



**CAPE YORK
LAND COUNCIL**
YUK PUYNGK

January 2024 : 02

Wuthathi People Sea Claim

[FEDERAL COURT PROCEEDING QUD570/2023]

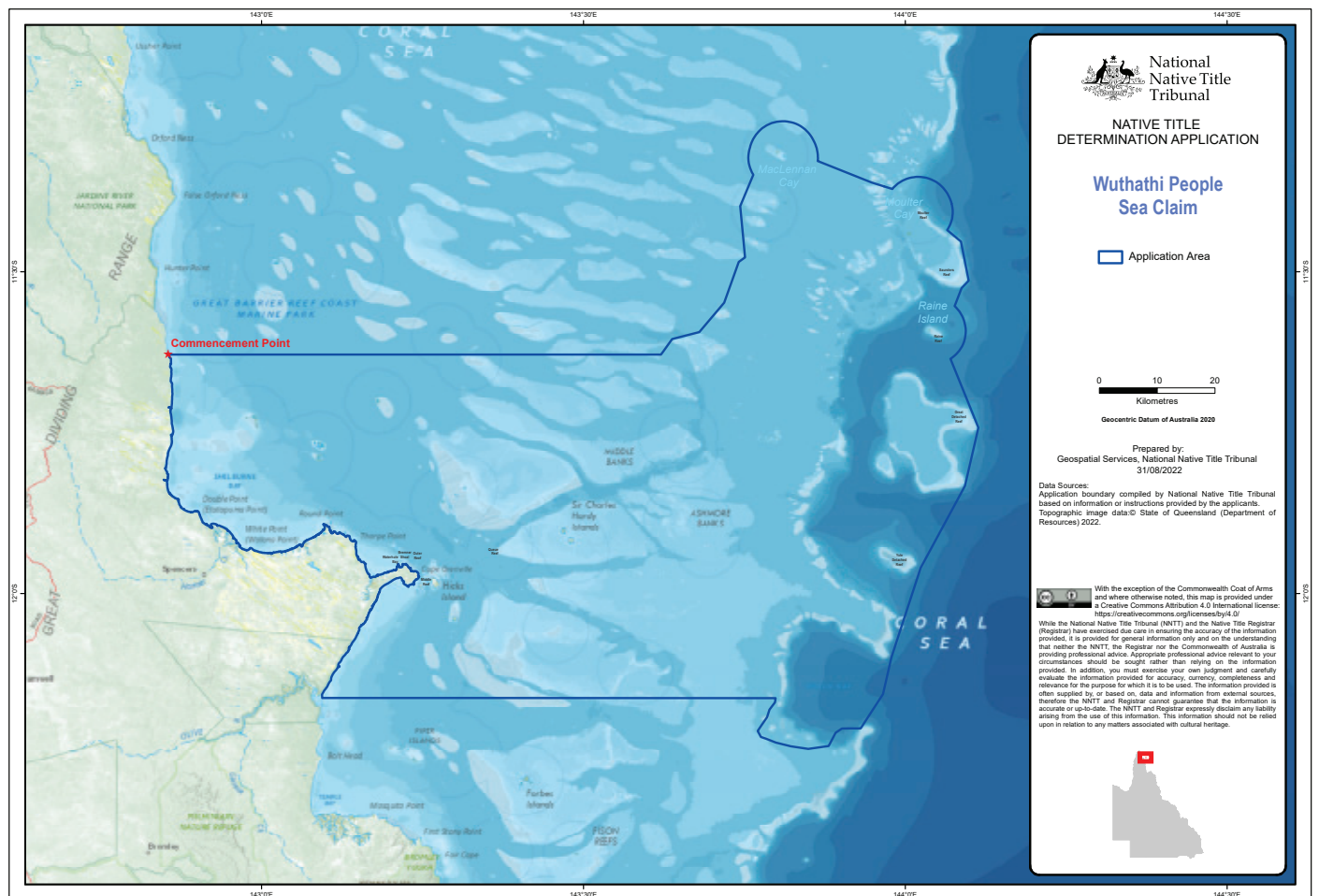
Background

The Wuthathi People Sea Claim was filed with the Federal Court in December 2023. The first Newsletter which reported in detail on the position at December 2023 was distributed in January 2024.

Part of the Claim area - described as the Raine Island Overlap Region was overlapped by earlier native title claims being:

- a. The North Eastern Peninsula Sea Claim of the Gudang Yadhaykenu People; and
- b. The Torres Strait Regional Seas Claim (Part C) of the Eastern and Central Island People.

A map of the Claim Area is seen below



After some preliminary meetings a Working Group was established, an agreement about the process of negotiations was finalised to formalise negotiations between the competing Claim Groups. At the time of the first newsletter the next Working Group meeting was scheduled for 8 February 2024.

When the Claim was filed the Registrar of the National Native Title Tribunal commenced the required processes to subject the claim to the registration test process and then to publish public notices of the Claim inviting interested parties to register their interest by filing the required form with the Federal Court.

We advised that the next Newsletter would be distributed after the “notification period” expired and details of respondent parties became known. That period expired on 10 December 2024.

Subsequent Events

As a result of Working Group meetings and Court hearings held in 2024 the Gudang Yadhaykenu People advised that they proposed to reduce the Claim Area of their Sea Claim to remove from that Claim the Raine Island Overlap Region. They agreed that this Overlap area was primary country of the Wuthathi People.

Court orders allowing this amendment were made and an Amended Claim was lodged for filing on 21 January 2025.

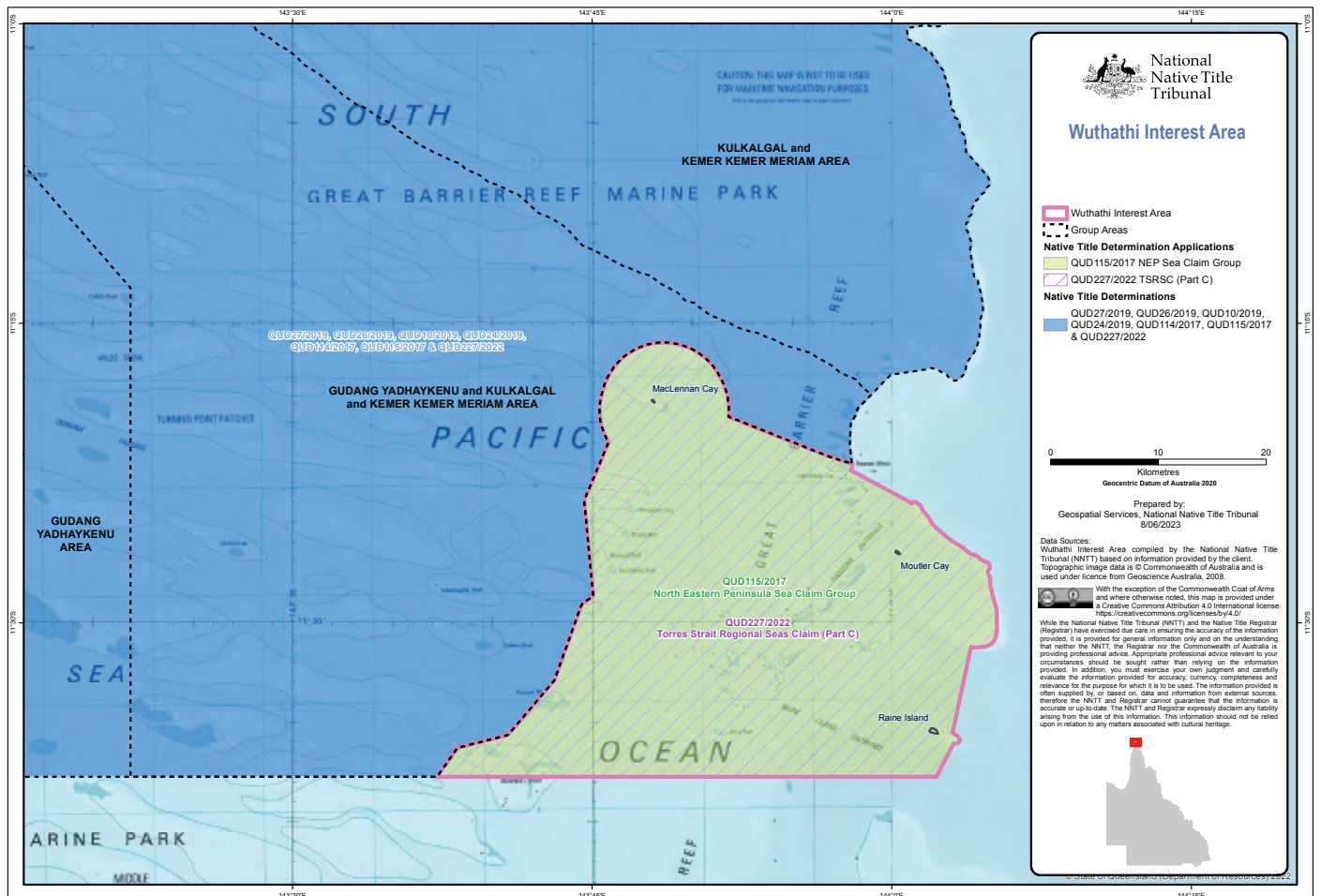
The representatives of the Central and Eastern Island People advised that they would be asserting that they hold Native Title rights in country south of the Raine Island Overlap Area and would become Respondent parties to the Wuthathi Claim.

This has resulted in them filing the required form with the Federal Court on 10 December 2024 as detailed below. These developments require a restructure of the Working Group and amendment of the process agreement which will be addressed early in 2025.

In the meantime, research has been conducted and an initial anthropological report prepared by Consultant Anthropologist Ray Wood and witness statements prepared by some Wuthathi People. That information has been exchanged for the information relied on by the Central and Eastern Island People and a joint meeting of anthropologists was held with the Registrar of the Federal Court and a joint statement agreed.

The “notification period” has ended and we now know the identity of the Respondent parties to the Wuthathi Claim and the interests that they contend.

A map of the Raine Island Overlap Area is seen below (formerly referred to as the Wuthathi Interest Area)



Respondent Parties

1. The State of Queensland

The State is the first Respondent party in all Native Title Claims in Queensland and is thus an expected Respondent. Key aspects including connection, tenure, rights and interests and other interests in the Claim area are matters which require discussion with and, where achievable, agreement with the State.

2. Commonwealth of Australia

The Commonwealth is again an expected Respondent party to the Native Title Claims in which it has interests including those of Great Barrier Reef Marine Park Authority and the Australian Maritime Safety Authority (which has a lighthouse facility at Clerke Island). The key aspects as described in 1 above are again matters for discussion and, where achievable, agreement with the Commonwealth.

3. Cook Shire Council

The Council, which is yet again an expected Respondent, claims an interest as the local government for the area of the Claim. The Council may also claim to be interested in the key aspects as referred to in 1 above.

4. Haggerstone Island leaseholders

Catherine Joanna Heyer, Cape Grenville Holdings Pty Ltd and

Haggerstone Island Holdings Pty Ltd each hold a one-third interest in the Term Lease for Tourism purposes over lot 4 on Crown Plan 866939 on Haggerstone Island and claim that interest. They are expected Respondent parties.

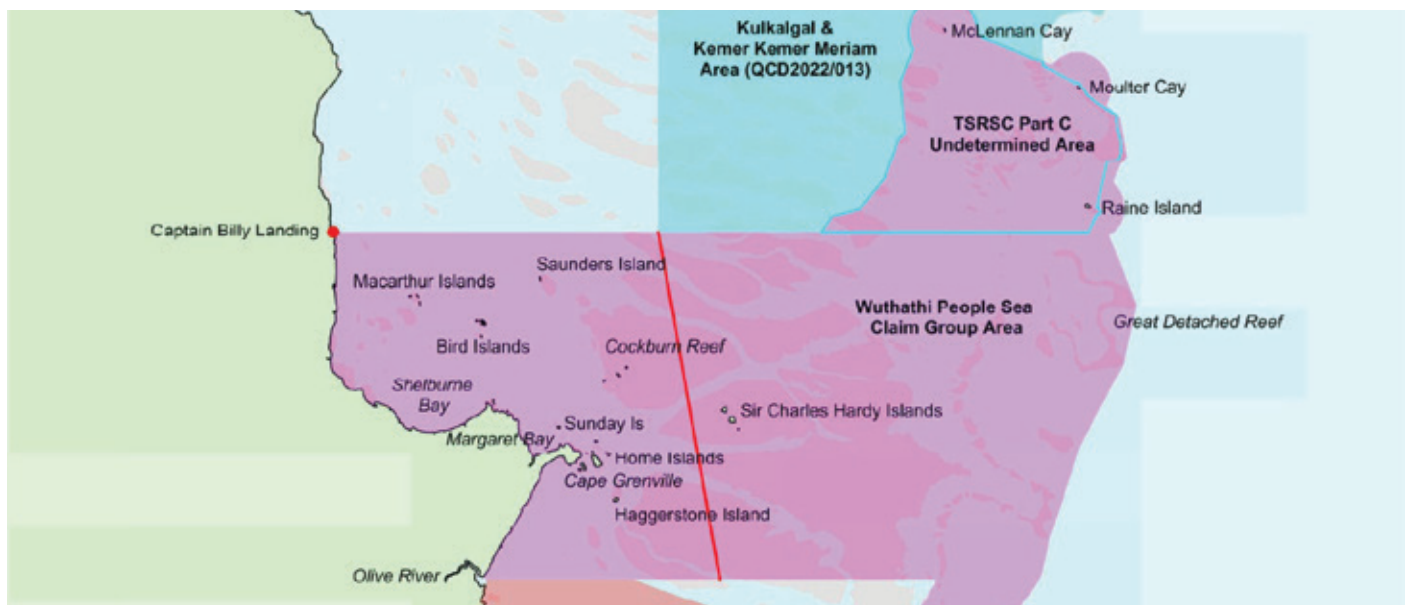
5. Hicks Island leaseholder

Hicks Island Pty Ltd holds a Term lease for Commercial/Business purposes over lot 3 on Crown Plan SH5 on Hicks Island and claims that interest. It is again an expected Respondent party.

6. Kulkalgal and Kermer Kermer Meriam Respondents

Brian Bryce William Snr, Kapua George Gutchen, Lui Ned David and Frank Ned Faud "seek to defensively assert their Kermer Kermer Meriam and Kulkalgal native title rights and interests in relation to:

- those parts of Wuthathi People Sea Claim overlapping with Torres Strait Regional Seas Claim (Part C);
- those parts of the Wuthathi People Sea Claim extending three nautical miles from the high-water mark of Moulter Cay and Raine Island; and
- those parts of the Wuthathi People Sea Claim south of the southern boundary of the Torres Strait Regional Seas Claim (Part C), and east of the red line shown on the map ..." below:



These Respondents also assert that:

"In accordance with their traditional law and custom, Brian Williams, Kapua Gutchen, Ned David, and Frank Faud also assert that each of them hold customary, or secondary, rights and interests in relation to those areas described ... above and other parts of the Wuthathi People Sea Claim area, including, but not limited to, Haggerstone Island." And further assert that:

"A determination in relation to the areas described ... above in the terms proposed by the Applicant in the Wuthathi People Sea Claim would have the effect of depriving Brian Williams, Kapua Gutchen, Ned David, and Frank Faud of recognition of their native title rights and interests."

Future Conduct Of The Claim

In order to formally claim the rights now being asserted beyond the Raine Island Overlap Region it will be necessary for the Indigenous Respondent parties to seek authorisation of and

file with the Federal Court a yet further Claim making those assertions.

With the Gudang Yadhaykenu People ceasing to assert an interest in the Wuthathi People Sea Claim area there will be overlapping claims by the Wuthathi People on the one part and the Kulkalgal and Kermer Kermer Meriam People on the other part. This will necessitate a review of the processes and timetables necessary for resolution of the resultant overlap which will be the subject of discussion in 2025.

Finally, please contact Deputy Principal Legal Officer, Parky Werrick of CYLC, if you have been on Wuthathi Sea Country within the last 3 years. Evidence of Wuthathi People accessing their Sea Country is important in supporting the Wuthathi People Sea Claim. Newsletters will be published as required to inform the Wuthathi People of progress.





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