



May 2022
**Northern Cape and
Torres Strait United
Newsletter**



Northern Cape and Torres Strait United Native Title Proceedings Newsletter | Issue one | May 2022

History making agreement

First Nations peoples of the Torres Strait and mainland Australia have agreed to unite in a history-making step to achieve native title determinations across the eastern top of Australia.

The total area covered by combining to collectively achieve land justice goals covers more than 30,000 square kms.

The move to work together will give the claimants a strong united voice to continue speaking to State and Commonwealth governments and ensure their rights to land and sea are acknowledged.

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History making agreement

After years of overlapping claims, court proceedings, mediations and countless meetings with lawyers and anthropologists, progress remained slow. This prompted the First Nations leaders of the Torres Strait regional sea claim (TSRSC), Kaurareg, Ankamuthi and Gudang Yadhaykenu to take matters into their own hands. In 2020 they combined to establish the Northern Cape and Torres Strait United Working Group (Working Group), agreeing to resolve all overlapping claims and proceed to consent determinations. After four meetings, the Working Group had agreed to:

- speak to the State and Commonwealth governments with one strong united voice, resulting in a meeting with the State and Commonwealth in September 2021, and another proposed for July 2022;
- consolidate the existing overlapping claims and the proposed TSRSC Part C in the Federal Court, to enable all overlapping claims to be determined together where each group has;
 - *Primary Rights* (native title), where they share Primary Rights with their neighbours and transitional areas (see **Figure 1** on the next page);
 - a *Sharing Protocol* to ensure consultation between Primary Rights holders and their neighbours in accordance with traditional law and custom;
 - a *Permanent Arrangements Agreement* to lock-in permanent sharing arrangements between the groups;
- establish a *Northern Cape and Torres Strait United PBC* for the whole sea area covered by the united claims, made up of representatives from the existing PBCs for each of the overlapping claim groups; and
- work with the Wuthathi People to achieve determinations of native title for Raine Island and the surrounding waters.

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HISTORY OF NATIVE TITLE CLAIMS IN THE NORTHERN CAPE AND TORRES STRAIT

2001

Torres Strait Regional Seas Claim (TSRSC) made

2008

Kaurareg #1 – #2 sea claims made, TSRSC split into Part A and Part B

2008

Federal Court determines:

- native title exists over most of the TSRSC Part A claim area
- all Torres Strait Islander communities belong to a single society in accordance with law and custom - the question as to whether that society extended further to include Kaurareg and the communities of Northern Cape York was left open
- native title rights includes the rights to take marine resources for commercial purposes (first determination of its kind in Australia)

2008

Gudang Yadhaykenu Sea Claim made

2010

Kaurareg #3 Island claim made

2011

High Court upholds decision that TSRSC Part A includes commercial fishing rights

2015

Badulgal, Mualgal and Kaurareg agree to share overlapped sea Country and Islands

2017

Ankamuthi and Gudang Yadhaykenu sea and Island claims made

2018

Kaurareg, Ankamuthi and Gudang Yadhaykenu agreed to share overlapped sea Country and Islands

2019

Federal Court places all overlapping claims into active case management

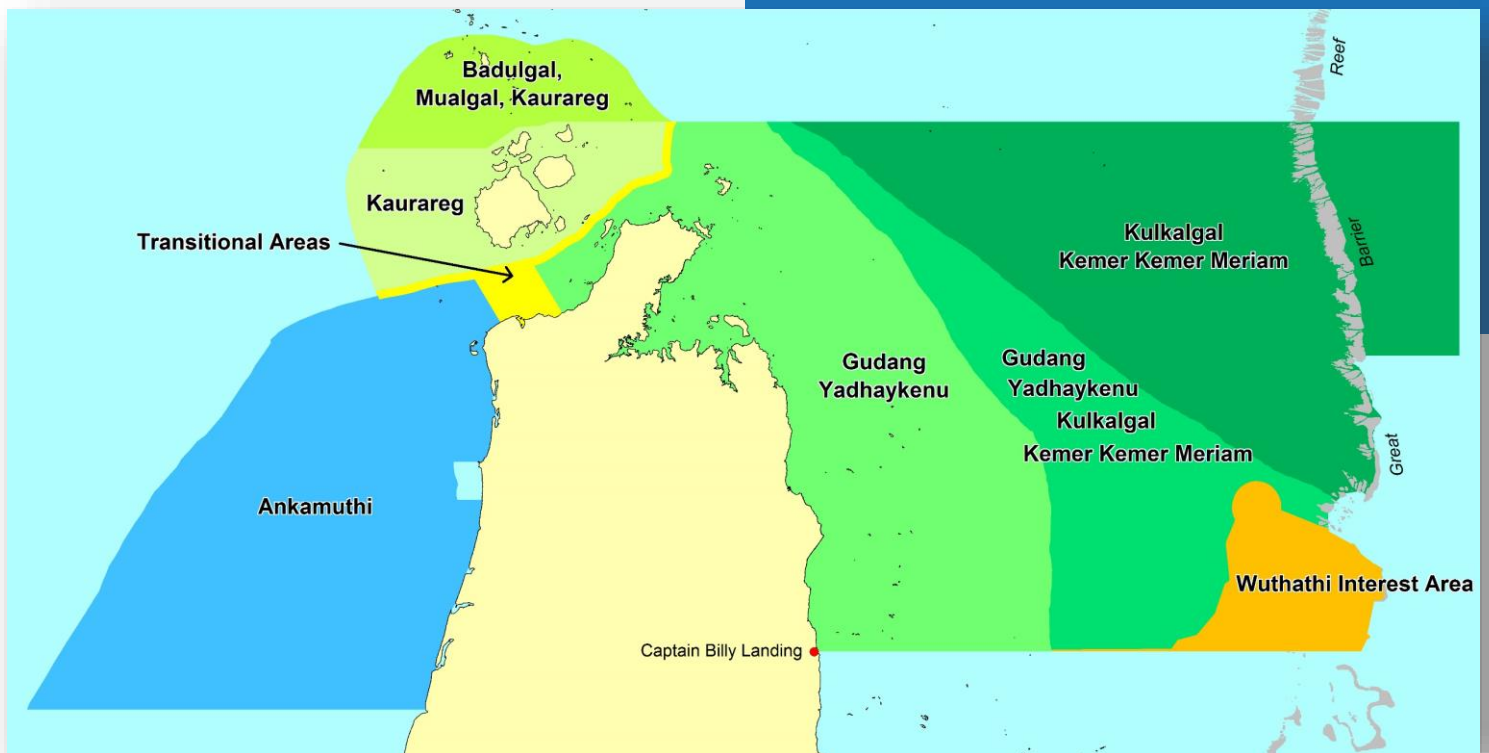
2020

Ankamuthi, Gudang Yadhaykenu, Kaurareg and TSRSC establish the Northern Cape and Torres Strait United Working Group

The Working Group is now taking this proposal back to its native title communities for approval.

All proposals made by the Northern Cape and Torres Strait United Working Group must be approved by the communities they represent.

The communities have the last say.

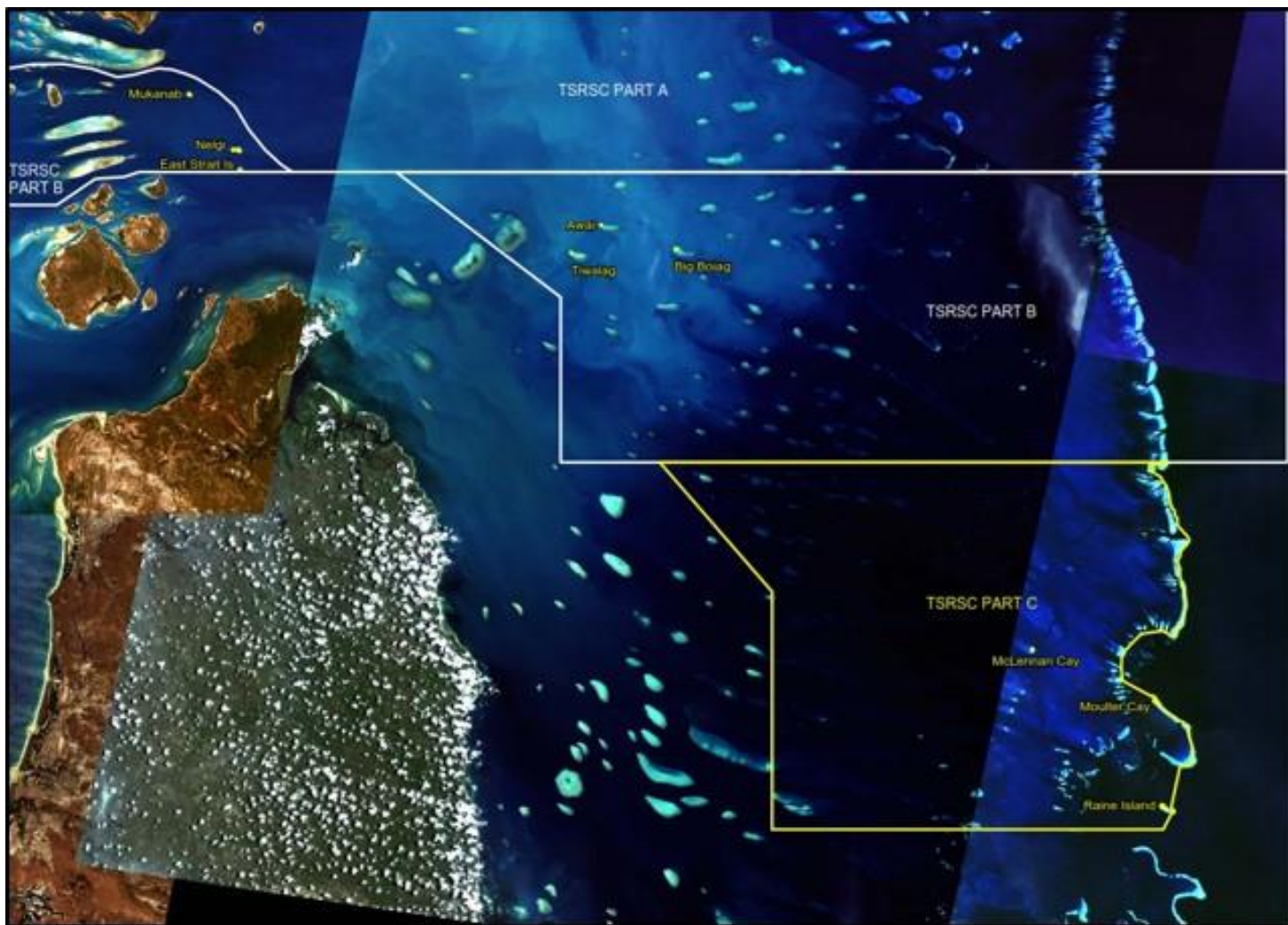


Primary Rights (native title) areas

The map above shows the areas where the Working Group agrees each group has Primary Rights.

The Working Group has agreed that each group also holds other rights under traditional law and custom to areas outside of their Primary Rights area.

Recognition of these rights between the groups will be locked into a Permanent Arrangements Agreement proposed to be included in each native title determination.



Torres Strait Regional Sea Claim Part C

Most, but not all areas where the Working Group agreed the TSRSC group has Primary Rights, is within the boundaries of the TSRSC Part B.

However, some of those areas Primary Rights currently are only claimed by Gudang Yadhaykenu and Kaurareg.

In these areas a new overlapping Torres Strait Islander “catch-up” native title claim will need to be made as per the Torres Strait Regional Seas Claim Part C (pictured above).

The only reason why the TSRSC Part C needs to be made is so it can be part of the process when all overlapping claims are *consolidated* (brought together for a final decision or hearing) in the Federal Court.

Making the TSRSC Part C will require authorisation by the TSRSC group. Authorisation is the process where all members of the TSRSC group communities come together to decide whether to authorise the making of the TSRSC Part C and decide the names of Applicants to represent both the TSRSC Part B and TSRSC Part C.

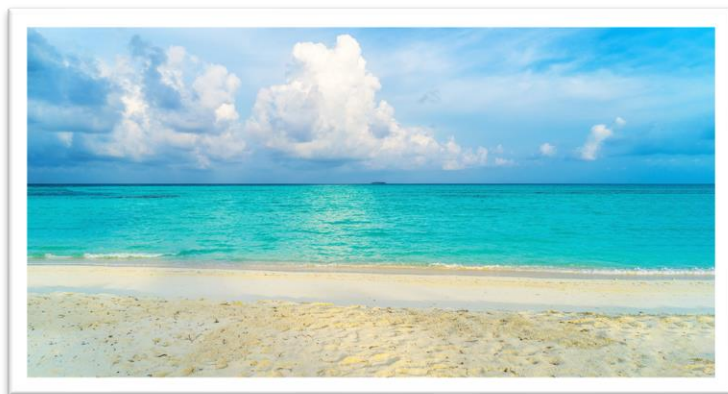
Current steps

Current steps being taken by the Working Group include:

- collecting further evidence in support of each of the native title claims;
- preparing further anthropological evidence;
- consulting with Wuthathi about their interests in and around Raine island;
- engaging with the State and Commonwealth governments;
- complying with Court orders and case management;
- preparing for authorisation of the TSRSC Part C and authorisation of Applicants to represent both the TSRSC Part B and TSRSC Part C; and
- waiting for the Court to decide in the Warral & Ului case. This decision may affect how native title can be recognised in some parts of the united claims area.

Next steps

The next steps that will be taken by the Working Group towards achieving native title determinations for the united claim area in 2022 are in the following table.



Future Dates - 2022

| | |
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| Further connection evidence in support of all the united claims provided to the State and Commonwealth | April/May |
| Information sessions for all communities represented by the Working Group Badu, Brisbane, Cairns, Erub, Iama, Masig, Mer, Moa, Ngurapai, NPA, Poruma, Townsville, Ugar, Waiben, Warraber, Weipa (for Napranum and Old Mapoon) | 23 May to 1 June Dates, venues to be advised via CYLC and TSRA Facebook pages. |
| Authorisation meeting on Waiben to authorise the TSRSC Part C and the names of applicants who will represent TSRSC Part B and TSRSC Part C | 18 June |
| TSRSC Part C native title claim filed in the Federal Court | 30 June |
| State and Commonwealth responds to connection evidence | 30 June |
| State and Commonwealth meeting with Working Group to discuss its response | By 25 July |
| Court decides Warral and Ului litigation | TBC |
| Establishment of NCTSU PBC | TBC |
| Determinations of native title | TBC |

Determinations will be made in stages, with the Wuthathi interest area and the areas near Warral and Ului determined later than other areas.

All proposed consent determinations will go back to all relevant communities for approval before any determinations are made.

For more information

Information on upcoming dates and meetings will be available on the Cape York Land Council (CYLC) and Torres Strait Regional Authority (TSRA) websites and facebook sites here:

<https://www.cylc.org.au/>

<https://www.facebook.com/CapeYorkLandCouncil>

TSRA facebook

<https://www.tsra.gov.au>

Torres Strait Regional Seas claim

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Kaurareg

James Walkley on 02 9231 4544 or
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Gudang Yadhaykenu and Ankamuthi

John Reeve on 07 4053 9222 or at jreeve@cylc.org.au

You may also wish to talk to your representatives on the **Northern Cape and Torres Strait United Working Group**:

Torres Strait Regional Seas claim

Ned David, John Morris, Frank Faid, Kabay Tamu, Kapua Gutchen, Ron Day, Jerry Stephen, Maluwap Nona, Alick Tipoti, Troy Laza, David Bosun and Iona Manas.

Kaurareg

Thomas Savage and Milton Savage, supported by Fr Paul Tom, Eliziah Wasaga and Donald Marou.

Gudang Yadhaykenu and Ankamuthi

Reg Williams, Trevor Lifu, Michael Solomon, Meun Lifu, Roger Williams, Arthur Tamwoy, Ben Tamwoy and Charles Woosup.



**CAPE YORK
LAND COUNCIL**
YUK PUYNGK

