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PR 09-27

Combined Dulabed and Malanbarra Yidinji native title determination

Today's consent determination*

The Dulabed and Malanbarra Yidinji peoples became recognised native title holders today over 16,460 ha of land and waters, 37 km south of Cairns. The Federal Court of Australia made a consent determination recognising their exclusive native title rights over 6,540 ha of unallocated state land and their non-exclusive native title rights over 9,920 ha of reserves and national parks. The consent determination recognises that the Dulabed and Malanbarra Yidinji peoples' native title has always existed, and continues to exist, under their traditional laws and customs.

The native title claim

The Dulabed and Malanbarra Yidinji Peoples', represented by the North Queensland Land Council, lodged two native title claims in 1995. These claims were combined in the Federal Court in 2001.

Negotiations

The following governments and organisations became respondent parties to the claim:

- Queensland Government
- Cairns City Council
- Tablelands Council
- Ergon Energy
- Individual residents

The National Native Title Tribunal provided mediation assistance to the Dulabed and Malanbarra Yidinji peoples and the other parties during negotiations about their rights and interests in the application area to reach this consent determination and accompanying agreements.

Native title rights recognised

Exclusive native title rights

The groups' exclusive native title rights have been recognised over a third of their claimed area, 6,540 ha of unallocated state land. This means they have the right to possess, use and occupy this area exclusively and will not be required to share the land with others.

Non-exclusive native title rights

The Dulabed and Malanbarra Yidinji people's non-exclusive native title rights have been recognised over 9,920 ha of reserves and national parks. This means the groups will exercise their native title rights in this area alongside the rights of others.

These include the following rights in this area:

- access, traverse and camp on the area
- take and use traditional natural resources for personal, domestic, non-commercial and communal purposes
- perform cultural or spiritual activities.

The groups' native title rights to water in the determination area have also been recognised.

These are the non-exclusive rights to:

- hunt and fish in, or gather from, the water for personal, domestic and non-commercial communal purposes
- take, use and enjoy the water to satisfy personal, domestic, communal needs but not for commercial purposes.

Relationship between the native title rights and other rights

The consent determination recognises the Dulabed and Malanbarra Yidinji peoples' native title rights while protecting the rights of the other parties. All of the parties will exercise their rights in accordance with Queensland and Commonwealth laws, and the native title holders will also exercise their rights in accordance with their traditional laws and customs. The areas where the Dulabed and Malanbarra peoples' non-exclusive rights have been recognised will be shared by all those with an interest in the area.

Broader agreement package

The Dulabed and Malanbarra Yidinji peoples also negotiated four indigenous land use agreements (ILUAs)** with the parties to clarify how they will coordinate their rights and interests in the area. The ILUAs have been lodged with the National Native Title Tribunal to be considered for registration. The determination will not be legally finalised until the ILUAs are registered.

Managing the native title rights

The Dulabed Malanbarra and Yidinji Aboriginal Corporation has been established as the Prescribed Body Corporate to manage the native title rights on behalf of all native title holders.

**A native title determination is a decision by the Federal Court of Australia that native title does or does not exist over an area of land or water. If the parties to a native title claim reach agreement, and the Federal Court endorses the agreement, it is called a consent determination.*

***ILUAs are voluntary agreements about the use and management of land, made between a native title group and other people. ILUAs are flexible and can be made about a variety of matters to ensure a practical relationship is established and that each party obtains the security and benefits they are seeking such as arrangements for sharing land, ensuring that development of public infrastructure can continue to be developed and how native title rights and interests will be exercised.*

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