



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: SAD359/2015
NNTT number: SC2015/002

Application Name: Gerald Quayle & Ors v The State of South Australia (Malyankapa Peoples)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 30/09/2015

Current status: Discontinued - 10/11/2020

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: 22/03/2016

Registration decision status: Accepted for registration

Registration history: Registered from 22/03/2016 to 10/11/2020,

Applicants: Gerald Quayle, Michael Whyman, Alma Bates-Hannah, Jennifer Bates

Address(es) for Service: South Australian Native Title Services Limited
Level 4, 345 King William Street
ADELAIDE SA 5000
Phone: (08) 8110 2800
Fax: (08) 8110 2811

Additional Information

Not applicable

Persons claiming to hold native title:

The Native Title Claimants are those Aboriginal people who:

(a) Are the biological descendants of the following ancestors:

- i) Jerry Tup:i of Cobham Lake;
- ii) Fanny Buugali Williams;
- iii) Cobham Tommy Williams;
- iv) Topsy Crowe;
- v) Alf Barlow, Son of Jimmy and Jennie Barlow;
- vi) Rosie Stapleton, daughter of Nellie from Cobham Station;
- vii) Alice Stapleton, daughter of Nellie from Cobham Station;
- viii) Willie Stapleton, son of Nellie from Cobham Station;
- ix) Jimmie Stapleton (Harrison), son of Nellie from Cobham Station;

(b) Are identified and accepted as Malyankapa under traditional law and custom on the basis of descent from a Malyankapa person; or

(c) Are accepted by those listed at (a) as being adopted into the Malyankapa community under traditional law and custom.

Native title rights and interests claimed:

(1) Over areas where a claim to exclusive possession can be recognised (such areas where there has been no prior extinguishment of native title or where section 238 and/or sections 47, 47A or 47B apply) members of the native title claim group claim the right to possess, occupy, use and enjoy the lands and waters covered by the application (the application area) as against the whole world, pursuant to their traditional laws and customs.

(2) Over areas where a claim to exclusive possession cannot be recognised, the nature and extent of the native title rights and interests claimed in relation to the application area are the non-exclusive rights to use and enjoy the land and waters in accordance with traditional laws and customs being:

- (a) The right to access and move about the Claim Area;
- (b) The right to regulate access to and use of the Claim Area by other Aboriginal People in accordance with traditional law and custom;
- (c) The right to live, to camp and to erect shelters and other structures on the Claim Area;
- (d) The right to hunt and fish on the land and waters of the Claim Area ;
- (e) The right to gather and use the natural resources of the Claim Area such as food, medicinal plants, wild tobacco, timber, resin, ochre and feathers as well as materials for fabricating tools and hunting implements;
- (f) The right to share and exchange the subsistence and other traditional resources of the Claim Area;
- (g) The right to use and take the natural water resources of the claim area;
- (h) The right to cook on the Claim Area and to light fires;
- (i) The right to engage and participate in cultural activities on the Claim Area including those relating to births and deaths;
- (j) The right to conduct burials on the Claim Area;
- (k) The right to conduct ceremonies and hold meetings on the Claim Area;
- (l) The right to teach on the Claim Area the physical and spiritual attributes of locations and sites within the Claim Area;
- (m) The right to speak about the Claim Area among other Aboriginal People who seek access to or use of the lands and waters in accordance with traditional law and custom;
- (n) The right to visit, maintain and protect sites and places of cultural and religious significance under their traditional laws and customs on the Claim Area;
- (o) The right to be accompanied on the Claim Area by those people who, though not native title holders, are:
 - (i) spouses of native title holders; or
 - (ii) people required by traditional law and custom for the performance of ceremonies or cultural activities on the Claim Area; or
 - (iii) people who have rights in relation to the Claim Area according to the traditional laws and customs acknowledged by native title holders; or
 - (iv) people required by native title holders to assist in, observe, or record traditional activities on the Claim Area.

(3) The native title rights and interests are subject to:

- (a) the valid laws of the State of South Australia and the Commonwealth of Australia; and
- (b) the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State of South Australia;
- (c) the traditional laws and customs of the native title claim group.

Application Area: **State/Territory:** South Australia
Brief Location: The application area extends from Cameron Corner at the intersection of the borders of South Australia, Queensland and New South Wales, extending west to Lake Callabonna and south to the boundary of native title application SAD33/2012 Wilyakali.
Primary RATSIB Area: Greater South Australia
Approximate size: 17958.5910 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):

(1) The boundaries of the area of land and waters covered by the application are as described in the document entitled 'Description of Boundaries' which is annexed as "Attachment B" and as shown on the map attached and marked as "Attachment C".

(2) Subject to (3) and (4) below, the areas of land and waters within the boundaries referred to in (1) above that are not covered by the application include any area that is, or was, subject to any of the following acts as defined in the Native Title Act 1993 (Cth) or the Native Title (South Australia) Act 1994 (SA);

i. Category A past act;

ii Category A intermediate period act;

iii. Category B past act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights and interests.

iv. Category B intermediate period act that is wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests.

v. All areas in relation to which a previous exclusive possession act has been done, other than an act that is an 'excepted act' as defined in section 36F Native Title (South Australia) Act 1994 (SA).

(3) Notwithstanding anything contained elsewhere in this application, the area covered by the application includes

i any area in relation to which the non-extinguishment principle (as defined in section 238 of the Native Title Act 1993 (Cth)) applies, and

ii any area to which section 47, 47A or 47B of the Native Title Act 1993 (Cth) applies.

Particulars of these areas will be provided prior to the hearing but any areas as may be listed in Schedule L is included in the area covered by the application.

(4) Where there is any discrepancy between the written description contained in this schedule and in Attachment B and the map provided at Attachment C, the written description will prevail.

Attachments: 1. Attachment B Description of the application area, 2 pages - A4, 30/09/2015
2. Attachment C Map of the application area, 1 page - A4, 30/09/2015

NNTT Contact Details **Address:** National Native Title Tribunal
Sydney Office
Level 14, Law Courts
Queens Square
SYDNEY NSW 2000

GPO Box 9973
SYDNEY NSW 2001

Telephone: +61 2 9227 4000
Freecall: 1800 640 501
Fax: +61 8 9425 1193
Web Page: www.nntt.gov.au

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