



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD9/2019
NNTT Number: QCD2024/016

Determination Name: [Nona on behalf of the Badulgal, Mualgal and Kaurareg Peoples \(Warral & Ului\) v State of Queensland \(No 6\)](#)

Date(s) of Effect: 4/10/2024

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 04/10/2024

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

THE COURT NOTES THAT:

A. These orders and reasons for judgment must be read in conjunction with the orders and reasons for judgment in *Nona on behalf of the Badulgal, Mualgal and Kaurareg Peoples (Warral & Ului) v State of Queensland (No 5)* [2023] FCA 135.

REGISTERED NATIVE TITLE BODY CORPORATE:

Badu Ar Mua Migi Lagal (Torres Strait Islanders) Corporation
RNTBC
Trustee Body Corporate
C/- 212 Chapman Street
Badu Island
via
THURSDAY ISLAND Queensland 4875

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:

BY CONSENT, THE COURT DETERMINES THAT:

5. The native title is held by Badulgal and Mualgal described in Schedule 1 (the **Native Title Holders**).

Schedule 1 – Native Title Holders

The Native Title Holders are Badulgal and Mualgal being, respectively, the descendants of one or more of the following apical ancestors:

(a) **Badulgal**: Getawan, Sagul, Uria, Baira, Inor, Zimoia, Newar, Sagigi, Jawa, Wairu, Paipe, Waria, Kamui, Mabua, Laza, Gainab, Walit, Namagoin, Mariget, Bazi, Ugarie, Karud, Dauwadi, Gizu, Aupau and Zarzar; and

(b) **Mualgal**: Dadu, Gaia (also known as Gai), Goba, Jack Moa, Kanai (son of Bamar), Koia, Kulka, Kupad, Maga (father of Gema, Babun, Dawai, Bapi and Magena), Maiamaia, Nukau (also known as Nakau), Samukie, Tuku, Waina;

including Torres Strait Islanders who have been adopted in accordance with the traditional laws acknowledged and traditional customs observed by those people.

THE COURT DETERMINES THAT:

14. The Badu Ar Mua Migi Lagal Torres Strait Islander Corporation (ICN:4583), 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 the registered native title body corporate.

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 3 and depicted in the maps at Schedule 5 to the extent those areas are not otherwise excluded by the terms of Schedule 4 (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 Badulgal and Mualgal described in Schedule 1 (the **Native Title Holders**).

6. Subject to orders 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 3 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. 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 order 6(b) 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 2.

11. The relationship between the native title rights and interests described in order 6 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

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

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

“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;

“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,
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); 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;

“Reserves” 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.

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. The native title is held in trust.

14. The Badu Ar Mua Migi Lagal Torres Strait Islander Corporation (ICN:4583), 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 the registered native title body corporate.

REGISTER ATTACHMENTS:

1. QCD2024_016 Schedule 2 - Other Interests in the Determination Area, 2 pages - A4, 04/10/2024

2. QCD2024_016 Schedule 3 - Description of Determination Area, 1 page - A4, 04/10/2024

3. QCD2024_016 Schedule 4 - Areas Not Forming Part of Determination Area, 1 page - A4, 04/10/2024

4. QCD2024_016 Schedule 5 - Map of Determination Area, 3 pages - , 04/10/2024

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.