



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: QUD777/2019
NNTT number: QC2019/003

Application name: Ernest Michael Hoolihan & Ors on behalf of Gugu Badhun #3 v State of Queensland (Gugu Badhun People #3)

Registration History: Registered from 6/03/2020

Register Extract (pursuant to s. 186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 17/12/2019

Date claim entered on Register: 06/03/2020

Applicants: Ernie Hoolihan, Harry Gertz, Narda Kennedy, Hazel Illin, Elsie Thompson

Address for service: Cheryl Thomson
North Queensland Land Council
Level 1, 19 Stanley Street
Townsville QLD 4810
Phone: 07 4421 5700
Fax: 07 4421 5717

Additional Information:

Not Applicable

DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Area covered by the application

1. The area covered by the application (claim area) comprises all the parcels of land and waters and all other land and waters which are within the area described at Attachment B, and shown on the map in Attachment C; and which are not excluded by paragraph 2.

Areas not covered by the application

2. The following areas within the claim area, if any, are not covered by the application, except where any

extinguishment by the acts mentioned is required to be disregarded by sections 47, 47A or 47B of the Native Title Act 1993 (Cth):

3. (a) any area that, when the application is made, is subject to any of the following kinds of acts as they are defined in either the Native Title Act 1993 (Cth), as amended (where the act in question is attributable to the Commonwealth) or the Native Title (Queensland) Act 1993 (Qld), as amended (where the act in question is attributable to the State of Queensland);

(i) Category A past acts;

(ii) Category A intermediate period acts;

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

(iv) Category B intermediate period acts that are wholly inconsistent with the continued existence of any native title rights and interests;

(b) Any area in relation to which a previous exclusive possession act as defined by section 23B (including section 23B (7)) of the Native Title Act 1993 (Cth) was done in relation to the area and the act was attributable to the Commonwealth.

(c) Any area in relation to which a previous exclusive possession act, as defined by the Native Title (Queensland) Act 1993 (Qld), was done in relation to the area and the act was attributable to the State of Queensland.

(d) Any areas where native title rights and interests have otherwise been wholly extinguished, more particularly, any area where there has been:

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

(ii) a public work as defined in section 253 of the Native Title Act 1993 (Cth), where such construction or establishment was commenced on or before 23 December 1996; or

(iii) an existing dedicated public road.

PERSONS CLAIMING TO HOLD NATIVE TITLE:

The Gugu Badhun native title claim group is comprised of the descendants (including through adoption or raising up in accordance with traditional law and customs) of the following apical ancestors:

(a) Bella, mother of Harry Goetz, Cissie McDowall, and Albert Brown;

(b) Lucy Shaw, mother of Richard Hoolihan, Mosley Dickman, and Jimmy Dickman;

(c) King Lava, father of Mariah Saddler;

(d) Nellie Rankin;

(e) Charlie Burdekin, father of Frank Burdekin, William Burdekin, Ernest Burdekin, Gertrude Burdekin, and Peter McDowell;

(f) Nancy Jordan, also known as Nancy Rose Lee and Nancy Ah Sam, wife of Harry Goetz;

(g) Nora Lee, also known as Laura and Laula, wife of Charlie Burdekin;

(h) Ceasar Murray;

(i) Minnie Tiger, also known as Big Minnie; and

(j) Skinny Minnie.

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 06/03/2020

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 or where any extinguishment is required to be disregarded; and

2. Where this paragraph applies the rights possessed under traditional law and customs is properly interpreted as, and the native title right recognised by the common law of Australia is, the right of possession, occupation, use and enjoyment of 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 [4] applies, the right possessed under traditional law and customs is properly interpreted as the right of possession, occupation, use and enjoyment of land and waters as against all others, but the native title rights and interests recognised by the common law of Australia are the rights to do all such things as may be done under the right referred to in paragraph [2] save for controlling the access to or use of land or waters by others; being the (non-exclusive) rights to:
 1. (a) have access to, remain on and use the land and waters;
 2. (b) access and take for any purpose the resources of the land and waters; and
 3. (c) protect places, areas and things of traditional significance on the land and waters.

Area covered by the native title and who holds the rights

5. Each of the native title rights referred to in 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 law and custom, as further described in paragraphs [2] and [3] in Schedule F.

Activities currently carried on

6. Activities in the exercise of the native title rights 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 subject to laws of Australia

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 and the State of Queensland including the common law.

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

More information is provided for the purposes of Schedule E in Schedules F, G and M to meet the requirements of ss62(2)(d) to (f) and 190B(5), (6) and (7) of the Native Title Act.

REGISTER ATTACHMENTS:

1. External Boundary Description, Attachment B of the application, 2 pages - A4, 17/12/2019
2. Map of Claim Area, Attachment C of the application, 1 page - A4, 17/12/2019

Note: The Register of Native Title Claims may, in accordance with s. 188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.