



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD6033/2002
NNTT number: QC2002/035

Application Name: Scott Gorringe & Ors on behalf of Mithaka People v State of Queensland & Ors (Mithaka People)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 28/11/2002

Current status: Full Approved Determination - 27/10/2015

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: 24/12/2002

Registration decision status: Accepted for registration

Registration history: Registered from 24/12/2002 to 29/10/2015,

Date claim / part of claim determined: 27/10/2015

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Additional Information

Not applicable

Persons claiming to hold native title:

The Mithaka People are Aboriginal people who:

1. are the descendants of one or more of the following people:

- (a) Nangkaliya (alternatively spelled "Nuncleer")
- (b) Katie/Kitty Wallerina (also known as Kathleen Mallyer and Kathleen Thompson);
- (c) Njira Taffy;
- (d) Mingelli Joe (also known as Joe St Clair / Mentuli / Minchoolie / Mintulee / Joe the Rainmaker);
- (e) Maggie (sister of Mingelli Joe);
- (f) Donald Morney;
- (g) Bunbili;
- (h) Jacky Frew;
- (i) Pantya-Wanku-Ngawiranha;
- (j) Tyuka-Putali;
- (k) Cameron Downs;
- (l) Puthi (also known as Frank);
- (m) Natkillie Billy;
- (n) Warinyawarinyi (also known as Jacky),

2. Identify themselves as Mithaka People.

Native title rights and interests claimed:

The Mithaka People are entitled, under traditional laws acknowledged and customs observed, to exercise native title rights and interests in relation to the area claimed which include as follows:

(1) The native title rights and interests claimed by the native title claim group in relation to the land and waters in the area claimed are the rights and interests -

- (a) to make decisions about the use and enjoyment of the area;
- (b) to reside on the area;
- (c) to have access to [and] within the area;
- (d) to control the access of others to the area;
- (e) to use and enjoy [the] resources of the area;
- (f) to control the use and enjoyment by others of the resources of the area;
- (g) to share, exchange and trade in the resources of the area;
- (h) to a proportion of any resources taken by others from the area;
- (i) to exclude others from places of importance on the area;
- (j) to maintain objects and places of importance on the area;
- (k) to protect objects and places of importance on the area;
- (l) to carry out and maintain burials of deceased members of the native title claim group on the area;
- (m) to maintain the traditional laws and customs by which the native title claim group has a connection with the area, where such laws and customs relate to the control of access to and use of the area;
- (n) to determine and regulate membership of, and recruitment to, the native title claim group.

(2) The native title claim group acknowledges that -

- (a) their native title rights and interests are subject to all valid and current laws of the Commonwealth, South Australia and Queensland;
- (b) the exercise of their native title rights and interests might be regulated, controlled, curtailed, restricted, suspended or postponed by reason of the existence of valid concurrent rights and interests in others by or under such laws;
- (c) native title rights and interests may have been partially extinguished by relevant valid laws of the Commonwealth, New South Wales, South Australia and Queensland.

(3) Subject to Schedule L, the Applicant does not in this application claim any native title rights and interests which have been validly extinguished under laws of the Commonwealth, New South Wales, South Australia or Queensland, including the common law, including the following native title rights and interests:

- (a) to exclude others from places of importance on the area;
- (b) to control the access of others to the area.

(4) Subject to Paragraphs (2) and (3) above, all rights and interests listed in Paragraph (1) above exist (and existed) throughout the whole of the area claimed.

(5) The native title rights and interests are held communally by all members of the Mithaka People, albeit that -

(a) the capacity of individuals to exercise these rights and interests will vary according to a variety of circumstances, for example, age, gender, and physical and mental capacity;

(b) Some sub-groups or families of the Mithaka People are closely associated with specific parts of the area claimed;

(c) by traditional laws and customs, responsibility for the area claimed is exercised by different individuals in different ways.

(6) The activities referred to in Schedule G are enjoyed by the claimants, and derive from their native title and are consistent with their native title rights and interests.

Application Area:

State/Territory: Queensland

Brief Location: S/W Qld around Haddon Corner

Primary RATSIB Area: Southern and Western Queensland Region

Approximate size: 33753.2047 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.

1. The area covered by the application excludes any land and waters that is or has been covered by:

a) a scheduled Interested;

b) a freehold estate;

c) a 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 Queensland.

4. Subject to paragraph 6, where the act specified in paragraphs 1, 2 and 3 falls within the provisions of:

(a) S.23B(9) - Exclusion of acts benefiting Aboriginal Peoples or Torres Strait Islanders;

(b) S.23B(9A) - Establishment of a national park or state park;

(c) S.23B(9B) - Acts where legislation provides for non-extinguishment;

(d) S.23(9C) - Exclusion of Crown to Crown grants; and

(e) S.23(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:

(a) S.47 - Pastoral leases etc covered by claimant application;

(b) S.47A - Reserves etc covered by claimant application;

(c) 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 claimed have been otherwise extinguished.

Attachments:

1. External boundary description, Attachment B of the Application, 3 pages - A4, 01/10/2015
2. Map of claim area, Attachment C of the Application, 1 page - A4, 01/10/2015

End of Extract