



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD84/2004
NNTT Number: QCD2010/001

Determination Name: [Gangalidda and Garawa People v State of Queensland](#)

Date(s) of Effect: 23/06/2010

Determination Outcome: Native title exists in the entire determination area

Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

Determination Date: 23/06/2010

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

This determination finalises part of application QUD84/04. It was one of two consent determination made by the Federal Court on 23 June 2010 in respect of two separate Native Title Determination Applications brought by the Gangalidda and Garawa People. The other application which was part determined, QUD66/05 is also registered on this register. The question of the existence of native title in respect of the remainder of the areas in both applications and the Garawa Peoples' native title rights and interests is to be resolved at a later time. These areas remain registered on the Register of Native Title Claims.

REGISTERED NATIVE TITLE BODY CORPORATE:

Gangalidda and Garawa Native Title Aboriginal Corporation
RNTBC
Agent Body Corporate
c/- Carpentaria Land Council Aboriginal
Corporation, PO Box 71
BURKETOWN Queensland 4830

Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The Gangalidda People are all of the descendants of the following people:-

(1) Greg Thompson, Sophie Thompson, Ernest Thompson, Walter Thompson, Jimmy, Dawudawu Jimmy (King), Grant, George Nark Mirrabaliyajari, Bob Scoles Gunyarbadijarri, Lirragujarri, Bob Weber Milgalajarri, Maggie (or Minnie), Kitty, Kitty Wulnanda, Kitty Lirragujarri, Dolly, Old Nim, Stumpy Paddy, Mickey Charles, Barny Guldangara, Limilimilda, Johnny Balawayinda, Daisy Lirragawanjinda, Sandy, Gunalumbu, Ngarilgudu, Malurgudu, Myrna

Malalairunanda, Didmanja, Sandy, Garuwala and Charly (Gundirri/Ngarrguyumbu/Gulawi)

who identify and are identified by others as belonging to the Gangalidda People according to traditional law and custom.

"Descendants" for the purposes of this description includes those individuals who have been adopted by the Gangalidda People.

MATTERS DETERMINED:

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

1. Native title exists in relation to the area described in:

(a) Schedule 1A - which describes that part of the Determination Area in which there are exclusive native title rights and interests; and

(b) Schedule 2A - which describes that part of the Determination Area in which there are non-exclusive native title rights and interests;

and shown on the Determination Plan at Schedule 7A.

2. The parties to this determination have agreed that section 47A of the Native Title Act 1993 (Cth) applies to the areas described in Schedule 1.

3. Native title is held by the Gangalidda People ("the Native Title Holders") as described in Schedule 3A.

4. Subject to Orders 7, 8, 10 and 11, the nature and extent of the native title rights and interests in relation to that part of the Determination Area described and shown in Schedule 1A, other than in relation to the use and enjoyment of Water, is the right to possession, occupation, use and enjoyment of the Determination Area to the exclusion of all others.

5. Subject to Orders 7, 8, 9, 10 and 11, the nature and extent of the native title rights and interests in relation to that part of the Determination Area described and shown in Schedule 2A, other than in relation to the use and enjoyment of Water, are non-exclusive rights:

(a) to access, to be present on and to traverse the area;

(b) to hunt, fish and gather on the area for personal, domestic, and non-commercial communal purposes;

(c) to take and use Natural Resources from the area for personal, domestic, and non-commercial communal purposes;

(d) to camp on the area but not to reside permanently or to erect permanent structures or fixtures;

(e) to light fires on the area for domestic purposes including cooking but not for the purposes of hunting or clearing vegetation;

(f) to conduct religious and spiritual activities and ceremonies on the area;

(g) to be buried on, and bury Native Title Holders on the area

(h) to maintain places and areas of importance or significance to the Native Title Holders under their traditional laws and customs and protect those places and areas, by lawful means, from physical harm; and

(i) to share or exchange Natural Resources from the area for personal, domestic, and non-commercial communal purposes.

6. Subject to Orders 7, 8, 9, 10 and 11, the nature and extent of the native title rights and interests in relation to the use and enjoyment of Water within the Determination Area are non-exclusive rights:

(a) to hunt and fish in and on and gather from the Water for personal, domestic, and non-commercial communal purposes; and

(b) to take, use and enjoy the Water for personal, domestic and non-commercial communal purposes.

7. There are no native title rights or interests in or in relation to minerals as defined by the Mineral Resources Act 1989 (Qld) and petroleum as defined by the Petroleum Act 1923 (Qld) and the Petroleum and Gas (Production and

Safety) Act 2004 (Qld).

8. The native title rights and interests are subject to and exercisable in accordance with:

(a) the Laws of the State and the Commonwealth; and

(b) the traditional laws acknowledged and traditional customs observed by the Native Title Holders.

9. The native title rights and interests in relation to that part of the Determination Area described in Schedule 2A do not confer possession, occupation, use and enjoyment of the area on the Native Title Holders to the exclusion of all others.

10. The nature and extent of other interests in relation to the Determination Area are the rights and interests described in Schedule 4A ("the Other Interests") that are current at the date of this determination.

11. The relationship between the native title rights and interests and the Other Interests identified and described in Schedule 4A is that:

(a) the Other Interests continue to have effect;

(b) in areas where section 47A of the Native Title Act 1993 (Cth) applies, and prior extinguishment is disregarded in accordance with section 47A(2) of the Native Title Act 1993 (Cth), the non-extinguishment principle in section 238 of the Native Title Act 1993 (Cth) applies to any prior interest in relation to the area in accordance with section 47A(3)(b) of the Native Title Act 1993 (Cth); and

(c) the Other Interests, and any activity that is required or permitted by or under and done in accordance with the Other Interests, prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them except in accordance with law.

12. Pursuant to section 56 of the Native Title Act 1993 (Cth), the Court determines that native title is not held in trust.

13. The Gangalidda and Garawa Native Title Aboriginal Corporation ICN 7365, incorporated under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth), is to:

(a) be the prescribed body corporate for the purposes of sections 56, 57(2) and 57(3) of the Native Title Act 1993 (Cth);

(b) not hold the native title in trust;

(c) act as agent for the Gangalidda People who are the common law holders of the native title rights and interests; and

(d) perform the functions set out in the Native Title Act 1993 (Cth) and the Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth).

DEFINITIONS AND INTERPRETATIONS

14. The words and expressions used in this determination have the same meanings as they have in Part 15 of the Native Title Act 1993 (Cth) except for the following defined words and expressions:

"Determination Area" means the land and waters within the area described in Schedule 1A and Schedule 2A and shown on the Determination Plan at Schedule 7A.

"Laws of the State and the Commonwealth" means the common law and the laws of the State and the Commonwealth of Australia, and includes regulations, statutory instruments, local planning instruments and local laws;

"Natural Resources" means

(a) "animals" as defined in the Nature Conservation Act 1992 (Qld), but not including animals that are the private personal property of another;

(b) "plants" as defined in the Nature Conservation Act 1992 (Qld) but not including crops grown on a Crown lease by a lessee; and

(c) any clay, soil, sand, gravel, or rock on or below the surface of the Determination Area but does not include minerals as defined in the Minerals Resources Act 1989 (Qld) or petroleum as defined in the Petroleum Act 1923 (Qld) and the Petroleum and Gas (Production and Safety) Act 2004 (Qld).

"Water" has the meaning that it has in the Water Act 2000 (Qld).

SCHEDULE 1A

Description of that part of the Determination Area where exclusive native title rights and interests are recognised.

All the land and waters that comprise:

- (1) Lot 4711 on PH1677 ('Tarrant Pastoral Holding');
- (2) Lot 2523 on PH 1675 ('Brokera Pastoral Holding');
- (3) Lot 4712 on PH1678 ('Bundella Pastoral Holding');
- (4) Part Lot 4601 on PH1676 ('Part Troutbeck Pastoral Holding'); and
- (5) Lot 1 on PK3 ('Former Old Doomadgee Reserve'),

but excluding the area identified in Schedule 5A.

SCHEDULE 2A

Description of that part of the Determination Area where non-exclusive native title rights and interests are recognised.

All the land and waters that comprise:

- (1) Part Lot 118 on PC41 (part Escott Pastoral Holding),

but excluding the areas identified in Schedules 5A and 6A.

SCHEDULE 3A

Description of the Gangalidda People

The Gangalidda People are all of the descendants of the following people:-

- (1) Greg Thompson, Sophie Thompson, Ernest Thompson, Walter Thompson, Jimmy, Dawudawu Jimmy (King), Grant, George Nark Mirrabaliyajari, Bob Scoles Gunyarbadjarri, Lirragujarri, Bob Weber Milgalajarri, Maggie (or Minnie), Kitty, Kitty Wulnanda, Kitty Lirragujarri, Dolly, Old Nim, Stumpy Paddy, Mickey Charles, Barny Guldangara, Limilimilda, Johnny Balawayinda, Daisy Lirragawanjinda, Sandy, Gunalumbu, Ngarilgudu, Malurgudu, Myrna Malalairunanda, Didmanja, Sandy, Garuwala and Charly (Gundirri/Ngarrguyumbu/Gulawi)

who identify and are identified by others as belonging to the Gangalidda People according to traditional law and custom.

"Descendants" for the purposes of this description includes those individuals who have been adopted by the Gangalidda People.

SCHEDULE 4A

Other Interests

The nature and extent of other interests in relation to the Determination Area are those rights and interests current at the date of this determination which comprise the following:

- (1) The rights and interests of Andrew William Jesse Daniels, Samuel Donald James Daniels and Gabrielle Kennedy as lessees under PH 08/5488, over Lot 118 on PC41 ('Escott Pastoral Holding').

- (2) The rights and interests of Telstra Corporation Limited:

- (a) as the owner or operator of telecommunications facilities installed within the Determination Area;
- (b) as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);

- (c) created pursuant to the Post and Telegraph Act 1901 (Cth), the Telecommunications Act 1975 (Cth), the Australian Telecommunications Corporation Act 1989 (Cth), the Telecommunications Act 1991 (Cth) and the Telecommunications Act 1997 (Cth), including:

(i) rights in relation to installed cabling, customer terminal sites and ancillary facilities; and

(ii) the rights of its employees, agents or contractors to enter the Determination Area in the performance of their duties, to access its telecommunications facilities in, and in the vicinity of, the Determination Area.

3. The rights and interests of the grantee and others under the Deed of Grant in Trust dated 4 August 1994, being Title Reference No 18795020 comprising Lot 1 on PK3 ("the Gurriddi Traditional Land Trust");

4. The rights and interests of the Gangalidda Aboriginal Corporation as an entity exercising statutory powers in respect of the Gurriddi Traditional Land Trust, in particular, pursuant to the Community Services (Aborigines) Act 1984 (Qld) and the Aboriginal and Torres Strait Islander (Land Holding) Act 1985 (Qld).

5. The rights and interests of the Carpentaria Land Council Aboriginal Corporation as lessee of Lot 4711 on PH1677 ('Tarrant Pastoral Holding'), Lot 2523 on PH 1675 ('Brokera Pastoral Holding'), Lot 4712 on PH1678 ('Bundella Pastoral Holding'), and Part Lot 4601 on PH1676 ('Part Troutbeck Pastoral Holding').

6. The rights and interests of Burke Shire Council and Doomadgee Shire Aboriginal Council under their local government jurisdiction and functions under the Local Government Act 1993 (Qld) and any other legislation, for that part of the Determination Area within the areas declared to be the Councils' local government areas under the Local Government (Areas) Regulation 2008, including any rights and interests they or their employees or agents have to enter land to perform those functions.

7. The rights and interests of the holders of any leases, licences, permits or authorities granted under the Forestry Act 1959 (Qld) as may be current at the date of this determination.

8. Any other interests held by or under the Crown or by the force and operation of the Laws of the State and the Commonwealth as may be current at the date of this determination.

SCHEDULE 5A

Description of areas the subject of previous exclusive possession acts and thus wholly excluded from the determination area

The following areas are wholly excluded from the determination area on the grounds that they have been the subject of a previous exclusive possession act (defined in section 23B of the Native Title Act 1993 (Cth)) and in accordance with section 61A of the Native Title Act 1993 (Cth) cannot be claimed:

(1) the land or waters on which any public work (defined in section 253 of the Native Title Act 1993 (Cth)) that is a previous exclusive possession act (defined in section 23B of the Native Title Act 1993 (Cth)) was, on or before 23 December 1996, constructed or established, including (in accordance with section 251D of the Native Title Act 1993 (Cth)) any adjacent land the use of which is or was necessary for, or incidental to, the construction, establishment or operation of the work.

SCHEDULE 6A

Other areas excluded

The following areas are wholly excluded from the Determination Area on the grounds that native title has been extinguished and cannot be claimed:-

(a) Those areas of land or waters within the Crown Lease referred to in Item 1 of Schedule 2A on which any permanent improvement consisting of:

(i) a house, shed or other outbuilding;

(ii) an airstrip;

(iii) a constructed dam or any other constructed stock watering point, bore, turkey nest, squatters' tank or other water storage facility; or

(iv) stock yards or traps yards,

that at the date of the determination have been constructed (including any adjacent land the exclusive use of which is reasonably necessary for the enjoyment of the improvement) in accordance with the rights of the lessee under the Crown Lease.

SCHEDULE 7 A

The Determination Plan

(See NNTR Attachment 1: "Schedule 7A - The Determination Plan")

REGISTER ATTACHMENTS:

1. Attachment 1 - Schedule 7A - The Determination Plan, 2 pages - A4, 23/06/2010

Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.