



NATIONAL NATIVE TITLE TRIBUNAL

Application Information and Extract from the Register of Native Title Claims

Application Information

Application numbers: Federal Court number: QUD6003/03
NNTT number: QC03/3

Application name: Djiru People #2

Registration history: Registered from 20/08/2003.

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

Application filed with: Federal Court of Australia

Date application filed: 07/03/2003

Date claim entered on Register: 20/08/2003

Applicants: Dawn Hart, John Clumpoint, Charity Ryan, Beryl Buller, Rae Kelly,
Margaret Murray, John Andy

Address for service: Principal Legal Officer
North Queensland Land Council
Native Title Representative Body Aboriginal Corp.
PO Box 679N
CAIRNS NORTH QLD 4870
Phone: 07 4031 4779
Fax: 07 4031 9489

Additional Information:

Not Applicable

Area covered by the claim:

The area covered by the application comprises:-
The following parcels of land and waters:-



1. National Park:

113NPW631 Hull River National Park, 115NPW502 Clump Mountain National Park, 1445NPW191 Maria Creek National Park, 112NR6007, 301NR1612, 302NR1612.

2. State Forest:

190AP6366, 1137AP6378, Part of 758AP6343, Part of 757AP6355, 2099AP6367.

3. Reserve:

999SP110735, 76RP748823, 3CWL3280, 7CWL3281, 64RP748555, 9RP890837, 802SP109000, 631CP886382, 3SP125433, 414S8833, 417S8833, 701S8833, 111CP846526, 1SP125433, 3SP125434, 4SP125434, 5SP125434, 7SP125434, 10RP849823, 652CWL2983, 998RP893464, 999RP893464, 617CWL3370, 99CP886379, 5RP740956, 801SP110366, 109CWL3519, 11NR7307, 5NR7162, 999RP898592, 100NR7374, 1SP128829, 48CP819031, 269CP862648, 270CP862648, 535NR6870, 532NR6862, 541SP136928, 540NR7350, 550NR7351, 487NR5180, 542SP136929, 556NR6580, 61RP807818, 9NR7335, 555NR6448, 451NR4272, 543NR6994, 544NR6994, 109NR2085, 480CP881723, 64NR4624, 135NR2304, 134NR2304, 198NR7854, 907E72910, 908E72910, 909E72910, 910E72910, 113E7291, 601E7298, 16NR7309, 129NR4284, 557NR6433, 52NR6006, 705E7295, 563NR1502, 10NR7685, 8RP745464, 306NR2305, 366NR839145, 367NR839146, 560CWL1993

4. Land Lease:

1AP5929, A AP5929, B AP5929, 1SP131190.

5. 6NR5195

Within the external boundary of the claim area as set out on the map attached as Schedule C and described as follows:- commencing at a point on the Australian Coastline south of the town of Kurrimine, being the mouth of North Maria Creek coincident with the most southern point of Native Title Claimant Application Q6014/01 Mamu People (as at 1 February 2003) and extending in a southerly direction following the high water mark along the coastline to the westernmost corner of Lot 550NR7351 then north easterly south easterly and south westerly along the boundary of that lot until it again meets the high water mark along the coastline to the mouth of the Hull River at Longitude 146.088983 East.

Then follow the centreline of the Hull River, north westerly to the southernmost point of Lot 163USL42248, and onwards to the northernmost point of that lot. Then following the centreline of the Hull River generally north westerly, to its intersection with Carmoo Creek, and onwards to the southwest corner of Lot 646 on Plan CAR124226.

Then north westerly to the easternmost corner of Lot 1 on Plan RL5274. Then north easterly to the southernmost corner of Lot 2099 on Plan AP6367. Then north westerly to Longitude 145.978049. East on the south eastern boundary of State Forest Lot 758 on Plan AP6343.

Then northerly to the source of the North Maria Creek coincidental with the southern boundary of Native Title Claimant Application Q6014/01 Mamu People (as at 1 February 2003). Then generally easterly, along the centreline of the North Maria Creek coincidental with the southern boundary of Native Title Claimant Application Q6014/01 Mamu People (as at 1 February 2003), back to the commencement point.

But excludes:-

6. Any area covered by:-

- (a) a scheduled interest;
- (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 community purpose lease;
- (f) a residential lease;
- (g) a lease dissected from a mining lease and referred to in section 23B(2)(c)(vii); or



(h) any lease (other than a mining lease) that confers a right of exclusive possession over particular land or waters;

which was validly granted or vested on or before 23 December 1996;

7. Any area covered by the valid construction or establishment of any public work, where the construction or establishment of the public work commenced on or before 23 December 1996;

8. Any area where the native title rights and interests claimed have otherwise been extinguished;

Provided that:-

9. Where the acts specified in clauses 6,7 or 8 fall within the provisions of:-

(a) S.23B(9), S.23B(9A), S.23B(9B), S.23B(9C) or S.23B(10); or

(b) S.47, S.47A or S47B,

then the area covered by the act is not excluded from this application.

Persons claiming to hold native title:

Identity of the Native Title Claim Group

The Native Title claim group is known to itself and all neighbouring Aboriginal groups as Djiru. The claim group is often referred to as the Mission Beach/Clumpoint mob, after the English names of significant cultural areas in their traditional country. The claim group is continuous both in terms of descent, and in terms of continuous transmission of the Djiru identity from the group of the same name recorded in and around the claim area late last century, and in various written sources since.

Membership of the Native Title Claim Group

The current membership of the claim group is identified by the principle of cognatic descent (descent traced through either one's father or one's mother). Descent is traced from a limited set of persons recognised in the regional Aboriginal community as associated with the Djiru/Mission Beach/Clumpoint identity, including the claim area, at the time of European occupation. By these descent principles, the current membership of the claim group consists of descent groups listed by their surnames, together with the apical ancestors from who they trace their descent.

The CLUMPOINT, GEIA, SPENCER, NONA AND SARABO family groups being the descendants of Polly Illich and her descendants Bidy Illich, Paddy Illich and Major Clumpoint.

The MASINA, ANDY, MOW, MOONER, ASSAN AND RYAN Family groups being the descendants of siblings Minnie (Buynoo), Rosie (Koojilun), Maggie and Kitty Nguyam.

The BARNEY, DICKMAN, AND THAIDAY family groups being the descendants of Toby King and Nellie and their son Barney King.

The PALMER, OBAH family groups being the descendants of Lucy Palmer and her children, Alf Palmer, Daisy Obah and Daphne Palmer.

The NULLAJAR family group being the descendants of Bobby Nullajar and his son, Mick Nullajar.

The PARKER family group being the descendants of Charlie Mungoola (also known as Charlie Mungalla).

, The BANFIELD, BONNER, THIMBLE, PICKLES family group being the descendants of Jimmy Banfield and his mother.

And includes persons adopted by any of those descendants according to the traditional laws and customs of the claim group.



Registered native title rights and interests:

The following Native Title Rights & Interests were entered on the Register on 20/08/2003:

A. The following rights and interests can be established prima facie pursuant to s.190B(6) in areas where a claim to exclusive possession can be sustained.

(a) possession, occupation, use, and enjoyment of the claimed area as against the whole world

B. In areas where a claim to exclusive possession cannot be sustained, i.e., where the claim is non-exclusive, the following native title rights and interests only have been established prima facie pursuant to s.190B(6):

The rights to have access to and use the claim area and its natural resources including to:

- (i) maintain and use the claim area;
- (ii) conserve the natural resources of the claim area;
- (iii) protect the claim area and the natural resources of the claim area for the benefit of the native title holders;
- (iv) care for the claim area for the benefit of the native title holders;
- (v) use the claim area and the natural resources of the claim area for social, cultural, economic, religious, spiritual, customary and traditional purposes.

And more particularly to:

A reside on, camp on and travel across the land;

B exercise rights of use and disposal over the natural resources;

C exercise and carry out economic life on the claim area including the creation, growing, production, husbanding, harvesting and exchange of natural resources and that which is produced by the exercise of the native title rights and interests;

D discharge cultural, spiritual, traditional and customary rights, duties, obligations and responsibilities on, in relation to, and concerning the claim area and its welfare including to:

- preserve sights (sic) of significance to the native title holders and other Aboriginal people on the claim area;
- conduct secular, ritual and cultural activities on the claim area;
- conduct burials on the claim area;
- maintain the cosmological relationship, beliefs, practices and institutions through ceremony and proper and appropriate custodianship of the claim area and special and sacred sites, to ensure the continued vitality of culture and the well being of the native title holders;
- inherit or dispose of native title rights and interests in relation to the claim area in accordance with custom and tradition;
- resolve disputes between the native title holders and other Aboriginal persons in relation to the claim area.

E construct and maintain structures for the purpose of exercising the native title.

The native title rights are subject to:

- (a) the valid laws of the State of Queensland and the Commonwealth of Australia;
- (b) the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State of Queensland

In relation to the rights and interests asserted:

- they do not operate exclusive of the Crown's valid ownership of minerals, petroleum or gas;



- they are not exclusive rights or interests if they relate to waters in an offshore place; and
- they will not apply if they have been extinguished in accordance with valid State and Commonwealth laws.

Register attachments:

1. Map of Claim area , Attachment C of the Application, 1 page - A3, Attached 07/03/2003.

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

