



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6089/1998
NNTT Number: QCD2006/001

Determination Name: [Riley v State of Queensland](#)

Date(s) of Effect: 18/05/2006

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 17/02/2006

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

NOTE: On 17 February 2006 the Honourable Justice Allsop handed down the Western Yalanji People Native Title Determination, subject to three Indigenous Land Use Agreements (ILUAs) between the Native Title Holders and the Cook Shire Council, the Mareeba Shire Council and the Queensland Lapidary and Allied Craft Clubs Association being registered on the Register of Indigenous Land Use Agreements. All three ILUAs were registered on 18 May 2006.

REGISTERED NATIVE TITLE BODY CORPORATE:

Western Yalanji Aboriginal Corporation RNTBC
Agent Body Corporate
PO Box 2682
MAREEBA Queensland 4880

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:

SCHEDULE 2

NATIVE TITLE HOLDERS

In respect of the Determination Area, the Native Title Holders are those people known as the Western Yalanji People. The Western Yalanji People are those Aboriginal people who are:

(a) descended from:

(i) Tippo King (aka Deppo / King of Maytown) and his sons Jack Cummins, Dick Cummins (aka Dick Wannacott / Simon King), Johnny (aka Cookie / Ted Palmer), John / Joe Cummins and daughter Gunman;

(ii) George Maytown (aka Jerry Dola / Jungga) and his children Eric Rosendale, Amy Locke, Ettie Murphy, Leo Rosendale and Elsie Russ;

(iii) Sandy King and his children Rosie, Larry Thomas, Jack Brady and Kitty Docherty;

(iv) Caroline Rose Roberts (aka Kitcha / Kitchayi) and her children Edgar, Kathleen, Charles Arthur, Caroline, Gladys, Harold, Ernest, Beryl and Verna;

(v) Caesar Lee Cheu and Georgina Banjo;

(vi) Rosie Maytown (aka Rosie Palmer / Rosie Grogan);

(vii) Jack Burton, Rupert Burton and Bula Burton;

(viii) Rob Miller, Ruby Barney / Meldrum and Molly Banjo;

(ix) Dolly McNamara;

(x) Wildtime and her son Mingkiji (aka Sambo Wannacott);

(xi) Billy and Maggie, Lizzie Riley, Emu Kelly, Wallaby Kelly, George Kelly (aka Baldy / Johnny Mossman) and George Kelly (aka George Sibley) ;

(xii) Billy and Kitty, Jimmy Riley, Bertie and Edward;

(xiii) Billy and Nellie, Bawlie and Rosie Buchanan;

(xiv) Lena Palmer and Bob Banjo (aka Gordon);

(xv) Charlie and Dolly Curramore;

(xvi) Jeanie Maytown and Mala Oliver;

(xvii) Charlie Snider;

(xviii) Rowdy Rogers and Charlotte Rogers (aka Davis);

(xix) Annie Fullerton and Dinah Fullerton-Brim;

(xx) Johnny Cake (aka Stewart); and

(b) recruited by adoption into one of the above descent groups in accordance with the traditional law and custom of the Western Yalanji People.

MATTERS DETERMINED:

BY CONSENT THE COURT ORDERS THAT:

1. Native title exists in relation to the Determination Area.

2. The native title is held by the Western Yalanji People as described in Schedule 2 (hereafter referred to, and defined in order 11, as "the Native Title Holders"), in accordance with the traditional laws acknowledged and traditional customs observed by them.

3. The nature and extent of the native title rights and interests in relation to the Determination Area other than Water are, subject to paragraphs 5 and 7 and the rights and interests identified in paragraph 8, non-exclusive rights to:

(a) be present on, use and enjoy the Determination Area by:

(i) hunting, fishing and gathering on, in and from the Determination Area for personal, domestic or non-commercial communal purposes;

(ii) conducting ceremonies on the Determination Area;

(iii) being buried on, and burying Native Title Holders on, the Determination Area;

(iv) maintaining Springs and wells in the Determination Area where underground water rises naturally, for the sole purpose of ensuring the free flow of Water;

(v) taking, using and enjoying the Natural Resources found on, or within, the Determination Area for personal, domestic or non-commercial communal purposes;

(vi) maintaining and protecting from physical harm, by lawful means, those places of importance and areas of significance to the Native Title Holders under their traditional laws and customs in the Determination Area; and

(b) inherit and succeed to the native title rights and interests.

4. The nature and extent of the native title rights and interests in relation to Water within the Determination Area are, subject to paragraphs 5 and 7 and the rights and interests identified in paragraph 8, non-exclusive rights to:

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

(b) take, use and enjoy Water and Natural Resources in such Water for personal, domestic or non-commercial communal purposes.

5. 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.

6. Notwithstanding anything in paragraphs 3 and 4, the native title rights and interests in relation to the Determination Area do not extend to a right to control access to, or a right to control the use of, the Determination Area.

7. There are no native title rights and interests in or in relation to:

(a) minerals as defined in the Mineral Resources Act 1989 (Qld); and

(b) petroleum as defined in the Petroleum Act 1923 (Qld).

8. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof identified below) are:

(a) the rights and interests of:

(i) the lessee of Special Lease No. 14/51183, Title Reference Number 17564123, being a term lease for primary industry (grazing) purposes comprising Lot 1 on Crown Plan CF14;

(ii) the licensee of Occupation License 14/285, Title Reference Number 17662194, comprising Lot 285 on Survey Plan 108034;

(iii) the lessees of Mining Leases 20083 and 20171, over parts of Lot 1 on Crown Plan CF14;

(iv) the permittees of Exploration Permits (Minerals) 12004, 12227, 13643, 13675, 13938 and 14740, over parts of Lot 1 on Crown Plan CF14;

(v) the permittees of Exploration Permits (Minerals) 13937 and 14738, over parts of Lot 285 on Survey Plan 108034;

(vi) the lessee, the State of Queensland and the Native Title Holders under an Indigenous Land Use Agreement dated 21 April 2005;

(vii) the Cook Shire Council under its local government jurisdiction and as an entity exercising statutory powers in respect of the land and waters in its local government area including its interests under an Indigenous Land Use Agreement dated 1 November 2005 between representatives of the Native Title Holders and the Cook Shire Council;

(viii) the Mareeba Shire Council under its local government jurisdiction and as an entity exercising statutory powers in respect of the land and waters in its local government area including its interests under an Indigenous Land Use Agreement dated 1 November 2005 between representatives of the Native Title Holders and the Mareeba Shire Council;

(ix) the Queensland Lapidary and Allied Craft Clubs Association ("QLACCA") under a permit issued pursuant to the Fossicking Act 1994 (Qld) and its interests under an Indigenous Land Use Agreement dated 4 November 2005 between representatives of the Native Title Holders and QLACCA; and

(b) any other rights, interests and powers held by reason of the effect and operation of the Laws of the State and the Commonwealth as may be current at the date of this Determination.

9. The relationship between the native title rights and interests and the other rights and interests described in paragraph 8 (the "other rights and interests") is that:

(a) the other rights and interests continue to have effect; and

(b) for the avoidance of doubt, any activity that is permitted by or under, and done in accordance with, the other rights and interests or any activity that is associated with or incidental to, such activity, prevails over the native title rights and interests and any exercise of the native title rights and interests, but does not extinguish them.

10. The native title rights and interests do not confer possession, occupation, use and enjoyment of the Determination Area on the Native Title Holders to the exclusion of all others.

11. The words and expressions used in this order 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:

"Animal" has the meaning given in the Nature Conservation Act 1992 (Qld)

"Determination Area" means the land and waters within the area described and shown as Lots 1 and 2 in Schedule 1

"Forest Products" has the meaning attributed to it in the Forestry Act 1959 (Qld)

"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

"Native Title Holders" means the Western Yalanji People as described in Schedule 2.

"Natural Resources" means any Plant, Animal, including shells and Forest Products, found on or in the Determination Area from time to time and flints, clays, soil, sand, gravel and rock on or below the surface of the Determination Area

"Plant" has the meaning given in the Nature Conservation Act 1992 (Qld)

"Spring" means the land to which water rises naturally from below the ground and the land over which the water then flows

"Water" means "water" as defined in the Water Act 2000 (Qld)

12. The native title is not held in trust.

13. The Western Yalanji Aboriginal Corporation, incorporated under the Aboriginal Councils and Association Act 1976 (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.

14. Paragraphs 1 - 10 will take effect on the registration of the agreements referred to in paragraphs 8(a)(vii), 8(a)(viii) and 8(a)(ix) on the Register of Indigenous Land Use Agreements.

15. In the event that the agreements referred to in paragraphs 8(a)(vii), 8(a)(viii) and 8(a)(ix) are not registered on the Register of Indigenous Land Use Agreements within six months of the date of this order, or such later time as the Court may order, the matter is to be listed for further directions.

REGISTER ATTACHMENTS:

1. Attachment 1 - SCHEDULE 1 - DETERMINATION AREA, 1 page - A4, 17/02/2006

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.