



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD483/2015
NNTT Number: QCD2022/009

Determination Name: [Rainbow on behalf of the Kurtjar People v State of Queensland \(No 3\)](#)

Date(s) of Effect: 26/07/2022

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 26/07/2022

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Mpundwithal Aboriginal Corporation
Agent Body Corporate
C/- HWL Ebsworth Lawyers
Level 19, 480 Queen Street
Brisbane Queensland 4001

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:

5. The native title is held by the Kurtjar People described in Schedule 1 (the “**Native Title Holders**”).

SCHEDULE 1

NATIVE TITLE HOLDERS

1. The Native Title Holders are the Kurtjar People. The Kurtjar People are the Descendants of one or more of the following people, and who identify, and are identified by other Kurtjar people, as belonging to the Kurtjar People according to Kurtjar traditional law and custom:

- (a) Kangaroo;
- (b) Nellie;
- (c) Maggie;
- (d) Molly;
- (e) Bulley;
- (f) Polly;
- (g) George Gilbert, and his father, *Ngkochimpay*;
- (h) Norman Gilbert;
- (i) Billy Sailor;
- (j) Gilbert;
- (k) Alice Reid (also known as Alice Gee and Alice McGilvray), daughter of Lucy;
- (l) Jessie;
- (m) Jimmy;
- (n) Minnie;
- (o) Dick Stirling;
- (p) Rosie;
- (q) Captain;
- (r) Rosie (wife of Captain);
- (s) Kitty;
- (t) Kangaroo (husband of Kitty);
- (u) Iffley Tommy senior;
- (v) Paddy Macaroni;
- (w) Macaroni Tommy;
- (x) Nellie Gilbert (wife of Macaroni Tommy);
- (y) Sally;
- (z) Tommy Burns;
- (aa) Sloper Mudd;
- (bb) Rainbow Christie;
- (cc) Johnny Casey.

"**Descendants**" for the purposes of this description include those individuals who have been adopted by the Kurtjar people.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title (the "**Determination**") in the terms set out below.

THE COURT DETERMINES THAT:

3. The determination area is the land and waters described in Schedule 4 and depicted in the map attached to Schedule 6 to the extent those areas are within the External Boundary and not otherwise excluded by the terms of Schedule 5 (the "**Determination Area**"). To the extent of any inconsistency between the written description and the map, the written description prevails.
4. Native title exists in the Determination Area.
5. The native title is held by the Kurtjar People described in Schedule 1 (the "**Native Title Holders**").
6. Subject to orders 7, 8 and 9 below, the nature and extent of the native title rights and interests in relation to the Determination Area are the non-exclusive rights to:
 - (a) access, be present on, move about on and travel over the area;
 - (b) access and take for any purpose resources in the area;
 - (c) access and take water in the area for any purpose not vested in the Crown in right of the State by reason of restrictions on such vesting in *The Rights to Water and Water Conservation and Utilization Act 1910 (Qld)* and *The Water Act 1926 (Qld)*;
 - (d) light fires on the area for cultural, spiritual or domestic purposes, including cooking; and
 - (e) without limiting the generality of sub-paragraphs (a) to (d) above:
 - (i) hunt on, gather and fish from the area;
 - (ii) live on the area;
 - (iii) camp, and for that purpose, erect shelters and other structures on the area;
 - (iv) conduct or participate in cultural and religious activities, practices and ceremonies, including to conduct the burial of other Native Title Holders, on the area;
 - (v) conduct or participate in meetings on the area;
 - (vi) teach on the area the physical, cultural and spiritual attributes of the area;

(vii) 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 from physical desecration or harm;
(viii) share, exchange and trade the resources from the area; and
(ix) be accompanied onto the area by persons who, though not Native Title Holders, are:
A. spouses, partners or parents of Native Title Holders, together with their children and grandchildren;
B. people required for the performance of cultural activities, practices, or ceremonies; and
C. people requested by the Native Title Holders to assist in, observe or record cultural activities, practices, or ceremonies.

7. The native title rights and interests referred to in order 5 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 order 5 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 the Determination Area as they exist at the date of this Determination are set out in Schedule 2 (the "**Other Interests**").

11. The relationship between the native title rights and interests described in order 6 and 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.

DEFINITIONS AND INTERPRETATION

12. In this Determination, unless the contrary intention appears:

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

"**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;

"**Local Government Act**" has the meaning given in the *Local Government Act 2009* (Qld);

"**Local Government Area**" has the meaning given in the Local Government Act;

"**Staaten River National Park Area**" means that part of Lot 2 on Crown Plan NPW 123 described in Schedule 4 and shown on the Determination Map in Schedule 6, and to the extent of any inconsistency between the Schedules, Schedule 4 prevails.

"**Works**" has the same meaning as in the *Electricity Act 1994* (Qld).

13. 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).

THE COURT FURTHER DETERMINES THAT:

14. The native title is not held in trust.

15. Mpundwithal Aboriginal Corporation (ICN: 9781), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:

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

(b) perform the functions mentioned in section 57(2) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

REGISTER ATTACHMENTS:

1. QCD2022/009 Schedule 2 - Other Interests in the Determination Area, 4 pages - A4, 26/07/2022

2. QCD2022/009 Schedule 3 - External Boundary, 3 pages - A4, 26/07/2022
3. QCD2022/009 Schedule 4 - Description of Determination Area, 2 pages - A4, 26/07/2022
4. QCD2022/009 Schedule 5 - Areas Not Forming Part of the Determination Area, 1 page - A4, 26/07/2022
5. QCD2022/009 Schedule 6 - Map of Determination Area, 1 page - A4, 26/07/2022

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.