



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD29/2019
NNTT Number: QCD2020/002

Determination Name: [George on behalf of the Gkuthaarn and Kukatj People v State of Queensland](#)

Date(s) of Effect: 29/09/2020

Determination Outcome: Native title exists in parts of the determination area

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

Determination Date: 29/09/2020

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Gkuthaarn and Kukatj Aboriginal Corporation
Agent Body Corporate
PO Box 6662
CAIRNS Queensland 4870

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:

4. The native title is held by the Gkuthaarn and Kukatj People described in Schedule 1 (the **Native Title Holders**).

SCHEDULE 1 – NATIVE TITLE HOLDERS

1. The Native Title Holders are the Gkuthaarn and Kukatj People. The Gkuthaarn and Kukatj People are the biological descendants of one or more of the following people including those who have been adopted by them and their descendants in accordance with Gkuthaarn and Kukatj traditional law and custom:

- (a) Sisters Nellie, Rosie, Alice and Mabel;
- (b) Paddy and Lucy;
- (c) Louie Richards;

- (d) Harry Hayes;
- (e) Maggie Kukatj and Charlie B;
- (f) Joker Jack;
- (g) Jock Inverleigh (also known as Inverleigh Jock).

MATTERS DETERMINED:

BY CONSENT THE COURT ORDERS THAT:

1. There be a determination of native title in the terms set out in Attachment A.

ATTACHMENT A

DETERMINATION

1. The determination area is the land and waters described in Schedule 4 and depicted in the maps attached to Schedule 6 to the extent those areas are within the External Boundary and are not otherwise excluded by the terms of Schedule 5 (the **Determination Area**). To the extent of any inconsistency between the written description and the maps, the written description prevails.

2. Native title exists in relation to that part of the Determination Area described in Parts 1 and 2 of Schedule 4 and depicted in green in the maps attached to Schedule 6.

3. Native title does not exist in relation to that part of the Determination Area described in Part 3 of Schedule 4 and depicted in orange in the maps attached to Schedule 6.

4. The native title is held by the Gkuthaarn and Kukatj People described in Schedule 1 (the **Native Title Holders**).

5. Subject to paragraphs 7, 8 and 9 below, the nature and extent of the native title rights and interests in relation to the land and waters described in Part 1 of Schedule 4 are the non- exclusive rights to:

- (a) access, be present on, move about on and travel over the area;
- (b) camp, and live temporarily on the area as part of camping, and for that purpose build temporary shelters;
- (c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (d) take Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (e) take Water of the area for personal, domestic and non-commercial communal purposes;
- (f) conduct ceremonies on the area;
- (g) be buried and bury Native Title Holders within the area;
- (h) maintain places of importance and areas of significance to the Native Title Holders under their traditional laws and customs and protect those places and areas from physical harm;
- (i) teach on the area the physical and spiritual attributes of the area; and
- (j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

6. Subject to paragraphs 7, 8 and 9 below, the nature and extent of the native title rights and interests in relation to the land and waters described in Part 2 of Schedule 4 are the non- exclusive rights to:

- (a) access, be present on, move about on and travel over the area;
- (b) camp, and live temporarily on the area as part of camping, and for that purpose build temporary shelters;
- (c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;

(d) take Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;

(e) take Water of the area for personal, domestic and non-commercial communal purposes;

(f) conduct ceremonies on the area;

(g) maintain places of importance and areas of significance to the Native Title Holders under their traditional laws and customs and protect those places and areas from physical harm;

(h) teach on the area the physical and spiritual attributes of the area; and

(i) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

7. 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.

8. The native title rights and interests referred to in paragraphs 5 and 6 do not confer possession, occupation, use or enjoyment to the exclusion of all others.

9. There are no native title rights 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).

10. The nature and extent of any other interests in relation to that part of the Determination Area (or respective parts thereof) which does not include Part 3 of Schedule 4, are set out in Schedule 2.

11. The relationship between the native title rights and interests described in paragraphs 5 and 6 and the other interests described in Schedule 2 (the **Other Interests**) is that:

(a) the Other Interests continue to have effect, and the rights conferred by or held under the Other Interests may be exercised notwithstanding the existence of the native title rights and interests;

(b) to the extent the Other Interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests in relation to the land and waters of the Determination Area, the native title continues to exist in its entirety but the native title rights and interests have no effect in relation to the Other Interests to the extent of the inconsistency for so long as the Other Interests exist; and

(c) the Other Interests and any activity that is required or permitted by or under, and done in accordance with, the Other Interests, or any activity that is associated with or incidental to such an activity, prevail over the native title rights and interests and any exercise of the native title rights and interests.

12. The native title is not held in trust.

13. The Gkuthaarn and Kukatj Aboriginal Corporation (ICN: 8895), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:

(a) be the prescribed body corporate for the purpose of s 57(2) of the *Native Title Act 1993* (Cth); and

(b) perform the functions mentioned in s 57(3) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

DEFINITIONS AND INTERPRETATION

14. In this determination, unless the contrary intention appears:

"Current Roads" means an area of land whether surveyed or un-surveyed, not on private property that is currently dedicated, notified or declared to be a road for public use or is currently maintained by the State or the Carpentaria Shire Council as a road for public use which includes:

(a) a street, esplanade, reserve for esplanade, highway, pathway, thoroughfare, track or stock route;

(b) a bridge, causeway, culvert or other works in, on, over or under a road; and

(c) any part of a road;

not on private property;

"External Boundary" means the area described in Schedule 3;

"High-water Mark" means the ordinary high-water mark at spring tides;

"land" and "waters", respectively, have the same meanings as in the *Native Title Act 1993* (Cth);

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

"Low-water Mark" has the meaning given in the *Land Act 1994* (Qld);

"Natural Resources" means:

(a) any animal, plant, fish and bird life found on or in the lands and waters of that part of the Determination Area described in Part 1 and Part 2 of Schedule 4; and

(b) any clays, soil, sand, gravel or rock found on or below the surface of that part of the Determination Area described in Part 1 and Part 2 of Schedule 4,

that have traditionally been taken and used by the Native Title Holders, but does not include:

(a) animals that are the private personal property of another;

(b) crops that are the private personal property of another;

(c) minerals as defined in the *Mineral Resources Act 1989* (Qld); or

(d) petroleum as defined in the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

"Southern Area" is defined in Part 3(a) of Schedule 4;

"Water" means:

(a) water which flows, whether permanently or intermittently, within a river, creek or stream;

(b) any natural collection of water, whether permanent or intermittent;

(c) to the extent that it exists in that part of the Determination Area described in Part 1 and Part 2 of Schedule 4 water from an underground water source; and

(d) tidal water.

Other words and expressions used in this determination have the same meanings as they have in Part 15 of the *Native Title Act 1993* (Cth).

REGISTER ATTACHMENTS:

1. Schedule 2 - Other interests in the determination area, 4 pages - A4, 29/09/2020
2. Schedule 3 - External boundary, 2 pages - A4, 29/09/2020
3. Schedule 4 - Description of determination area, 93 pages - A4, 29/09/2020
4. Schedule 5 - Areas not forming part of the determination area, 2 pages - A4, 29/09/2020
5. Schedule 6 - Maps of determination area, 57 pages - A4, 29/09/2020

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.