

Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD114/2017; QUD115/2017; QUD10/2019; QUD24/2019; QUD26/2019; QUD27/2019; QUD227/2022
NNTT Number: QCD2022/013

Determination Name: [David on behalf of the Torres Strait Regional Seas Claim v State of Queensland](#)

Date(s) of Effect: 30/11/2022

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 30/11/2022

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

On 30 November 2022, the Federal Court made separate orders in relation to the relevant prescribed bodies corporate for this determination.

In respect of the onshore parts of the Ankamuthi Area, the Federal Court ordered the Seven Rivers Aboriginal Corporation RNTBC to be the prescribed body corporate for the purpose of s 56(2) of the *Native Title Act 1993* (Cth) and to perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth).

In respect of the onshore parts of the Gudang Yadhaykenu Area, the Federal Court ordered the Gudang Yadhaykenu Native Title Aboriginal Corporation RNTBC to be the prescribed body corporate for the purpose of s 56(2) of the *Native Title Act 1993* (Cth) and to perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth).

In respect of the Kaurareg Area, the Kulkalgal and Kemer Kemer Meriam Area, the offshore parts of the Ankamuthi Area, and the offshore parts of the Gudang Yadhaykenu Area, the Federal Court ordered the Northern Cape and Torres Strait United Indigenous Corporation to be the prescribed body corporate for the purpose of s 57(2) of the *Native Title Act 1993* (Cth), to act as agent for the Native Title Holders and to perform the functions mentioned in s 57(3) of the *Native Title Act 1993* (Cth). The orders in respect of the Northern Cape and Torres Strait United Indigenous Corporation would take effect when the proposed Northern Cape and Torres Strait United Indigenous Corporation was registered and when any applicant in the Northern Cape and Torres Strait Claims had filed and served:

(i) a notice stating that the Northern Cape and Torres Strait United Indigenous Corporation has been registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);

(ii) a notice specifying the ICN given in the certificate issued under s 32-1(1)(c) of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) for the Northern Cape and Torres Strait United Indigenous Corporation; and

(iii) a written consent of the Northern Cape and Torres Strait United Indigenous Corporation under s 57(2)(a)(ii) of the *Native Title Act 1993* (Cth).

On 28 February 2023, the Northern Cape and Torres Strait United Indigenous Corporation was registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and on 2 March 2023 and 6 March 2023 applicants in the Northern Cape and Torres Strait Claims filed the required notices and a written consent of the Northern Cape and Torres Strait United Indigenous Corporation.

On 14 September 2023, the Federal Court ordered by consent that the determination made on 30 November 2022 be varied by amending:

(a) Order 14(b) to remove the line spacing between the words 'take and use the Water of the area,' at subparagraph 14(b)(iii) and the words 'for personal, domestic and non-commercial communal purposes' so that Order 14(b) reads as follows:

(b) in relation to Water, the non-exclusive rights to:

(i) hunt, fish and gather from the Water of the area;

(ii) take and use the Natural Resources of the Water in the area; and

(iii) take and use the Water of the area, for personal, domestic and non-commercial communal purposes.

(b) Schedule 7 to insert after page lvii 'Map 2, Schedule 7 – Kaurareg Area – KEYMAP' which is Annexure A of these orders; and

(c) Schedule 6 by substituting it with the corresponding Schedule 6 which is Annexure B to these orders, which is consistent with other schedules in describing tenures in the form "Lot X on Plan Y".

This Register entry contains the details of the determination of native title as varied.

REGISTERED NATIVE TITLE BODY CORPORATE:

Seven Rivers Aboriginal Corporation RNTBC
Trustee Body Corporate
Injinoo Council Office
INJINOO Queensland 4876

Northern Cape and Torres Strait United Indigenous Corporation
RNTBC
Agent Body Corporate
Level 1
82 Douglas Street
THURSDAY ISLAND Queensland 4875

Gudang Yadhaykenu Native Title Aboriginal Corporation RNTBC
Trustee Body Corporate
32 Florence Street
PARRAMATTA PARK Queensland 4870

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):

Gudang Yadhaykenu Native Title Aboriginal Corporation RNTBC, Northern Cape and Torres Strait United Indigenous Corporation, Seven Rivers Aboriginal Corporation RNTBC

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:

BY CONSENT THE COURT DETERMINES THAT:

12. Native title is held in each of the Group Areas within the Determination Area by one or more of the following **Native Title Groups:**

(a) the **Kaurareg People**, as defined in Section A of Schedule 1;

- (b) the **Ankamuthi People**, as defined in Section B of Schedule 1;
- (c) the **Gudang Yadhaykenu People**, as defined in Section C of Schedule 1;
- (d) **Kulkalgal**, as defined in Section D of Schedule 1;
- (e) **Kemer Kemer Meriam**, as defined in Section E of Schedule 1.

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in the terms proposed in these orders, despite any actual or arguable defect in the authorisation of the applicant in QUD 26 of 2019, QUD 10 of 2019, QUD 24 of 2019 or QUD 115 of 2017 to seek and agree to a consent determination pursuant to s 87A of the *Native Title Act 1993* (Cth).

BY CONSENT THE COURT ORDERS THAT:

1. There be a determination of native title in the terms set out below (the **determination**).
2. The Kaurareg #1 Application is dismissed to the extent that it covers any land or waters that are within the Gudang Yadhaykenu Area or the Kulkalgal and Kemer Kemer Meriam Area, as those areas are defined in order 9 below.
3. The Kaurareg #2 Application is dismissed to the extent that it covers any land or waters that are within the:
 - (a) Ankamuthi Area, the Gudang Yadhaykenu Area, or the Kulkalgal and Kemer Kemer Meriam Area, as those areas are defined in order 9 below; or
 - (b) the balance of the land and waters in the Northern Peninsula Application (Parts A and B) and North Eastern Peninsula Application (Parts A and B).
4. The Kaurareg #3 Application is dismissed to the extent that it covers any land or waters that are within:
 - (a) the Ankamuthi Area, the Gudang Yadhaykenu Area, or the Kulkalgal and Kemer Kemer Meriam Area, as those areas are defined in order 9 below; or
 - (b) the balance of the land and waters in the Northern Peninsula Application (Parts A and B) and North Eastern Peninsula Application (Parts A and B).
5. The North Eastern Peninsula Application is dismissed to the extent that it covers any land or waters within the Kulkalgal and Kemer Kemer Meriam Area that are not also within the Gudang Yadhaykenu Area, as those areas are defined in order 9 below.

BY CONSENT THE COURT DETERMINES THAT:

7. In this determination, unless the contrary intention appears:

“Animal” means any member of the animal kingdom (other than human), whether alive or dead;

“External Boundary” means the area described in Part 1 of Schedule 4;

“Group Areas” means an area of land and waters defined in Order 9;

“High Water Mark” means the ordinary high-water mark at spring tides;

“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 2009* (Qld);

"Native Title Groups" means the groups of common law holders defined in Order 12;

"Native Title Holder" has the same meaning as in the *Native Title Act 1993* (Cth);

"Natural Resources" means:

- (a) any Animals and Plants 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,
- (c) but does not include:
 - i. Animals that are the private personal property of another;
 - ii. crops that are the private personal property of another; and
 - iii. minerals as defined in the *Mineral Resources Act 1989* (Qld); or
 - iv. petroleum as defined in the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

"Plant" means any member of the plant or fungus kingdom, whether alive or dead and standing or fallen;

"Water" means:

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

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).

8. The **Determination Area** is the land and waters described in Schedule 5 and depicted in Map 1 of Schedule 7 to the extent those areas are within the External Boundary (as described in Part 1 of Schedule 4), and not otherwise excluded by the terms of Schedule 6. To the extent of any inconsistency between the written description and the map, the written description prevails.

9. The Determination Area is comprised of the following **Group Areas**:

- (a) the **Kaurareg Area**, being the land and waters described in Schedule 5 and depicted in Map 2 of Schedule 7 to the extent those areas are within the External Boundary of the Kaurareg Area as described in Part 2 of Schedule 4, and not otherwise excluded by the terms of Schedule 6;
- (b) the **Ankamuthi Area**, being the land and waters described in Schedule 5 and depicted in Map 3 of Schedule 7 to the extent those areas are within the External Boundary of the Ankamuthi Area described in Part 3 of Schedule 4, and not otherwise excluded by the terms of Schedule 6;
- (c) the **Gudang Yadhaykenu Area**, being the land and waters described in Schedule 5 and depicted in Map 4 of Schedule 7 to the extent those areas are within the External Boundary of the Gudang Yadhaykenu Area as described in Part 4 of Schedule 4, and not otherwise excluded by the terms of Schedule 6;
- (d) the **Kulkalgal and Kemer Kemer Meriam Area**, being the land and waters described in Schedule 5 and depicted in Map 5 of Schedule 7 to the extent those areas are within the External Boundary of the Kulkalgal and Kemer Kemer Meriam Area as described in Part 5 of Schedule 4, and not otherwise excluded by the terms of Schedule 6.

10. To the extent of any inconsistency between the written descriptions and the maps referred to in order 9 above, the written description prevails.

11. Native title exists in each of the Group Areas within the Determination Area.

12. Native title is held in each of the Group Areas within the Determination Area by one or more of the following

Native Title Groups:

- (a) the **Kaurareg People**, as defined in Section A of Schedule 1;
- (b) the **Ankamuthi People**, as defined in Section B of Schedule 1;
- (c) the **Gudang Yadhaykenu People**, as defined in Section C of Schedule 1;
- (d) **Kulkaigal**, as defined in Section D of Schedule 1;
- (e) **Kemer Kemer Meriam**, as defined in Section E of Schedule 1.

13. Native title in relation to each Group Area listed in order 9 above is held by the respective Native Title Group or Groups in accordance with Schedule 2.

14. Subject to orders 16, 17 and 18 below, the nature and extent of the native title rights and interests held by each Native Title Group in relation to the land and waters of their respective part or parts of the Determination Area described in Part 1 of Schedule 5, are:

(a) other than in relation to Water, the right to possession, occupation, use and enjoyment of the area to the exclusion of all others; and

(b) in relation to Water, the non-exclusive rights to:

(i) hunt, fish and gather from the Water of the area;

(ii) take and use the Natural Resources of the Water in the area; and

(iii) take and use the Water of the area, for personal, domestic and non-commercial communal purposes.

15. Subject to orders 16, 17 and 18 below, the nature and extent of the native title rights and interests held by each Native Title Group in relation to the land and waters of their respective part or parts of the Determination Area described in Part 2 of Schedule 5, are the non-exclusive rights to:

(a) access, to remain in and to use the area;

(b) access resources and to take for any purpose, resources in the area;

(c) 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;

(d) be accompanied on to the area by those persons who, though not Native Title Holders, are:

(i) Spouses of Native Title Holders;

(ii) people who are members of the immediate family of a Spouse of a Native Title Holder; or

(iii) people reasonably required by the Native Title Holders under traditional law and custom for the performance of ceremonies or cultural activities on the area.

16. The native title rights and interests of each Native Title Group 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 respective Native Title Group.

17. The native title rights and interests referred to in orders 14(b) and 15 above do not confer possession, occupation, use or enjoyment to the exclusion of all others.

18. 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).

19. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 3.

20. The relationship between the native title rights and interests described in orders 14 and 15 above and the other

interests described in Schedule 3 (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.

REGISTER ATTACHMENTS:

1. Schedule 1 - Native Title Groups, 3 pages - A4, 30/11/2022
2. Schedule 2 - Description of which Group Areas are held by each Native Title Group, 1 page - A4, 30/11/2022
3. Schedule 3 - Other Interests in the Determination Area, 5 pages - A4, 30/11/2022
4. Schedule 4 - External Boundaries, 24 pages - A4, 30/11/2022
5. Schedule 5 - Description of Determination Areas, 7 pages - A4, 30/11/2022
6. Schedule 6 - Areas Not Forming Part of the Determination Area, 3 pages - A4, 14/09/2023
7. Schedule 7 - Maps of Determination Area, 31 pages - A4, 14/09/2023

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.