

Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD556/2015
NNTT Number: QCD2024/013

Determination Name: [Kum Sing on behalf of the Mitakoodi and Mayi People #5 v State of Queensland \(No 3\)](#)

Date(s) of Effect: 22/08/2024, 26/03/2025

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 22/08/2024

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Order 2 of the determination provides that '[w]ith respect to the following parcels, which are included in Part 2 of Schedule 4, the determination will take effect upon the agreement referred to in paragraph 1 of Schedule 2 [Mitakoodi and Mayi People and State of Queensland Tenure Resolution ILUA] being registered on the Register of Indigenous Land Use Agreements:

- (a) Lot 151 on CP911698; and
- (b) Lot 51 on SP265801.'

That agreement was registered on 26 March 2025, and therefore the determination is in effect from 26 March 2025.

REGISTERED NATIVE TITLE BODY CORPORATE:

Mitakoodi and Mayi People Native Title Aboriginal Corporation
RNTBC
Trustee Body Corporate
15 Cahill Street
Aitkenvale Queensland 4814

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):

Mitakoodi and Mayi People Native Title 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:

9. The native title is held by the Mitakoodi and Mayi People described in Schedule 1 (the **Native Title Holders**).

1.1 Schedule 1 – Native Title Holders

1. The Mitakoodi and Mayi People are Aboriginal people who:

- (a) principally identify as Mitakoodi and Mayi People and as belonging to the traditional country of their Mitakoodi and Mayi forebears;
- (b) are recognised by other Mitakoodi and Mayi People as the biological descendants of deceased Mitakoodi and Mayi People; and
- (c) are the descendants of the following deceased Aboriginal People:
 - (i) Minnie;
 - (ii) Thomas 'Tiger' Mitchell;
 - (iii) Dinah;
 - (iv) Topsy;
 - (v) Sophie; and
 - (vi) Billy Chisholm.

MATTERS DETERMINED:

BY CONSENT, THE COURT ORDERS THAT:

- 1. There be a determination of native title in relation to Part A of the proceedings in the terms set out below (the **determination**).
- 2. With respect to the following parcels, which are included in Part 2 of Schedule 4, the determination will take effect upon the agreement referred to in paragraph 1 of Schedule 2 being registered on the Register of Indigenous Land Use Agreements:
 - (a) Lot 151 on CP911698; and
 - (b) Lot 51 on SP265801.
- 3. In the event that the agreement referred to in paragraph 1 of Schedule 2 is not registered on the Register of Indigenous Land Use Agreements within twelve (12) months of the date of this order, the matter is to be listed for a further case management hearing.
- 4. The native title is held in trust.
- 5. The Mitakoodi and Mayi People Native Title Aboriginal Corporation (ICN: 10313), 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.

BY CONSENT, THE COURT DETERMINES THAT:

- 7. 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.
- 8. Native title exists in the Determination Area.
- 9. The native title is held by the Mitakoodi and Mayi People described in Schedule 1 (the **Native Title Holders**).
- 10. Subject to orders 12, 13 and 14 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 for personal, domestic and non-commercial communal purposes.
- 11. Subject to orders 12, 13 and 14 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) 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;
 - (d) take Natural Resources from the land and waters of the area for any purpose;
 - (e) take the Water of the area for personal, domestic and non-commercial communal purposes;

(f) conduct ceremonies on the area;
 (g) bury Native Title Holders within the area;
 (h) hold meetings on the area;
 (i) teach on the area the physical and spiritual attributes of the area;
 (j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation;
 (k) 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; and
 (l) be accompanied onto the area by certain non-Native Title Holders, being:
 (i) immediate family of Native Title Holders, pursuant to the exercise of traditional laws acknowledged and customs observed by the Native Title Holders; and
 (ii) people required under traditional laws acknowledged and traditional customs observed by the Native Title Holders for the performance of, or participation in, ceremonies and dance.

12. 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.

13. The native title rights and interests referred to in orders 10(b) and 11 do not confer possession, occupation, use or enjoyment to the exclusion of all others.

14. 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).

15. The nature and extent of any other interests in relation to the Determination Area are set out in Schedule 2.

16. The relationship between the native title rights and interests described in orders 10 and 11 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, prevail over the native title rights and interests and any exercise of the native title rights and interests but, except as otherwise provided for by law, do not extinguish them.

17. 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 the common law and valid 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 Determination Application' means the amended native title determination application filed in this proceeding (QUD 556 of 2015) on 20 October 2023;
'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) that have traditionally been taken and used by the Native Title Holders,
 (d) but does not include:
 (i) Animals that are the private personal property of another;
 (ii) crops that are the private personal property of another;
 (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;
'Reserve' means a reserve dedicated, or taken to be a reserve, under the *Land Act 1994* (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; and
 (c) water from an underground water source,

18. 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).

REGISTER ATTACHMENTS:

1. Schedule 2 - Other Interests in the Determination Area, 12 pages - A4, 22/08/2024

2. Schedule 3 - External Boundary, 4 pages - A4, 22/08/2024
3. Schedule 4 - Description of Determination Area, 22 pages - A4, 22/08/2024
4. Schedule 5 - Areas Not Forming Part of the Determination Area, 3 pages - A4, 22/08/2024
5. Schedule 6 - Map of Determination Area - Part 1 of 3, 21 pages - A4, 22/08/2024
6. Schedule 6 - Map of Determination Area - Part 2 of 3, 21 pages - A4, 22/08/2024
7. Schedule 6 - Map of Determination Area - Part 3 of 3, 21 pages - A4, 22/08/2024

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.