



National
Native Title
Tribunal



Kowanyama ranger, Darren Birchley, in PonpeR wotaR (or Kokoberra Swamp).

Kowanyama People's native title determination

Far north Queensland
22 October 2009

The Kowanyama People's rights

On 22 October 2009, the Federal Court of Australia made a consent determination recognising the Kowanyama People's native title rights over about 2,731sq km of land and waters in south-western Cape York, 460 km north-west of Cairns.

It is the first time the Kowanyama People's native title rights have been recognised under Australian law.

The consent determination settles one segment (Part A) of the Kowanyama People's 19,800sq km native title claim. The group has taken a three-staged approach to their pursuit of native title recognition with Parts B and C, the remaining segments of their claimed area, yet to be settled.

The Part A determination area is south of the Coleman River and north of Topsy Creek from the coastline of the Gulf of Carpentaria in the west to the Mitchell Alice Rivers National Park in the east and a coastal strip of sea and coastline from the Coleman River in the north to a point about 4.5 km south of the Staaten River in the south.

Exclusive native title rights recognised

The Federal Court has recognised the Kowanyama

People's exclusive native title rights over about 2,518sq km of Deed of Grant in Trust land in the claimed area. This means the native title holders have the right to possess, occupy, use and enjoy this area exclusively.

Non-exclusive native title rights recognised

The Kowanyama People's non-exclusive native title rights have been recognised over about 213sq km of sea, beach and tidal areas.

Their non-exclusive rights over the land areas include to:

- access, traverse and camp on the areas
- light fires for cultural, spiritual or domestic purposes
- take, use, share and exchange traditional natural resources for non-commercial, cultural, spiritual, personal, domestic or communal purposes
- maintain and protect places of importance and areas of significance under their traditional laws and customs.

Their non-exclusive rights to the water include to:

- hunt, fish and gather for non-commercial, cultural, spiritual, personal, domestic or communal purposes
- take and use the water for non-commercial cultural, spiritual, personal, domestic or communal purposes.

What the consent determination means

A determination is a decision by the Federal Court about whether native title exists in a claimed area. This consent determination followed agreement between the Part A parties to the Kowanyama People's native title claim. Given that the parties had reached an agreement, the Court made the determination after it was satisfied that the native title claimants had established their continuous connection to the determination area in accordance with their traditional laws and customs.

Respondent parties to Part A of the Kowanyama People's native title claim were:

- Commonwealth Government
- Queensland Government
- Kowanyama Aboriginal Shire Council
- Telstra
- commercial fishers, members of the Queensland Seafood Industry Association.

During negotiations the respondent parties agreed to recognise the Kowanyama People as the native title holders of the determination area. They also agreed on how their respective rights and interests would coexist with the native title rights.

Kowanyama trainee rangers Clive Charlie and Lynette Greenwool examining a map.



Stepping stones

1990

The Kowanyama Aboriginal Land and Natural Resource Management Office was established.

25 March 1997

The Kowanyama People lodged a native title application with the National Native Title Tribunal over 22,303sq km of land and waters in south-western Cape York.

25 March 1997–10 September 1999

The claim was registered with the National Native Title Tribunal.

24 December 2001

Following amendments to the Native Title Act 1993, the Tribunal applied the registration test to the claim, as required under the amended Act, and it was entered into the Tribunal's Register of Native Title Claims.

June 2008

The State Minister, Cape York Land Council (CYLC) and Federal Attorney-General agreed in-principle to further develop the CYLC's proposal to resolve the claim through a regional framework process.

20 August 2008

The Federal Attorney-General, Queensland Government and CYLC issued a joint communiqué about negotiations to resolve native title, tenure and related issues on a regional basis in the Cape, which confirmed the Kowanyama claim as a high priority.

4 September 2008

The Federal Court endorsed the proposed staged approach to resolve the claim.

From December 2008 to September 2009

The Kowanyama People established their Prescribed Body Corporate to work with their Kowanyama Aboriginal Land and Natural Resource Management Office. The Part A parties met and attended a series of mediation conferences convened by the Tribunal, which focused on the parties' interests.

30 September 2009

The Federal Court amended the native title claim's sea area, reducing the total claim area to 19,800sq km and confirmed listing of the claim for part determination by the Court in October 2009.

"It's a good thing that our native title rights have finally been recognised, and these are rights that we have been practising for years. I think it's fantastic—it makes us feel we are part of this country. It's something we should pass down to our future generations—it's ongoing."

Wendy Wust, Member of the Kowanyama group and Yir Yoront woman

"We're happy about this whole thing. It's good that it's been recognised by white man now. It's been a long time coming. We've known our traditional lore and our traditional land all our lives, growing up. I've got my track from my grandmother's place to my grandfather's place. I've been walking through my country with my bare feet. I'm proud that I've known all this land."

Priscilla Major, Kokoberra person, language name Maitr' Kiley, mother of Australian of the Year, Tania Major.

"The land and sea are very important to the Kowanyama People. We've been managing the land and country as much as we can now but it's good to see the determination so the traditional owners can take ownership and manage it properly."

Lesley Gilbert, Member of the Kowanyama group

Relationship between the native title rights and other rights

This consent determination recognises the Kowanyama People's native title rights and interests while protecting the rights of the other parties. If there are inconsistencies, the other parties' rights will take precedence over the native title rights.

All of the groups will exercise their rights in accordance with Federal and Queensland laws. The Kowanyama People will exercise their rights in accordance with their traditional laws and customs.

Managing the native title rights

The Abm Elgoring Ambung Aboriginal Corporation has been nominated as the prescribed body corporate to manage the Kowanyama People's native title rights and interests. The body is incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth). The work of the Kowanyama Aboriginal Land and Natural Resource Management Office continues, with staff having increased from two in 1990 to 14 in 2009.

Next stage for the Kowanyama People

The journey towards native title recognition is not over for the Kowanyama People. Now that they have achieved legal recognition of their native title rights to 2,731sq km of their claimed area (Part A), they will start negotiations with parties over the next stage of their claimed area, Part

B, which will include pastoral leases. The parties aim to settle native title over this area through another consent determination. The third and final stage of their claim area will be over the Kowanyama township area.

Map of determination area



Location of native title determination.

Further information

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The Tribunal welcomes feedback on whether this information was useful. Email Public Affairs with your comments and suggestions to enquiries@nntt.gov.au or telephone 08 9268 7268.

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Photos courtesy of the Kowanyama Aboriginal Land and Natural Resources Management Office.



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