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PR 09-26

Girramay native title determination

Today's consent determination*

The Federal Court of Australia has made a consent determination recognising the Girramay People's native title rights and interests over 16 parcels of Unallocated State Land, altogether about 475 ha, in the Cardwell to Murray Upper area in north Queensland.

The consent determination is recognition that the Girramay People's native title has always existed, and continues to exist, under their traditional laws and customs. It formally recognises the Girramay People's native title rights under Australian law for the first time.

The native title claim

The determination finalises the Girramay People's native title claim, which was lodged on their behalf by the Central Queensland Land Council Aboriginal Corporation on 3 September 1997. The Girramay were then represented by the North Queensland Land Council from 28 April 2008 until the present.

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

- State of Queensland;
- Cardwell Shire Council (now Cassowary Coast Regional Council);
- Cardwell Shire River Improvement Trust;
- Ergon Energy.

These parties and the Girramay People, with mediation assistance from the National Native Title Tribunal, negotiated about their rights and interests in the claimed areas to reach this consent determination.

Native title rights recognised

Non-exclusive native title rights

The Federal Court has recognised the Girramay People's non-exclusive native title rights over the 16 parcels of Unallocated State Land.

These include the following rights:

- access, traverse and camp on the area
- hunt animals and gather plants for personal, domestic and communal needs, but not for commercial use
- share or exchange plant and animal resources obtained from the area for non-commercial purposes

- conduct ceremonies and meetings
- be buried in the ground
- visit, maintain and protect significant sites
- teach the spiritual and physical attributes of places and areas of importance.

The Girramay People's 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 Girramay People's native title rights while protecting the rights of the other parties. All of the parties' rights will be exercised in accordance with Queensland and Commonwealth laws, and the Girramay People will also exercise their rights in accordance with their traditional laws and customs. The areas where the Girramay People's non-exclusive rights have been recognised will continue to be shared by all those with an interest in the area.

Broader agreement package

During negotiations the Girramay People also negotiated four separate agreements with the parties, to be registered as indigenous land use agreements (ILUAs)**, over these and some other State lands. The ILUAs have been lodged with the National Native Title Tribunal to be considered for registration.

The determination is conditional on the registration of the ILUAs.

**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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