



# Extract from the National Native Title Register

---

## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD6073/1998  
NNTT Number: QCD2000/004

**Determination Name:** [Warraber People v State of Queensland and others](#)

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

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

---

## 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:

Warraberalgal (Torres Strait Islanders) Corporation RNTBC  
Trustee Body Corporate  
C/- Warraber Island Post Office,  
WARRABER ISLAND QLD 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 Warraberalgal (the Warraber people)

### MATTERS DETERMINED:

THE COURT ORDERS BY CONSENT THAT:

1. Native title exists in relation to the determination area as shown on the map annexed to this Order and marked "Annexure A", that is, the land and inland waters of Warraber (Sue) Island being Lot 4 on Plan TS 171, Guiar Islet being Lot 5 on Plan TS 171, Bubui (Lowry) Islet being Lot 29 on Plan TS 232, Ulu (Saddle) Island being Lot 24 on Plan TS 232, Bara Island being Lot 3 on Plan TS 171, Ugain (Ninepin) Rock being Lot 34 on Plan TS 244, Miggi-Maituin (Meggi-Maituine) Island being Lot 27 on Plan TS 273, Dugong Islet being Lot 28 on Plan TS 278 and Lots 14, 46, 47, 48 & 49 on Plan USL 36706 and Lot 1 on Plan CP 901423 on 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 6 on Plan TS 176;
- (b) Lot 7 on Plan TS 176;
- (c) The Roads as more particularly shown on the map annexed to this Order;
- (d) The land east of the barge landing on which the Telstra mast and equipment shelter are 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;
- (e) 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 SP127310; and
- (f) The Airstrip as contained in Lot 8 on Plan TS 314.

2. The persons holding the communal and group rights comprising the native title ("the common law holders") are the Warraberalgal (the Warraber 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 Sue 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 Sue 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 Sue Island Council and persons under the Deed of Grant in Trust granted on 17 October 1985 under the Land Act 1962 (Qld) to Sue 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 Warraber 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 Warraber 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 27 June 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 interests of Australian Maritime Safety Authority as owner and operator of a navigational aid facility on Warraber 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 27 June 2000 between it and representatives of the common law holders.

(g) the rights of indigenous inhabitants of Poruma Island to enter, live upon and/or use the determination area in accordance with the traditional laws and customs of the common law holders;

(h) the rights of the Gau Land Trust pursuant to a Deed of Grant in Trust taking effect on 22 August 1998 under the Torres Strait Islander Land Act 1991 (Qld);

(i) 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

(j) 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 Warraberalgal 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 Warraberalgal (Torres Strait Islanders) Corporation.

**REGISTER ATTACHMENTS:**

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