



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6033/2002
NNTT Number: QCD2015/010

Determination Name: [Gorringe on behalf of the Mithaka People v State of Queensland](#)

Date(s) of Effect: 27/10/2015

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 27/10/2015

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Mithaka Aboriginal Corporation RNTBC
Trustee Body Corporate
8 Maryborough Street
WINDORAH Queensland 4481

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

ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):

Mithaka Aboriginal Corporation

Note: details of the Corporation name change can be found on the Office of the Registrar of Indigenous Corporations website www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE: Schedule 3 - NATIVE TITLE HOLDERS

1. The native title holders are the Mithaka People.

2. The Mithaka People are Aboriginal people who:
 - (a) are descendants of one or more of the following people:
 - (i) Nangkaliya (alternatively spelled 'Nuncleer');
 - (ii) Katie/Kitty Wallerina (also known as Kathleen Mallyer and Kathleen Thompson);
 - (iii) NjiraTaffy;
 - (iv) Mingelli Joe (also known as Joe St Clair / Mentuli / Minchoolie / Mintulee / Joe the Rainmaker);
 - (v) Maggie (sister of Mingelli Joe);
 - (vi) Donald Morney;
 - (vii) Bunbili;
 - (viii) Jacky Frew;
 - (ix) Pantya-Wanku-Ngawiranha;
 - (x) Tyuka-Putali;
 - (xi) Cameron Downs;
 - (xii) Puthi (also known as Frank);
 - (xiii) Natkillie Billy; and
 - (xiv) Warinyawarinyi (*also known as Jacky*).
 - (b) Identify themselves as Mithaka People.

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

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

BY CONSENT THE COURT DETERMINES THAT:

3. The Determination Area is the land and waters described in Schedule 1, and depicted in the map attached to Schedule 1.
4. Native title exists in relation to the Determination Area described in Schedule 1.
5. The native title is held by the Mithaka People described in Schedule 3 ("the native title holders").

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 Schedule 1 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, use and share and exchange Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (e) take and use the Water of the area for personal, domestic and non-commercial communal purposes;
- (f) conduct ceremonies;
- (g) hold meetings on the area;
- (h) teach on the area the physical and spiritual attributes of the area;
- (i) 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;
- (j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation;
- (k) to be buried and to bury native title holders on the area; and
- (l) be accompanied onto the area by certain non-Mithaka People, being:
 - (i) immediate family of the native title holders, pursuant to the exercise of traditional laws acknowledged and customs observed by the native title holders; and
 - (ii) people required under the traditional laws acknowledged and customs observed by the native title holders for the performance of, or participation in, ceremonies.

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 Paragraph 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 the Determination Area (or respective parts

thereof) are set out in Schedule 4.

11. The relationship between the native title rights and interests described in paragraph 6 and the other interests described in Schedule 4 (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:

“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 same meaning as in the *Local Government Act 2009* (Qld)

“Local Government Area” has the same meaning as in the *Local Government Act 2009* (Qld)

“Natural Resources” means:

- (a) any animal, plant, fish and bird life found on or in the lands and waters of the Determination Area; and
- (b) any clays, soil, sand, gravel or rock found on or below the surface of the Determination Area.

that have traditionally been taken and used by the native title holders, but does not include:

- (a) minerals as defined in the *Mineral Resources Act 1989* (Qld); or
- (b) petroleum as defined in the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

“Reserves” means reserves that are dedicated and taken to be reserves under the *Land Act 1994* (Qld).

“Water” means:

- (a) water which flows, whether permanently or intermittently, within a river, creek or stream;
- (b) water from an underground water source; and
- (c) any natural collection of water, whether permanent or intermittent

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 DETERMINES THAT:

13. Upon the determination taking effect:

- (a) The native title is held in trust;
- (b) The Mithaka Aboriginal Corporation, incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:
 - (i) be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth); and
 - (ii) perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

Schedule 1 - DETERMINATION AREA

A. Description of Determination Area

The Determination Area comprises all of the land and waters described in Part 1 below, to the extent that they are located within the External Boundary described in Part 2, and depicted in the map contained in Part B, excluding the areas described in Schedule 2.

To the extent of any inconsistency, the written description set out in Part 1 and Part 2 prevails over the map contained in Part B.

Part 1 - Determination Area:

a) The land and waters comprised of the lots and part lots described below to the extent that they are located within the External Boundary:

Area Description

That part of Lot 2 on AD3 that falls within the External Boundary

Lot 7 on SP210331

An area identified as new Road being Diagram A on SP210331 and delineated by stations

41-51-29-28-52-45-41

That part of Lot 1 on CP910369 that falls within the External Boundary

That part of Lot 1 on CP910370 that falls within the External Boundary

Lot 17 on DE844097

That part of Lot 1 on GE40 that falls within the External Boundary

Lot 444 on HA844091

Lot 418 on HA844093

That part of Lot 1 on MR1 that falls within the External Boundary

Lot 443 on SP269528 (formerly Lot 443 on PH1645)

That part of Lot 352 on SP214030 that falls within the External Boundary excluding an area identified as closed road and delineated by stations:

A'-B'-J-C'- D'-N-E'-F'-G'-H'-L'-K'-G-A';

I'-J'-K'-L'-I';

O-W'-S'-P'-X'-Y'-Z'-A"-Q'-R'-B"-O'-O; and

M'-T'-U'-V'-M'

An area identified as new Road on SP214030 and delineated by stations:

A-B-C-D-E-F-G-H-I-J-K-L-M-N-A; and

O'-P-Q-R-O'

That part of Lot 5331 on SP255336 that falls within the External Boundary

That part of Lot 20 on SP255335 that falls within the External Boundary

That part of Lot 2 on SP120219 that falls within the External Boundary

Lot 1 on AD1

Lot 1 on CLL1

Lot 1 on DO2

Lot 404 on DO4

Lot 405 on DO4
Lot 406 on DO4
Lot 407 on DO4
Lot 1 on HA6
Lot 1 on WGA1
Lot 1 on SP226882
Lot 2 on SP226882
Lot 3 on SP226882
Lot 4 on SP226882
Lot 2 on DO3
Lot 104 on DO4
Lot 207 on DO4
Lot 209 on DO4
Lot 304 on DO4
Lot 305 on DO4
Lot 309 on DO4
Lot 401 on DO4
Lot 408 on DO4
Lot 409 on DO4
Lot 410 on DO4
Lot 505 on DO4
Lot 506 on DO4
Lot 509 on DO4
Lot 604 on DO4
Lot 605 on DO4
Lot 606 on DO4
Lot 607 on DO4

That part of Lot 6 on CP805063 that falls within the External Boundary

(b) The waters within the External Boundary Description including but not limited to:

- i. Diamantina River;
- ii. Eyre Creek;

- iii. Farrars Creek; and
- iv. Koolivoo Waterhole

Part 2 - External Boundary of Determination Area:

The External Boundary of the Determination Area commences at a point on the north-eastern external boundary of Native Title Determination SAD6016/98 Wangkangurru/Yarluyandi at Longitude 138.816582° East, Latitude 24.968954° South and extending generally north-easterly, south-easterly and south-westerly passing through the following coordinate points:

Longitude(East)	Latitude(South)
138.881985	24.919380
139.040055	24.766492
139.257724	24.639516
139.439115	24.528087
139.594411	24.436296
139.841681	24.407207
140.016225	24.443571
140.234405	24.509024
140.416222	24.596296
140.620762	24.771674
140.993913	24.999710
141.208940	25.054472
141.454782	25.075466
141.693416	25.000148
141.925699	24.927671

Then north-easterly along a line drawn to Longitude 141.980234° East, Latitude 24.912455° South to its intersection with an eastern boundary of Lot 352 on Plan SP214030; then generally southerly, generally westerly, again generally southerly and westerly along boundaries of that lot to the easternmost north-eastern corner of Lot 444 on Plan HA844091; then generally southerly along eastern boundaries of that lot, eastern boundaries of the western severance of lot 1 on Plan GE40 and western boundaries of an unnamed road to a corner of that lot at Latitude 25.513115° South; then easterly to the northernmost north-western corner of the eastern severance of Lot 418 on Plan HA844093; then generally easterly and generally southerly along boundaries of that lot and eastern boundaries of Lot 2 on Plan AD3 to its intersection with a line drawn between Longitude 141.458082° East, Latitude 26.170177° South and Longitude 141.382014° East, Latitude 26.169554° South; then westerly along that line and generally westerly to a point on the South Australian / Queensland State Border at Latitude 26.145612° South passing through the following coordinate points:

Longitude(East)	Latitude(South)
------------------------	------------------------

141.279499	26.162203
141.056101	26.150258

Then northerly and westerly along that state border to Longitude 139.780453° East, a point on the on the external boundary of Native title Determination SAD6016/1998 The Wangkangurru/Yarluyandi; then generally north-westerly along the external boundary of determination through Grahams Bluff and Louies Hill to a point located near Annuary Waterhole at Longitude 139.499580°East and Latitude 25.688832°South passing through the following coordinate points.

Longitude(East)	Latitude(South)
139.744844	25.968019
139.728970	25.957294
139.707090	25.926833
139.688213	25.919540
139.670194	25.895515
139.646598	25.864625
139.632440	25.829874
139.608415	25.807565
139.587822	25.784827
139.530186	25.750357

Then north easterly and north westerly again along the external boundary of that determination passing through a point located near Woolmarlie Tank at Longitude 139.548430°East, Latitude 25.506101° South to a point on the centreline of Eyre Developmental Road at Latitude 25.453526° South.

Then generally north easterly along the centreline of that road to Latitude 25.233670°South; then north-westerly to Longitude 139.424460°East, Latitude 25.184468°South, again a point on the external boundary of Native title Determination SAD6016/1998 The Wangkangurru/Yarluyandi; then north-westerly along the external boundary of that determination back to the commencement point.

Note:

The application area does not include any areas subject to:

- I. SAD6016/1998 Wangkangurru/Yarluyandi Native title Claim as determined by the Federal Court 3 October 2014.

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Unit and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time.

Data Reference and source

- Boundary compiled by Queensland South Native title Services based in part on data sourced from the Commonwealth of Australia, NNTT (May 2015).
- Cadastral data, State borders and road centreline data sourced from State of Queensland, DNR&M (February 2015).
- Localities data is © Commonwealth of Australia (Geoscience Australia) 2010.

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

B. Map of Determination Area

[See NNTR attachment 1: "Schedule 1 - Map of Determination Area"]

Schedule 2 - AREAS NOT FORMING PART OF THE DETERMINATION AREA

The following areas of land and waters are excluded from the Determination Area:

1. Those land and waters within the External Boundary, which at the time the native title determination application was made:
 - (a) were the subject of one or more Previous Exclusive Possession Acts, within the meaning of s 23B of the *Native Title Act 1993* (Cth); and
 - (b) to which none of ss 47, 47A or 47B of the *Native Title Act 1993* (Cth) applied at the time of the native title determination application;are excluded from the Determination Area as they could not be claimed in accordance with s 61A of the *Native Title Act 1993* (Cth).

2. Specifically, and to avoid any doubt, the land and waters described in (1) above includes:
 - (a) the tenure based exclusions under ss 23B(2) and 23B(3) of the *Native Title Act 1993* (Cth) to which s 20 of the *Native Title (Queensland) Act 1993* (Qld) applies;
 - (b) the land or waters on which any public work, as defined in s 253 of the *Native Title Act 1993* (Cth), is or was constructed, established or situated, and to which ss 23B(7) and 23C(2) of the *Native Title Act 1993* (Cth) and to which s 21 of the *Native Title (Queensland) Act 1993* (Qld), applies, together with any adjacent land or waters in accordance with s 251D of the *Native Title Act 1993* (Cth); and
 - (c) includes, but is not limited to, the whole of the land and waters described as:
 - (i) Lot 7 on CP844089;
 - (ii) Lot 9 on CP844094;
 - (iii) Lot 10 on CP844095;
 - (iv) Lot 12 on CP844098;
 - (v) Lot 7 on HA844090; and
 - (vi) Lot 8 on HA844092.

Schedule 3 - NATIVE TITLE HOLDERS

1. The native title holders are the Mithaka People.
2. The Mithaka People are Aboriginal people who:
 - (a) are descendants of one or more of the following people:
 - (i) Nangkaliya (alternatively spelled 'Nuncleer');
 - (ii) Katie/Kitty Wallerina (also known as Kathleen Mallyer and Kathleen Thompson);
 - (iii) Njira Taffy;
 - (iv) Mingelli Joe (also known as Joe St Clair / Mentuli / Minchoolie / Mintulee / Joe the Rainmaker);
 - (v) Maggie (sister of Mingelli Joe);
 - (vi) Donald Morney;
 - (vii) Bunbili;
 - (viii) Jacky Frew;
 - (ix) Pantya-Wanku-Ngawiranha;
 - (x) Tyuka-Putali;

- (xi) Cameron Downs;
 - (xii) Puthi (also known as Frank);
 - (xiii) Natkillie Billy; and
 - (xiv) Warinyawarinyi (*also known as Jacky*).
- (b) Identify themselves as Mithaka People.

Schedule 4 - OTHER INTERESTS IN THE DETERMINATION AREA

The nature and extent of the other interests in relation to the Determination Area are the following as they exist as at the date of the determination:

1. The rights and interests of the parties under the following agreements:

- (a) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and Dalene Marie Wray, Anthony William Brook, Gary Francis Brook, Karen Liana Brook, and Jenna Louise Brook, which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Adria Downs ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (b) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and Arrabury Pastoral Company Pty Ltd (ACN 009 658 851) which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Arrabury, Cluny and Mt Leonard ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (c) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and S Kidman & Co Ltd (ACN 007 872 317), which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Cuddapan, Durri, Glengyle, Mooraberree and Morney Plains ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (d) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and R D Oldfield Pty Ltd (ACN 388 631 231), which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Currawilla ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (e) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and Paraway Pastoral Company Limited (ACN 122 572 641), which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Davenport Downs and Palparara ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (f) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and Rose Turnbull, the Mithaka Aboriginal Corporation and North Australian Pastoral Company Pty Limited (ACN 009 591 511), which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Monkira ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;
- (g) the agreement between Scott Gorringe, Jocelyn Haylock, Richard McCarthy, Lorraine McKellar and

Rose Turnbull, the Mithaka Aboriginal Corporation and A A Company Pty Ltd (ACN 010 317 067) which was authorised by the native title claim group on 6 September 2015 (the Mithaka People/Waverney ILUA), and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;

2. The rights and interests of Santos QNT Pty Ltd as holder of Authority to Prospect No. 661 granted under the *Petroleum and Gas (Production and Safety Act) 2004* (Qld).

3. The rights and interests of Telstra Corporation Limited (ACN 051 775 556):

(a) as the owner or operator of telecommunications facilities within the Determination Area;

(b) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth) and the *Telecommunications Act 1997* (Cth), including rights:

(i) to inspect land;

(ii) to install and operate telecommunication facilities; and

(iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;

(c) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in the performance of their duties; and

(d) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Determination Area.

4. The rights and interests of Ergon Energy Corporation Limited (ABN 50 087 646 062):

(a) as the owner and operator of any "Works" as that term is defined in the *Electricity Act 1994* (Qld) within the Determination Area;

(b) as a distribution entity and the holder of a distribution authority under the *Electricity Act 1994* (Qld);

(c) created under the *Electricity Act 1994* (Qld) and the *Government Owned Corporations Act 1993* (Qld) including:

(i) rights in relation to any agreement relating to the Determination Area existing or entered into before the date on which these orders are made;

(ii) rights to enter the Determination Area by its employees, agents or contractors to exercise any of the rights and interests referred to in this paragraph; and

(iii) to inspect, maintain and manage any Works in the Determination Area.

5. The rights and interests of the State of Queensland, the Barcoo Shire Council and the Diamantina Shire

Council to access, use, operate, maintain and control the dedicated roads in the Determination Area and the rights and interests of the public to use and access the roads.

6. The rights and interests of the Barcoo Shire Council and the Diamantina Shire Council as the local governments for that part of the Determination Area within their respective Local Government Areas, including:

- (a) their powers, functions, responsibilities and jurisdiction under the *Local Government Act 2009* (Qld);
- (b) their rights and interests under any interest in land or waters within the Determination Area, including under any lease, licence, access agreement, easement or reserve in the Determination Area;
- (c) the right to use, operate, maintain, replace, restore, remediate, repair and otherwise exercise all other rights as the owners and operators of infrastructure, structures, earth works, access works, facilities and other improvements within the Determination Area;
- (d) the rights under any agreements between the Barcoo Shire Council, Diamantina Shire Council or Quilpie Shire Council and any third party which relate to land or waters within the Determination Area; and
- (e) the rights of their employees, agents and contractors to enter upon the Determination Area for the purpose of performing their powers and responsibilities under sub-paragraphs (a)-(d).

7. The rights and interests of the State of Queensland in Reserves, the rights and interests of the trustees of those Reserves and of the persons entitled to access and use those Reserves for the respective purpose for which they are reserved.

8. The rights and interests of the holders of any authority, permit, lease or licence made, granted, issued or entered into under the *Land Act 1994* (Qld).

9. The rights and interests of members of the public arising under the common law, including but not limited to

- (a) any subsisting public right to fish; and
- (b) the public right to navigate.

10. So far as confirmed pursuant to s 212(2) of the *Native Title Act 1993* (Cth) and s 18 of the *Native Title Act (Queensland) Act 1993* (Qld) as at the date of this Determination, any existing public access to, and enjoyment of, the following places in the Determination Area:

- (a) waterways;
- (b) beds and banks or foreshores of waterways;
- (c) stock routes; and
- (d) areas that were public places at the end of 31 December 1993.

11. Any other rights and interests:

- (a) held by the State of Queensland or Commonwealth of Australia; or
- (b) existing by reason of the force and operation of the Laws of the State and the Commonwealth.

REGISTER ATTACHMENTS:

1. Schedule 1 - Map of Determination Area, 7 pages - A4, 27/10/2015

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.