



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: QUD27/2019
NNTT number: QC2001/042

Application Name: Lui Ned David & Ors on behalf of the Torres Strait Regional Seas Claim and State of Queensland & Ors (Torres Strait Regional Seas Claim)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 23/11/2001

Current stage(s): Notification Complete, Part Determination

Registration information: Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

Date claim entered on Register of Native Title Claims: 05/07/2002

Registration decision status: Accepted for registration

Registration history: Registered from 5/07/2002

Date claim / part of claim determined: 30/11/2022 , 23/08/2010

Applicants: Lui Ned David, Kabay Tamu, Frank Fuid, Ted Mosby, Iona Manas, David Bosun, Alick Tipoti, Troy Laza, Kapua Gutchen, Brian Williams, Sabu Wailu, John Zaro

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Additional Information

On 23 September 2008, this application was split into Part A and Part B. On 2 July 2010 native title was determined to exist in relation to part of the Part A area: Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v Queensland (No 2) [2010] FCA 643. On 23 August 2010 orders were made in terms of an agreed determination. These orders are attached to this Extract. The determination was registered on the National Native Title Register on 27 August 2010. On 30 November 2022, the Federal Court determined that native title exists in parts of the Part B area: David on behalf of the Torres Strait Regional Seas Claim v State of Queensland [2022] FCA 1430. That determination was registered on the National Native Title Register on 5 December 2022. A map showing the area of the application that remains to be determined, as interpreted by the National Native Title Tribunal, is attached for information only. This attachment does not form part of the application. Pursuant to s 190(4) (e) the application remains on the Register of Native Title Claims only to the extent that it relates to the undetermined Part B area. On 14 September 2023, the Federal Court ordered by consent that the determination made on 30 November 2022 be varied. Please refer to the NNTR extract - QCD2022/013 for further details.

Persons claiming to hold native title:

13. The native title claim group (**sea claim group**) comprises members of the island communities listed in Attachment A, each of whom is a Torres Strait Islander.
14. The members of the sea claim group are the biological and socially recognised members of their respective island communities.
- 14A. The membership of the island communities comprising the sea claim group was determined by Finn J in Orders 4(1)(a) to (i) and Schedule 5, clauses 2(a) to (i) of the Part A determination.
15. Generally, the members of the sea claim group, the ancestors and deceased descendants of the ancestors are shown in the genealogies.
16. Because of the nature and extent of adoptions within the sea claim group it is impracticable to identify and show in the genealogies all relevant biological and adoptive connections of each member of the sea claim group.
17. The genealogies show many but not all socially relevant connections between the persons shown in the genealogies.

[A copy of Attachment A is attached to this Extract.]

Native title rights and interests claimed:

16. The rights claimed as native title or native title rights and interests in relation to the application area (**claimed rights and interests**) are set out at [18].
17. [Previously deleted.]
18. The claimed rights and interests are the rights to:
 - (a) to access, to remain in and to use the area;
 - (b) to access resources and to take for any purpose resources in the area;
 - (c) to maintain places and/or areas of importance, or significance, to the members of the sea claim group under their traditional laws and customs on the area and protect those places and/or areas from harm;
 - (d) be accompanied on to the area by those persons who, though not members of the sea claim group, are:
 - (i) spouses of members of the sea claim group;
 - (ii) people who are members of the immediate family of a spouse of a member of the sea claim group; or
 - (iii) people reasonably required by the members of the sea claim group under traditional law and custom for the performance of ceremonies or cultural activities on the area.

Area covered by the native title and who holds the rights

19. Each of the claimed rights and interests exists in relation to the whole of the application area.
20. Members of the sea claim group:
 - (a) hold the claimed rights and interests for their respective communal, group and individual entitlements in relation to the application area in accordance with the traditional laws acknowledged and traditional customs observed by them;
 - (b) do not all hold all the claimed rights equally in all areas; and
 - (c) do not each hold rights in all areas.

Activities currently carried on

21. Activities in exercise of the native title rights referred to in Schedule E are all such activities as are contemplated by those rights and interests and include the activities identified in Schedule G.

Application Area: **State/Territory:** Queensland
Brief Location: North and east of Cape York Peninsula
Primary RATSIB Area: Torres Strait
Approximate size: 1285.8594 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: Yes

Area covered by the claim (as detailed in the application):

Part A. External Boundaries and Description

18. The external geographical boundaries of the area covered by this application (**application area**) are described in **Attachment B**.

19. The external geographical boundaries of the area covered by this application are delineated and marked on the map at **Attachment C**.

20. In the event of any inconsistency between the description and the delineation of the boundaries in Attachment B and Attachment C, the description in Attachment B shall prevail, but subject to the exclusion from that description of the area referred to in [21](aa) below.

Part B. Areas within the external boundaries that are not covered by the application

21. Areas within the external geographic boundaries that are not covered by the application are the following areas, if any, except where any extinguishment by the acts mentioned is required by s47A or 47B of the *Native Title Act 1993* to be disregarded:

(a) any area that, when this sixth amended application is made, is subject to any of the following kinds of acts as they are defined in either the *Native Title Act 1993*, as amended (where the act in question is attributable to the Commonwealth), or *Native Title (Queensland) Act 1993* (QLD), as amended, (where the act in question is attributable to the State of Queensland):

(i) Category A past acts;
(ii) Category A intermediate period acts;
(iii) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;

(iv) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;

(b) any area in relation to which a previous exclusive possession act under section 20 or 21 of the *Native Title (Queensland) Act 1993* (QLD) was done and that act is attributable to the State of Queensland;

(c) any area in relation to which a previous exclusive possession act as defined by section 23B (including section 23B(7)) of the *Native Title Act 1993* was done in relation to the area and the act was attributable to the Commonwealth;

(d) any area where native title rights and interests have otherwise been wholly extinguished; and

(e) specifically, any area where there has been:

(i) an unqualified grant of an estate in fee simple;
(ii) a public work as defined in section 253 of the *Native Title Act 1993*.

21A. For the avoidance of any doubt, the area excludes:

(a) any area subject to:

(i) Native Title Determination QUD6073/1998 Warraber People (QCD2000/004) as determined by the Federal Court of Australia on 7 July 2000; and

(ii) Native Title Determination QUD6040/2001 Torres Strait Regional Sea Claim (QCD2010/003) as determined by the Federal Court of Australia on 23 August 2010; and

(b) any area above the high water mark of the areas identified as:

(iii) Awai, located at approximate Longitude 143.019640° East, Latitude 10.638838° South;

(iv) Tiwalag, located at approximate Longitude 143.070823° East, Latitude 10.591019° South; and

(v) Big Boiag, located at approximate Longitude 143.198644° East, Latitude 10.632882° South.

[A copy of Attachment B and Attachment C is attached to this Extract.]

Attachments:

1. QC2001/042 The Native Title Claim Group, Attachment A of the application, 1 page - A4, 10/05/2019
 2. QC2001_042 External Boundary Description, Attachment B to the application, 3 pages - A4, 03/11/2022
 3. QC2001_042 Map, Attachment C to the application, 1 page - A4, 03/11/2022
 4. QC2001/042 Part A Determination Orders, 42 pages - A4, 23/08/2010
 5. QC2001_042 Description of Undetermined Area, 2 pages - A4, 30/11/2022
 6. QC2001_042 Map of Undetermined Area, 1 page - A3, 30/11/2022
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End of Extract