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Federal Court of Australia
Queensland District Registry
Division: General

No: QUD356/2025
QUD357/2025

CHARLES WOOSUP & Ors on behalf of the Ankamuthi People Sea Claim Group
Applicant

BERNARD CHARLIE & Ors on behalf of the Gudang Yadhaykenu People Sea Claim
Applicant

STATE MINISTER FOR THE STATE OF QUEENSLAND
Respondent

ANKAMUTHI APPLICANT'S WRITTEN OUTLINE OF THEIR CASE

Filed in compliance with Order 20 made by Mortimer CJ on 3 June 2026

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Introduction

1. On 2 April 2026, in compliance with the orders of Mortimer CJ made on 17 March 2026, the Ankamuthi Applicant filed an Amended Statement of Facts Issues and Contentions (ASFIC) setting out matters relevant to their native title determination application QUD356/2025 filed on 30 May 2025. The ASFIC addressed the separate questions set down for hearing by her Honour on 17 March 2026.
2. The ASFIC was filed before the programming orders regarding the separate questions were made on 3 June 2026 and before either the lay or expert evidence had been prepared and then filed, respectively on 10 and 11 August 2026.
3. In light of the evidence to be relied on by the Ankamuthi Applicant at the hearing of the separate questions, commencing in Bamaga on 14 September 2026, their case is that Ankamuthi jointly hold native title over the claim area with the Gudang Yadhaykenu claimants. The Ankamuthi Applicant contends that the claim area is not subject solely to the native title rights and interests of Gudang Yadhaykenu as claimed in their overlapping determination application QUD357/2025, their SFIC (GYSFIC) and the lay and expert evidence they have filed.
4. The State filed its SFIC on 1 July 2026.
5. On the basis of matters set out in the three sets of SFICs, the parties broadly agree that:
 - a. native title exists in the claim area,
 - b. effective sovereignty over the claim area dates from the 1860s,
 - c. the laws and customs of the claimant groups are held under a regional system of laws and customs,
 - d. the society bound by the regional system of laws and customs includes both claimant groups,
 - e. both groups have been recognised as native title holders in the land above the high water mark contiguous to the claim area,¹
 - f. definitions of both claimant groups are the same as those relied upon by them and accepted in determinations recognising their native title exists in the region, including most recently in *David*,²
 - g. the determination made in *David* recognised each group's native title over the waters immediately adjoining the claim area – Ankamuthi to the south and Gudang Yadhaykenu to the north east.

The separate questions

6. The Ankamuthi Applicant's case is that answers to the separate questions should be provided consistently with the matters above.
7. The first of the separate questions is:
 - a. *But for any question of extinguishment of native title, does native title exist in relation to any and, if so what, land and waters of the area the subject of the proceedings?*

¹ *Woosup on behalf of the Northern Cape York Group #1 v State of Queensland (No 3)* [2014] FCA 1148.

² *David on behalf of the Torres Strait Regional Seas Claim v State of Queensland* [2022] FCA 1430 (*David*).

8. In reliance on the evidence filed and to be led, the Ankamuthi Applicant's case is that the answer to Question A should be native title exists in the whole of the land and waters the subject of the proceedings.
9. The second of the separate questions in two parts is:
 - b. In relation to that part of the claim area where the answer to (a) above is in the affirmative:*
 - (i) Who are the persons, or groups of persons, who hold the common or group rights comprising the native title?*
 - (ii) What is the nature and extent of the native title rights and interests?*
10. In reliance on the evidence filed and to be led, the Ankamuthi Applicant's case is the answer to Question B should be:
 - a. the persons who hold the common or group rights comprising the native title referred to in the answer to Question A, are members of the Ankamuthi group and Gudang Yadhaykenu group, such group membership being determined in accordance with their traditional laws and customs;
 - b. the nature and extent of the native title rights and interests are the non-exclusive rights to:
 - (a) access, to remain in and to use the area;
 - (b) access resources and to take for any purpose, resources in the area;
 - (c) maintain places of importance and areas of significance to the Native Title Holders under their traditional laws and customs on the area and protect those places and areas from harm;
 - (d) be accompanied on to the area by those persons who, though not Native Title Holders, are:
 - (i) spouses of Native Title Holders;
 - (ii) people who are members of the immediate family of a Spouse of a Native Title Holder; or
 - (iii) people reasonably required by the Native Title Holders under traditional law and custom for the performance of ceremonies or cultural activities on the area.

In the alternative:

The nature and extent of the native title rights and interests are that exclusive possession in the areas above the high water mark is jointly held and non-exclusive possession in the areas below the high water mark is jointly held;³

Evidence to be relied upon

11. The Ankamuthi lay witnesses whose outlines of evidence, affidavits and oral evidence will be relied upon by the Ankamuthi Applicant are:
 Charles Woosup, George Ropeyarn, Dale Salee, Roger "Bolly" Williams, Catherine "Cathy" Salee, Doyle Sebasio, Tapee Salee, Ben Tamwoy, Martin Salee and Yanti Ropeyarn.

³ *Nona on behalf of the Badulgal, Mualgal and Kaurareg Peoples (Warral & Ului) v State of Queensland (No 5)* [2023] FCA 135 at [1038].

12. The Ankamuthi Applicant will also rely upon the affidavit of Patrick Davies containing links to the material produced by Mr Davies, which provide access to drone footage of the Ankamuthi sites within the claim area and interactive mapping done with the assistance of a drone. These tools are designed to allow the witnesses to refer to the recorded video flyovers and the Court to see sites referred to in the witnesses' evidence, which it would not otherwise be possible to access in the course of the hearing.
13. The affidavits filed by two Indigenous respondents, Talei Elu and Reginald Williams OAM will also be relied upon by the Ankamuthi Applicant who will, if they are required to appear by the other parties, call them as witnesses at the hearing.
14. Ms Elu has affirmed an affidavit deposing to the permission sought by and given to her Saibai Islander grandfather by an Ankamuthi elder, for Mr Elu and the Saibai Islanders with him to live at the location where the community of Seisia has been established. She has deposed to the shared access to the resources of the claim area granted to the Saibai Islanders who have resided at Seisia ever since, by the Ankamuthi elders.
15. Mr Williams has affirmed two affidavits in relation to the separate identity and traditional country of Yadhaykenu people of whom he is part. He deposes to the combination of the Gudang and Yadhaykenu identities as a recent phenomenon, inconsistently occurring, in part in response to matters arising in the context of native title proceedings.
16. On 11 August 2026 the Ankamuthi Applicant filed and relies upon the report of expert anthropologist Mr Ray Wood *Native Title Rights in Endeavour Strait*. A report by historian Ms Kate Waters and an additional report by Mr Wood will be filed in October and November 2026 respectively, and relied upon by the Ankamuthi Applicant.
17. Other material relied upon by the Ankamuthi Applicant includes:
 - a. a map of the region showing the boundaries of the claim area and the surrounding determinations made, prepared at the request of the Ankamuthi Applicant for the purpose of the hearing by the National Native Title Tribunal (NNTT);
 - b. a joint map of the sites identified by both parties being prepared by the NNTT drawing upon Ankamuthi sites as located on the site map prepared by Patrick Davies;
 - c. material referred to by the Ankamuthi witnesses in their evidence and filed on 24 August 2026 in compliance with Order 11(b) of 3 June 2026 being:
 - (i) a copy of the Northern Peninsula Area Regional Council Newsletter dated Sept/Oct 2008 referred to at [13] of the affidavit of Yanti Ropeyarn affirmed 21 August 2026;
 - (ii) a copy of the Bamaga High School Newsletter - First Edition - dated 1973 referred to at [32] of the Affidavit of Yanti Ropeyarn affirmed 21 August 2026;
 - (iii) the Form 1 Native Title Determination Application by Gudang Yadhakenu QUD269/2008 filed on 4 September 2008, referred to at [9] of the affidavit of Reginald Williams OAM affirmed 23 August 2026;

Rights and interests claimed

18. In the Ankamuthi Form 1 in Schedule E(b) and at [17] of the ASFIC the rights and interests claimed by Ankamuthi People in the Claim Area are: exclusive rights and interests above the high-water mark and non-exclusive rights below the high-water mark.

19. In the Gudang Yadhaykenu Form 1 in Schedule E(b) and at [43] of the GYSFIC⁴ the rights and interests claimed in the Claim Area are: exclusive rights and interests above the high water mark and non exclusive rights below the high water mark.
20. The Ankamuthi case is that in accordance with the traditional laws and customs observed by both groups, their interests co-exist on the islands and in the waters, and the resources of the claim area are shared.
21. The Ankamuthi case is that the rights and interests to be recognised should be consistent with the rights and interests determined to exist in contiguous areas in *David* as set out above at [10].

Source of the rights and interests

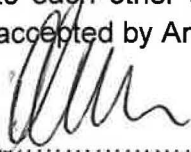
22. The witnesses acknowledge the source of the rights and interests claimed as their descent from one or more of the apical ancestors listed in Schedule A of the Form 1. Both of the expert anthropologists relied upon by the two groups agree that descent is the common principle of recruitment to the corporate groups holding rights and interests in the claim area. In the region which includes the claim area, the original source of transmitted rights was by patrilineal descent— that is, through the male line – but post sovereignty this has shifted in practice to cognatic descent in which membership is traced through both male and female ancestors.
23. The evidence of the witnesses, both lay and expert will show that by the turn of the twentieth century the different descent groups of the region coalesced into a community of people who established permanent residence at a settlement beside Cowal Creek now known as Injinoo. In accordance with the system of traditional laws and customs observed by these groups they shared the resources of the area, intermarried and together ensured their social and cultural survival.
24. Culturally the groups were one people. Their body of laws and customs, by which the experts agree they were and are members of a single society, continued to be observed. The Cowal Creek settlement did not cause the loss of their pre-sovereignty laws and customs but rather supported their survival. The constituent groups became more tightly integrated. Transmission of rights and interests, traditional practices and activities carried out on the basis of those rights and interests, continued.

Evidence of ongoing observation of traditional laws and customs

25. Each of the Ankamuthi witnesses has provided and will give evidence of
 - a. their enduring connection to the claim area through their descent from one or more of the apical ancestors;
 - b. their knowledge of the mythological and cultural importance of significant sites that has been passed down from generation to generation and their ongoing observation of traditional laws and customs in relation to those sites; and

⁴ There appears to be a typographical error in [43] of the GYSFIC where Schedule D is referred to instead of Schedule E.

- c. the traditional practices and activities they carry out in the claim area in accordance with what they have been taught by their forebears and in accordance with their traditional laws and customs.
26. By way of illustration, each of the Ankamuthi witnesses has given and will give evidence disclosing the importance of a site at the very northern end of the claim area at Peak Point, a resource renewal site with male-gender restricted practices.⁵ Other sites throughout the claim area are described in terms of their mythological and cultural significance and their richness of resources. As the evidence will show, the intergenerational transmission of knowledge about and traditional practices connected to resource harvesting is lifelong.
27. The witnesses will give evidence of each family's maintenance of a beach camp along the foreshores of the claim area where they harvest the resources of the claim area and teach their children and grandchildren the skills they were taught by their elders. The witnesses describe the traditional knowledge which attends turtle and dugong hunting in the waters of the claim area.
28. The evidence will show that the shared residence and histories of the groups which came together at Injinoo did not lead to a loss of identity or loss of the laws and customs by which their connection to their country is maintained. Rather it ensured their survival.
29. The people of Injinoo understand that the four groups of the region came together beside Cowal Creek in response to the colonial impact of the Jardine settlement at Somerset and the pressures put on the groups by disease and conflict, including inter-tribal conflict.
30. The Injinoo community recalls the affiliation and connection of each of the groups to different parts of the northern Cape York Peninsula and continues to acknowledge their continued responsibility for sites and resources throughout that area in accordance with those traditional areas. These affiliations are reflected in the *David* determination, with discrete areas recognised as being the traditional country of each group – Ankamuthi for the western off shore area, Gudang Yadhaykenu for the eastern off shore areas.
31. Anthropologically the process engaged in by the groups forming part of the Injinoo community has been called by Professor Peter Sutton 'conjoint succession'. This process is relied upon by Mr Wood as explaining the means by which the four groups became responsible for the country formerly the province of the Gumakudin but accessed by and familiar to each group. Dr Redmond does not agree and regards the survivors of the Gumakudin people as absorbed only into the coalesced group of Gudang and Yadhaykenu people. Due to the proximity of the groups to each other and the extent of their intermarriage and cohabitation, this proposition is not accepted by Ankamuthi.



Chelsea Griffin-Breen

Solicitor for the Ankamuthi Applicant

1 September 2026

⁵ For example in their Outlines of Evidence Roger 'Bolly' Williams at [64], [72]; Catherine Salee at [72]; Doyle Sebasio at [36]-[37], [42], [51]-[52]; Dale Salee at [81]; George Ropeyarn at [51]-[56]; [82], [86], [88]; Charles Woosup [26], [97].