National Native Title Tribunal

Extract from the National Native Title Register

Determination Information:

Determination Reference:	Federal Court Number(s): QUD851/2018 NNTT Number: QCD2024/003
Determination Name:	McKellar on behalf of the Wongkumara People v State of Queensland [Queensland Part A Area]
Date(s) of Effect:	3/07/2024
Determination Outcome:	Native title exists in the entire determination area

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

Determination Date:	03/07/2024
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

ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):

Wangkumarra Kawalanyi Aboriginal Corporation

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

COMMON LAW HOLDER(S) OF NATIVE TITLE:
5. The native title is held by the Wongkumara People described in Schedule 1 (the **Native Title Holders)**.

Schedule 1 – Native Title Holders
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 Determination 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 Jones and Willy Dutton);
(b) Siblings Polly (mother of Albert Ebsworth, Sam and Tommy Burgamar) and Charlie Nockatunga;
(c) Maggie and Tommy (parents of Nelli 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).

The Wongkumara People 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 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 4 and depicted in the map attached to Schedule 6 to the extent those areas are within the External Boundary and not otherwise excluded by the terms of Schedule 5 (the **Determination Area**). To the extent of any inconsistency between the written description and the map, the written
description prevails.
4. Native title exists in the Determination Area.
5. The native title is held by the Wongkumara People described in Schedule 1 (the **Native Title Holders**).
6. Subject to orders 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 1 of Schedule 4 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 the Natural Resources of the Water in the area; and
(iii) take the Water of the area subject to the operation and any vesting effect of State Water Legislation.
7. Subject to orders 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 2 of Schedule 4 are the non-exclusive rights to:
(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 State Water Legislation;
(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 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 or clearing vegetation; and
(l) be accompanied onto 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 in the area.
8. 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.
9. The native title rights and interests referred to in orders 6(b) and 7 do not confer possession, occupation, use or enjoyment to the exclusion of all others.
10. 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).

11. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 2.
12. The relationship between the native title rights and interests described in orders 6 and 7 and the other interests described in Schedule 2 (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
13. 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 Schedule 3;
"**land**" and "**waters**", respectively, have the same meanings as in the *Native Title Act 1993* (Cth);
"**Laws of the State and the Commonwealth**" means:
(a) the common law and the laws of the State of Queensland; and
(b) the common law and the laws of 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);
"**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,
that have traditionally been taken by the Native Title Holders,
(c) but does not include:
i. minerals as defined in the *Mineral Resources Act 1989* (Qld) (so far as applicable); or
ii. 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;
"**Reserve**" means a reserve dedicated or taken to be a reserve under the *Land Act 1994* (Qld);
"**State Water Legislation**" means *The Rights to Water and Water Conservation and Utilization Act 1910* (Qld), *Water Act 1926* (QLD), and *Water Act 2000* (QLD);
"**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.
"**Works**" has the same meaning as in the *Electricity Act 1994* (Qld).
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:
14. The native title is held in trust.
15. The Wangkumarra Kawalanyi Aboriginal Corporation (ICN: 7384), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:
(a) be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth); and
(b) perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

REGISTER ATTACHMENTS:

1. Schedule 2 - Other Interests in the Determination Area, 7 pages - A4, 03/07/2024
2. Schedule 3 - External Boundary, 7 pages - A4, 03/07/2024
3. Schedule 4 - Description of Determination Area, 3 pages - A4, 03/07/2024
4. Schedule 5 - Areas Not Forming Part of the Determination Area, 2 pages - A4, 03/07/2024
5. Schedule 6 - Map of Determination Area, 20 pages - A4, 03/07/2024

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.