



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD780/2013
NNTT number: NC2013/002

Application Name: Kerrie Brauer & Ors on behalf of the Awabakal and Guringai People (Awabakal and Guringai People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 13/05/2013

Current status: Discontinued - 28/06/2017

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: 13/06/2013

Registration decision status: Accepted for registration

Registration history: Registered from 13/06/2013 to 30/06/2017,

Applicants: Kerrie Brauer, Trevor Powell, Wayne Hawken, Shane Frost, Peter Leven, Wayne Saxby, Tracey-Lee Howie, Trudy Smith, Laurie Bimson

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Additional Information

Not applicable

Persons claiming to hold native title:

The claim group are persons:

1. who are recognised by other members of the claim group as being descended (which may include by adoption) from a deceased person who they recognise as having been a member of the aboriginal landholding group for the application area depicted in Attachment "C" ("an apical ancestor"); and
2. who identifies himself or herself as being a descendant of an apical ancestor.

It is accepted that adoption may take place and where adoption has occurred it confers upon the adoptee the right to identify as a member of the claim group.

The following deceased persons are recognised as having been apical ancestors from whom claim group members are descended:

The Awabakal People:

- Margaret (known as Queen Margaret/Old Margaret)
- Ned (known as King Ned/King Molly/Black Ned/Old Ned)
- Flathead (Father of King Ned/Black Ned/Old Ned)
- Mahrahkah (Known as Molly/Molly Morgan/Maria Morgan)
- Charlotte Preston (Daughter of Molly/Molly Morgan/Maria Morgan)

The Guringai Peoples:

- Bungaree (Known as King Bungaree)
- Bowen Bungaree
- Matora
- Gooseberry (Known as Cora)
- Charlotte Ashby
- Biddy Salamander

The Applicant relies on section 3 and elsewhere in the Report of Mr. Nathan Woolford dated 10 May 2013 in Attachment "F".

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 s. 238, ss. 47, 47A or 47B apply), the claim group claims 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 claim group claims the non-exclusive right to:

- (a) live and be present on the application area;
 - (b) take, use, share and exchange Traditional Natural Resources for personal, domestic and non-commercial, communal purposes;
 - (c) conduct burial rites;
 - (d) conduct ceremonies;
 - (e) teach on the area about the physical and spiritual attributes of the area;
 - (f) 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;
 - (g) light fires for domestic purposes including cooking but not for the purposes of hunting or clearing vegetation;
 - (h) be accompanied into the claim area by non claim group members being people required;
- (1) by traditional law and custom for the performance of ceremonies or cultural activities; and
- (2) to assist in observing and recording traditional activities on the claim area; and

(i) In relation to Water, take and use:

- (1) Traditional Natural Resources from the Water for personal, domestic and non-commercial communal purposes; and
- (2) for personal, domestic and non-commercial, communal purposes.

3. For the purposes of 2. above,

"Live" means to reside and for that purpose erect shelters and temporary structures but does not include a right to construct permanent structures;

"Traditional Natural Resource" means:

- (1) "animals" as defined in the National Parks and Wildlife Act 1974 (NSW), but also including fish;
- (2) "plants" as defined in the National Parks and Wildlife Act 1974 (NSW);
- (3) charcoal, shells and resin; and
- (4) clay, soil, sand; ochre; gravel or rock on or below the surface.

"Water" means water source as defined by the Water Management Act 2000 (NSW).

4. The native title rights and interests are subject to:

- (a) The valid laws of the State of New South Wales and the Commonwealth of Australia; and
- (b) The rights conferred under those laws.

Application Area: **State/Territory:** New South Wales
Brief Location: The claim area is situated on the Central Coast of New South Wales, extending generally south from Newcastle.
Primary RATSIB Area: New South Wales
Approximate size: 3921.3767 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".

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) Scheduled interest;
- (b) a freehold estate;
- (c) 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 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 New South Wales.

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 of 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:

- s. 47 - Pastoral leases etc covered by claimant application
- s. 47A - Reserves etc covered by claimant application
- s. 47B - 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 have been otherwise extinguished.

The Applicant relies on section 2 and elsewhere in the Report of Mr. Nathan Woolford of 10 May 2013 in Annexure "F".

- Attachments:**
- 1. Attachment C Map, 2 pages - A4, 13/05/2013
 - 2. Attachment B boundary description, 4 pages - A4, 07/06/2013

End of Extract