



National
Native Title
Tribunal



Gangalidda and Garawa People's native title determination

Far North Queensland
23 June 2010

The Gangalidda and Garawa People's rights

On 21 June 2010 the Federal Court of Australia made two consent determinations recognising the Gangalidda and Garawa People's native title rights over parts of their two claims, approximately 650km west of Cairns and 320 km north of Mt Isa. The determined areas cover about 5,810sq km of land and waters altogether.

The determination areas are located north-west of Burketown along the coast of the Gulf of Carpentaria in north-west Queensland and cover the pastoral leases of Brokera, Bundella, Cliffdale, Escott, Tarrant, part of Troutbeck east of Massacre Inlet as well as the Gurridi Traditional Land Trust area.

The Gangalidda and Garawa People have taken a staged approach towards seeking recognition of their native title rights. They lodged two native title claims over two areas, called *Gangalidda and Garawa Peoples* and *Gangalidda and Garawa Peoples 2*. These determinations settle one segment (Part A) of each of their claims.

Gangalidda and Garawa Peoples' first native title claim

This claim was lodged over 6,250sq km of existing pastoral leases and part of the Gurridi Traditional Land Trust area. The Federal Court has recognised the Gangalidda and Garawa People's exclusive and non-exclusive native title rights over 1,990sq km including the pastoral leases of Brokera, Bundella, part of Escott, Tarrant, part of Troutbeck east of Massacre Inlet as well as part of the Gurridi Traditional Land Trust area.

Exclusive rights recognised

The Court recognised the groups' right to possess, occupy, use and enjoy the majority of the determination area, about 1,860sq km, exclusively.

Non-exclusive rights recognised

The groups' non-exclusive rights to the remaining 130sq km of the determination area, including the Escott

pastoral lease, were recognised. These are to:

- access and traverse the area
- hunt, fish, gather for personal, domestic, non-commercial communal purposes
- take and use natural resources for personal, domestic, non-commercial communal purposes
- camp on the area, but not reside permanently or erect permanent structures or fixtures
- light fires for domestic purposes, including cooking, but not for hunting or clearing vegetation
- conduct religious and spiritual activities and ceremonies
- be buried on and to bury native title holders
- maintain and protect significant areas
- share or exchange natural resources from the area for personal, domestic and non-commercial communal purposes.

Their non-exclusive rights to water have been recognised, including to:

- hunt, fish and gather for personal domestic and non-commercial communal purposes
- take, use and enjoy water for personal, domestic and non-commercial communal purposes.

Gangalidda and Garawa Peoples 2 claim

The second claim was lodged over a much larger area, 13,800sq km of predominantly pastoral leases. This area also includes the majority of the Doomadgee DOGIT, part of the Finucane Island National Park and other small reserves, leases and unallocated state land in and around Burketown. The claim also extended five nautical miles out to sea in its north-western corner.

Non-exclusive rights recognised

The Federal Court recognised the groups' non-exclusive rights over about 3,820sq km including the Cliffdale pastoral lease. These rights are the same as the non-exclusive rights recognised for *Gangalidda and Garawa* (as above).

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 agreements made between the parties to the Gangalidda and Garawa Peoples' two native title claims. As the parties had reached agreement, the Court made the determinations 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 Gangalidda and Garawa People's first native title claim were:

- State of Queensland
- Burke Shire Council
- Telstra Corporation
- Westmoreland Pastoral Company Ltd
- Nine other respondents.

Respondent parties to Part A of the Gangalidda and Garawa People's second native title claim were:

- State of Queensland
- Commonwealth of Australia
- Burke Shire Council
- Ergon Energy
- Telstra Corporation
- Westmoreland Pastoral Company
- 23 other respondents.

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

Indigenous land use agreements

The Gangalidda and Garawa Peoples also developed two pastoral agreements that the parties aim to have registered as indigenous land use agreements (ILUAs). These agreements set out how the respective rights and interests of the pastoral parties would coexist with native title rights and interests in the agreement areas. ILUAs are broad and flexible agreements made under the Native Title Act about the use and management of land.

Stepping stones

25 May 2004

The Gangalidda and Garawa Peoples lodged a native title application with the Federal Court - QUD84/04 (QC04/5). It was lodged in response to notices published by the Government announcing its intention to allow Rio Tinto to commence activity in the area.

26 July 2004

The application was registered by the Tribunal.

6 December 2004

The Federal Court referred the claim to the Tribunal for mediation.

8 March 2005

Gangalidda and Garawa Peoples lodged a second native title application with the Federal Court, *Gangalidda and Garawa Peoples 2* – QUD66/05 (QC05/3).

7 April 2005

The application was registered by the Tribunal.

18 November 2005

The Tribunal conducted the first mediation conference with the representatives of the applicant and Carpentaria Land Council.

November 2005 – May 2010

The Tribunal convened a range of face to face mediation conferences and teleconferences involving representatives of the Gangalidda and Garawa Peoples and all parties to settle the terms of a consent determination and related agreements.

The two Gangalidda and Garawa applications were considered as a single unit in mediation. Part of each application was progressed to reach a partial determination with the balance parts of the applications to be progressed subsequently to reach further determinations.

Much of the connection material for these claims was based on the findings of Justice Cooper in *The Lardil Peoples v State of Queensland* [2004] FCA 298 (the “Wellesley Sea Claim”) following a fully contested hearing in which the State and various pastoral respondents participated.

23 June 2010

Justice Spender made two consent determinations, recognising the Gangalidda and Garawa Peoples' native title rights and interests over Part A of each claim.

Relationship between the native title rights and other rights

This consent determination recognises the Gangalidda and Garawa 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 Gangalidda and Garawa People will exercise their rights in accordance with their traditional laws and customs.

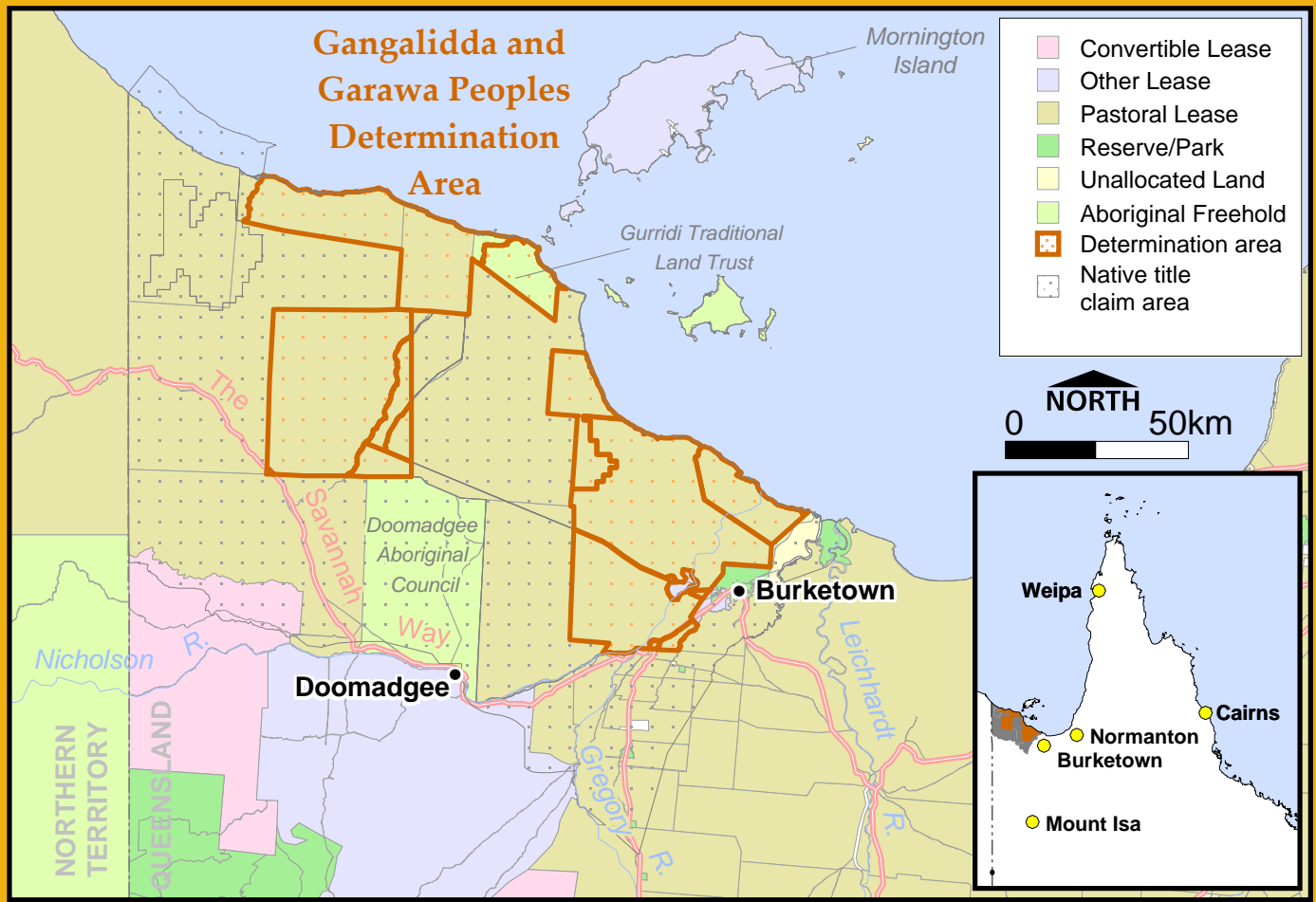
Managing the native title rights

The Gangalidda and Garawa Native Title Aboriginal Corporation has been nominated as the prescribed body corporate to manage the Gangalidda and Garawa Peoples' native title rights and interests. The body is incorporated under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth).

Next stage for the Gangalidda and Garawa People

The Gangalidda and Garawa People are taking a staged approach to the recognition of their native title rights. Now that they have achieved legal recognition of their native title rights to Part A of each of their claims, their next step will be to commence negotiations with parties over the next stages of their claimed areas, with the aim of reaching further consent determinations.

Map of determination area



Further information

National Native Title Tribunal

Cairns Registry
Level 14, Cairns Corporate Tower
15 Lake Street
Cairns Qld 4870
Telephone 07 4048 1500
Freecall 1800 640 501

Federal Court of Australia

Librarian
Level 6, Commonwealth Law Courts
119 North Quay
Brisbane Qld 4000
Telephone 07 3248 1100

Carpentaria Land Council

141 Gregory Street
Burketown Qld 4830
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The Tribunal welcomes feedback on whether this information was useful.
email Stakeholder Relations with your comments and suggestions to
enquiries@nntt.gov.au or telephone 1800 640 501.



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