



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD6050/1998; QUD6068/1998  
NNTT Number: QCD2000/003

**Determination Name:** [Masig People v State of Queensland](#)

**Date(s) of Effect:** 7/07/2000

**Determination Outcome:** Native title exists in the entire determination area

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## Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

**Determination Date:** 07/07/2000

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Masigalgal (Torres Strait Islanders) Corporation RNTBC  
Trustee Body Corporate  
C/- Yorke Island Council  
Yorke Island  
via Thursday Island Queensland 4875

*Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations [www.oric.gov.au](http://www.oric.gov.au)*

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

The Masigalgal (the Masig people)

### MATTERS DETERMINED:

#### THE COURT ORDERS THAT:

1. Native title exists in relation to the determination area as shown on the map annexed to this order and marked "Annexure A", ie, the land and inland waters of Masig (Yorke) Island being Lot 10 on Plan TS 179, Kadal (Kodall) Islet being Lot 40 on Plan TS 202, Umaga (Keats) Island being Lot 54 on Plan TS 210, Igaba (Marsden) Island being Lot 39 on Plan TS 202, Kabbikane Islet being Lot 41 on Plan TS 202, Mimay (Mimi) Islet being Lot 52 on Plan TS 210,

Aukane Islet being Lot 42 on Plan TS 202, Yau (Layoak) Islet being Lot 51 on Plan TS 210, Mauar (Rennel) Island being Lot 46 on Plan TS 205, Roag (Smith) Cay being Lot 26 on Plan USL 36850, Damuth (Dalrymple) Islet being Lot 47 on Plan TS 206 and Bak (Bourke) Island being Lot 43 on Plan TS 202 the landward side of the high water mark but not including the following areas as shown on the map annexed to this Order and marked "Annexure B":

(a) Lot 28 on Plan TS 253 described as SL 43/38565 to the Corporation of the Synod of the Diocese of Carpentaria for church purposes;

(b) The Roads as more particularly shown on the map annexed to this Order;

(c) The land within Lot 10 on Plan TS 179 which comprised Special Lease 43/42976 being land on which the Telstra mast and equipment shelters are situated;

(d) The land on which Ergon Energy Corporation power station is situated including any adjacent land the use of which is or was necessary for, or incidental to, the construction, establishment or operation of the installation being Lease P in SP127311; and

(e) The Airstrip being Lot 56 on Plan TS 255.

2. The persons holding the communal and group rights comprising the native title ("the common law holders") are the Masigalgal (the Masig people).

3. The nature and extent of the native title rights and interests in relation to the determination area are the rights and interests of the common law holders to possess, occupy, use and enjoy the determination area in accordance with Order 6 but always subject to and in accordance with their traditional laws and customs and in particular to:

(a) live on the determination area;

(b) conserve, manage, use and enjoy the natural resources of the determination area for the benefit of the common law holders including for social, cultural, economic, religious, spiritual, customary and traditional purposes;

(c) maintain, use and manage the determination area for the benefit of the common law holders, that is to:

(i) maintain and protect sites of significance to the common law holders and other Aboriginal people, Papuans and Torres Strait Islanders on the determination area;

(ii) inherit, dispose of or give native title rights and interests in the determination area to others, being members of the common law holders pursuant to their traditional laws and customs;

(iii) decide who are the native title holders provided that such persons must be Torres Strait Islanders within the meaning of that term in the Native Title Act 1993 (Cth);

(iv) regulate among, and resolve disputes between, the common law holders in relation to the rights of possession, occupation, use and enjoyment of the determination area;

(v) conduct social, religious, cultural and economic activities on the determination area; and

(d) make decisions about and to control the access to, and the use and enjoyment of, the determination area and its natural resources being animal, plant, fish and bird life found on or in the determination area from time to time and all water, clays and soils found on or below the surface of the determination area and all other matter comprising the determination area excluding minerals and petroleum and any other natural resources provided that these exclusions shall operate only to the extent to which native title has been extinguished or affected pursuant to laws of the Commonwealth and of the State of Queensland.

4. The nature and extent of any other interests in relation to the determination area are:

(a) the powers of the Yorke Island Council under the Community Services (Torres Strait) Act 1984 (Qld) to discharge the functions of local government of the area of the Deed of Grant in Trust granted on 17 October 1985 under the Land Act 1962 (Qld) to the Yorke Island Council and exercise the powers of good rule and government thereof in accordance with the customs and practices of the inhabitants of that area;

(b) the interests of the Yorke Island Council and persons under the Deed of Grant in Trust granted on 17 October 1985 under the Land Act 1962 (Qld) to Yorke Island Council;

(c) the interests of Ergon Energy Corporation Limited as an entity exercising statutory powers and as owner and operator of electricity generation, transmission and distribution facilities on Mabuia Island, including:

(i) the right to enter upon the determination area in accordance with the law; and

(ii) its interests under a Deed of Agreement dated 28 June 2000 between it and representatives of the common law holders.

(d) the interests of Telstra Corporation Limited as an entity exercising statutory powers and as owner and operator of telecommunication facilities on Mabuiag Island, including:

(i) the right to enter upon the determination area in accordance with the law; and

(ii) its interests under a Deed of Agreement dated 4 July 2000 between it and representatives of the common law holders.

(e) the interests of indigenous Papua New Guinea persons in having access to the determination area for traditional purposes;

(f) the rights of the Mauar (Rennel) Island Torres Strait Islander Land Trust pursuant to a Deed of Grant in Trust taking effect on 5 September 1996 under the Torres Strait Islander Land Act 1991 (Qld);

(g) the interests recognised under the "Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters" as in force at the date of this determination; and

(h) other interests that may be held by reason of the force and operation of laws of the Commonwealth and of the State of Queensland.

5. (i) The relationship between the native title rights and interests in Order 3 and the other interests in relation to the determination area in Order 4 is as follows:

The native title rights and interests described in Order 3 are exercisable concurrently with the other interests described in Order 4, but in those circumstances where they cannot be so exercised, the entitlements of the holders of the other interests may regulate control, curtail, restrict, suspend or postpone the exercise of those native title rights and interests.

(ii) The native title rights and interests of the Masigalgal are subject to extinguishment by either:

(a) the lawful powers of the Commonwealth and the State of Queensland; or

(b) lawful grants or creation of interests pursuant to the laws of the Commonwealth and the State of Queensland.

6. Subject to and in accordance with the traditional laws and customs of the common law holders and the effect and operation of the laws of the Commonwealth and of the State of Queensland and, to the extent that the interests referred to in Order 4 prevent or limit it, the native title rights and interests confer possession, occupation, use and enjoyment of the determination area to the exclusion of all others.

7. The words and expressions used in this Order have the same meanings as they have in the Native Title Act 1993 (Cth) except for the following defined words and expressions:

(a) "natural resources" means animal, plant, fish and bird life found on or in the determination area from time to time and all water, clays and soils found on or below the surface of the determination area and all other matter comprising the determination area excluding minerals and petroleum and any other natural resources provided that these exclusions shall operate only to the extent to which native title has been extinguished or affected pursuant to laws of the Commonwealth and of the State of Queensland;

(b) "minerals" has the meaning given to it in the Mineral Resources Act 1989 (Qld);

(c) "petroleum" has the meaning given to it in the Petroleum Act 1923 (Qld); and

(d) "high water mark" has the meaning given to it in the Land Act 1994 (Qld).

BY CONSENT IT IS FURTHER AGREED THAT:

8. The native title is to be held in trust by the Masigalgal (Torres Strait Islanders) Corporation.

#### **REGISTER ATTACHMENTS:**

1. Attachment A - Map of Determination Area , 1 page - A4, 07/07/2000

2. Attachment B - Area excluded from Determination Area, 1 page - A4, 07/07/2000

3. Attachment C - Federal Court Reasons For Judgement, 5 pages - A4, 07/07/2000

*Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.*