and Waters as identified on the map showing external geographic boundaries of the claim area, which is attached to this application as Attachment C and defined by the coordinates at attachment B.

Commencing at a point in the north-west of the claim area as shown on the map at Attachment C and defined by the coordinates at attachment B. The boundary travels in an easterly direction to the western boundary of Chowilla Regional Reserve then southerly, easterly, southerly and north-easterly along the boundary of the Regional Reserve to the State border of South Australia and New South Wales as shown on the map at Attachment C and defined by the coordinates at attachment B.

The claim boundary then travels south along the State border to the middle of the River Murray, then follow the middle of the River Murray in a westerly direction to the border of Victoria, then the boundary then travels south along the SA/ Vic state boundary (wholly within the SA side) to a point just north-east of the township of Peebinga as shown on the map at Attachment C and defined by the coordinates at attachment B.

The boundary then travels west passing over Kumara Bore to the eastern side boundary of Billiatt Conservation Park and then in a northerly, westerly, southerly, westerly and then generally in a southerly direction following the boundary of the Billiatt Conservation Park, before heading south passing half-way (approx) between the townships of Mulpata and Kulkami to a point east of McPiggery, as illustrated on the map attached as Attachment C and defined by the coordinates at Attachment B.

The boundary then travels in a westerly direction passing over Narinn as illustrated in the map attached as Attachment C, to a point defined by the coordinates at Attachment B. Then travelling south passing to the western side of Ellimatta, crossing over Highway 12, passing to the eastern side of Emu Valley to a point east of Old Ashrose as illustrated in the map attached as Attachment C, to a point defined by the coordinates at Attachment B.

The boundary then travels west, then north on the western side of Carcuma Conservation Park, west pass Long Ridge, south to a point between Cooa Park and Noddy Park, then the boundary travels west over gravel pit to a point identified by the coordinates at Attachment B, the boundary then travels north passing over Ki Ki Hill, Kenuna, Bobs Lookout to a point between Rotary and Warrana as illustrated in the map attached as Attachment C, to a point defined by the coordinates at Attachment B.

The boundary then travels east, then south to a point just north of Highway 12 before heading east then north passed Marmon Jabuk, Taringa then heading west as illustrated in the map attached as Attachment C, then heading north to a point west of the township of Karoonda as illustrated in the map attached as Attachment C and defined by the coordinates at Attachment B.

The boundary then travels west passing over Dualat Bore to a point defined by the coordinates at Attachment B, then heading north to a point defined by the coordinates at Attachment B, then east to a point defined by the coordinates at Attachment B and illustrated by Attachment C.

The boundary then travels north passing Chucker Bend on the River Murray and crossing to the western side of the River Murray at Nildottie before crossing back over the River Murray just north of Nildottie, then crossing over to the western side of the River Murray at Murbpook, passing to the western side of the Township of Morgan to a point

defined by the coordinates at Attachment B and illustrated by the map attached as Attachment C.

The boundary then travels east to a point defined by the coordinates at Attachment B and then heading north to the commencement point as defined by the coordinates at Attachment B and illustrated in the map attached as Attachment C.

The coordinates of the external boundary covered by this application are defined in Attachment B. To the extent of any inconsistencies between Attachment C and the coordinates as defined in Attachment B with the above description, Attachment C and the coordinates shall prevail.

The areas within the external boundaries that are not covered by the application are as follows:

The applicants exclude from the area covered by the Application any area over which native title has been extinguished at Common Law or by statute save and except for those areas of land and waters over which prior extinguishment may be disregarded in accordance with the provisions of either s47, s47A or s47B of the Native Title Act (1993) (as amended) (NTA).

In particular the following are excluded:

Category A past acts, as defined in s229 of the NTA, including any previous non-exclusive possession acts which are also a Category A past act; and

Grants or vestings which are "previous exclusive possession acts" (as defined in s23B of the NTA) or "Category A intermediate period acts" (as defined in s232B of the NTA) attributable to the Commonwealth and such grants or vestings which are attributable to the State where the State has made provision as mentioned by s23E and s22F of the NTA in relation to these acts.

For the avoidance of doubt, the following acts which occurred on or before 23 December 1996, where valid (including because of Division 2 or 2A of Part 2 of the NTA) are included or, for present purposes, are to be treated as included in the definition of "previous exclusive possession acts", unless excluded from the definition by subsection 23B(9), (9A), (9B), (9C) or (10)

1. The creation or establishment of:

(i) a permanent public work;

(ii) a dedicated road;

(iii) an act of adverse dominion where such an act was;

. authorised by valid legislation; or

. authorised or required by the condition of a valid Crown Grant, vesting or other interest;

(iv) an unqualified grant of an estate in fee simple.

2. The grant of:

(i) a scheduled interest (see s249C of the NTA), including an agricultural lease where intensive cultivation of a permanent nature has been carried out and works or structures of permanent nature have been constructed in accordance with the terms and conditions of the lease;

(ii) a residential lease on which a residence has been constructed in accordance with the terms and conditions of the lease (see s249);

(iii) a commercial lease on which permanent works or structures have been constructed in accordance with the terms and conditions of the lease (see s246);

a lease for the provision of community services or amenities within a town or city on which works or structures of a permanent nature have been constructed in accordance with the terms and conditions of the lease (see s249A).

Attachments:

1. Technical Boundary Description of Claim Area, 4 pages - A4, 15/09/1999

2. Map depicting the External Boundaries of Claim Area, 1 page - A3, 15/09/1999

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