National Native Title Tribunal

# Extract from the National Native Title Register

## Determination Information:

| | |
|---|---|
| **Determination Reference:** | Federal Court Number(s): QUD851/2018<br>NNTT Number: NCD2025/001 |
| **Determination Name:** | McKellar on behalf of the Wongkumara People v Attorney General for New South Wales (No 3) |
| **Date(s) of Effect:** | 30/10/2025 |
| **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:** | 30/10/2025 |
| **Determining Body:** | Federal Court of Australia |

**ADDITIONAL INFORMATION:**

Not Applicable

**REGISTERED NATIVE TITLE BODY CORPORATE:**

Wangkumarra Kawalanyi Aboriginal Corporation RNTBC
Trustee Body Corporate
1/255 Castlereagh Street
SYDNEY New South Wales 2000

*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:**
**Native title holders**

5. The native title holders are the 'Wongkumara People'. The Wongkumara People are the descendants of ancestors who are recognised as having had a connection to the application area in accordance with the laws and customs of the regional society described by Professor A P Elkin as "the Lakes Group", and who are recognised and accepted by other Wongkumara People as being native title holders. Those ancestors include:
(a) Charlotte (mother of Jack, Queenie and May Hines, Rosie Josies and Willy Dutton);
(b) Siblings Polly (mother of Albert Ebsworth, Sam and Tommy Burgamar) and Charlie Nockatunga;
(c) Maggie and Tommy (parents of Nellie Flash and Angelina);
(d) Kutji (mother of George Dutton);
(e) Tarella and her children Elizabeth and Harry (Fred) Hartnett;
(f) Norman Harding;

(g) Siblings Nellie (mother of Lucy Harding) and Judy (mother of Donald David Gillis);
(h) Jenny (mother of Alf Barlow); and
(i) Neddie and Nancy (grandparents of Jimmy Sedeek).

6. The Wongkumara People also include persons who are adopted into the families of the Wongkumara People in accordance with traditional laws and customs, and who are recognised and accepted by other Wongkumara People as being native title holders.

**MATTERS DETERMINED:**
**BY AGREEMENT THE COURT ORDERS THAT:**

1. There be a determination of native title in terms set out below.
2. Wangkumarra Kawalanyi Aboriginal Corporation RNTBC, ICN 7384 is to hold the determined native title in trust for the common law holders pursuant to s 56(3) of the *Native Title Act 1993* (Cth) and is to:
(a) be the prescribed body corporate for the purposes of s 57(1) of the *Native Title Act 1993* (Cth); and
(b) perform the functions set out in s 57(1) of the *Native Title Act 1993* (Cth) and the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth).

**BY AGREEMENT THE COURT DETERMINES THAT:**

4. Native title exists in relation to the native title area described in Schedule 1 to these orders (native title area) and depicted in the maps at Part 1.2 (maps of the native title area) of that Schedule to this determination of native title.

**Native title holders**

5. The native title holders are the 'Wongkumara People'. The Wongkumara People are the descendants of ancestors who are recognised as having had a connection to the application area in accordance with the laws and customs of the regional society described by Professor A P Elkin as "the Lakes Group", and who are recognised and accepted by other Wongkumara People as being native title holders. Those ancestors include:
(a) Charlotte (mother of Jack, Queenie and May Hines, Rosie Josies and Willy Dutton);
(b) Siblings Polly (mother of Albert Ebsworth, Sam and Tommy Burgamar) and Charlie Nockatunga;
(c) Maggie and Tommy (parents of Nellie Flash and Angelina);
(d) Kutji (mother of George Dutton);
(e) Tarella and her children Elizabeth and Harry (Fred) Hartnett;
(f) Norman Harding;
(g) Siblings Nellie (mother of Lucy Harding) and Judy (mother of Donald David Gillis);
(h) Jenny (mother of Alf Barlow); and
(i) Neddie and Nancy (grandparents of Jimmy Sedeek).

6. The Wongkumara People also include persons who are adopted into the families of the Wongkumara People in accordance with traditional laws and customs, and who are recognised and accepted by other Wongkumara People as being native title holders.

**Nature and extent of native title rights and interests in the native title area**

7. Subject to paragraphs 8, 9 and 10, the nature and extent of the native title rights and interests in relation to the non-exclusive native title area identified in Schedule 1 are the following non-exclusive native title rights:
(a) access, be present on, move about on and travel over the area;
(b) live and camp on the area and for those purposes to erect shelters and other structures thereon;
(c) hunt, fish and gather on the land and waters of the area;
(d) take the natural resources from the land and waters of the area;
(e) take the water of the area, subject to the operation and any vesting effect of the *Water Act 1912* (NSW) and the *Water Management Act 2000* (NSW);
(f) conduct rituals, ceremonies and other religious, spiritual and cultural activities on the area;
(g) conduct mortuary related rituals including to 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 on the area and protect those places and areas from harm;
(i) teach on the area the physical and spiritual attributes of the area and its sites and the traditional laws and customs of the native title holders to native title holders or persons otherwise entitled to access the area;
(j) hold meetings on the area;
(k) light fires on the area for cultural, spiritual or domestic purposes including cooking, but not for the purpose of hunting of clearing vegetation;
(l) be accompanied on to the area by those persons who, though not native title holders, are:
(i) spouses or partners of native title holders;
(ii) people who are members of the immediate family of a spouse or partner of a native title holder; or
(iii) people reasonably required by the native title holders under traditional law and custom including for the

performance of ceremonies or cultural activities on the area.

**General qualifications on native title rights and interests**

8. Native title does not exist in:
(a) minerals as defined in the *Mining Act 1992* (NSW) and the *Mining Regulation 2016* (NSW); and
(b) petroleum as defined in the *Petroleum (Onshore) Act 1991* (NSW)
9. The native title rights and interests described in paragraph 7 do not confer:
(a) any right of possession, occupation, use and enjoyment of the land or waters in the native title area to the exclusion of all others; and
(b) any right to control public access to or use the land or waters in the native title area.
10. The native title rights and interests in relation to the land or waters in the native title area are subject to and exercisable in accordance with:
(a) the laws of the State of New South Wales and of the Commonwealth;
(b) the traditional laws acknowledged and traditional customs observed by Wongkumara People; and
(c) the terms and conditions of the agreements referred to in Schedule Four (agreements) of *McKellar on behalf of the Wongkumara People v State of the Queensland* [2024] FCA 699.

**The nature and extent of any other interests**

11. The other interests in relation to the native title area are described in Schedule 3 (other interests in the native title area).

**Relationship between native title rights and interests and other interests**

12. The relationship between the native title rights and interests in relation to land or waters in the native title area and other interests, described in Schedule 3 (other interests in the native title area), in relation to those areas is that:
(a) the other interests continue to have effect;
(b) the other interests co-exist with Wongkumara People's native title;
(c) Wongkumara People do not have the right to control access to or the use of the land or waters by the holders of the other interests; and
(d) to the extent of any inconsistency, the other interests and any activity that is required or permitted by or under the exercise of a right conferred or held under the other interests, while they are in existence, prevail over but do not extinguish native title and any exercise of those native title rights and interests.

**Definitions and interpretation**

13. In this approved determination of native title, unless the contrary intention appears:
**animal** means any member of the animal kingdom (other than human), whether alive or dead.
**extinguished area** means the land and waters described in Schedule 2 (extinguished area).
**laws of the State of New South Wales and of the Commonwealth** include the relevant statutes, regulations, planning instruments and other subordinate legislation of the jurisdiction, and the common law.
**native title** and **native title rights and interests** means the rights and interests described in paragraph 7 of the determination.
**native title area** means the land or waters described in Schedule 1 (native title area).
**native title determination application** means the native title determination application filed on 11 March 2008 by the Applicant in the Federal Court and given the number QUD 851 of 2018, as amended.
**native title holders** and **Wongkumara People** means the persons described in paragraph 5 of the determination.
**natural resources** means:
(a) any animals and plants found on or in the lands and waters of the native title area; and
(b) any clays, soil, sand, gravel or rock found on or below the surface of the native title area;
that have traditionally been taken by native title holders;
(c) but does not include
(i) minerals as defined in the *Mining Act 1992* (NSW) and the *Mining Regulation 2016* (NSW); and
(ii) petroleum as defined in the *Petroleum (Onshore) Act 1991* (NSW)
**NSW Part B determination area** means the land or waters described in the Schedule 1 (native title area) and Schedule 2 (extinguished area).
**original application area, as amended** means the land and waters within the external boundaries of the native title determination application filed by the registered native title claimants on behalf of the Wongkumara People on 11 March 2008, as amended up to the date of the NSW Part A determination.
**other interests** means the rights and interests described in Schedule 3 (other interests in the native title area).
**plant** means any member of the plant or fungus kingdom, whether alive or dead and standing or fallen.
**Wongkumara People** has the same meaning as native title holders.
**Wangkumarra Kawalanyi Aboriginal Corporation** RNTBC means Wangkumarra Kawalanyi Aboriginal Corporation RNTBC, ICN 7384 having become a registered native title body corporate pursuant to *McKellar on behalf of the Wongkumara People v State of Queensland* [2024] FCA 699 being incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

14. If a word of expression is not defined in these orders or this determination of native title, but is defined in the *Native Title Act 1993* (Cth), the *Native Title (New South Wales) Act 1994* (NSW) or the *Interpretation Act 1987* (NSW), then it has the meaning given to it in those statutes, whichever is relevant.

**REGISTER ATTACHMENTS:**

1. NCD2025/001 Schedule 1 - Native Title Area, 8 pages - A4, 30/10/2025

2. NCD2025/001 Schedule 2 - Extinguished Area, 3 pages - A4, 30/10/2025

3. NCD2025/001 Schedule 3 - Other Interests in the Native Title Area, 6 pages - A4, 30/10/2025

*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.*